

# REVENUE BILL

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No. 1

5928

## HEARINGS

BEFORE THE

## COMMITTEE ON WAYS AND MEANS

HOUSE OF REPRESENTATIVES

WITH REFERENCE TO

## THE NEW REVENUE BILL

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JUNE 7, 1918



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COMMITTEE ON WAYS AND MEANS.

HOUSE OF REPRESENTATIVES.

SIXTY-FIFTH CONGRESS, SECOND SESSION.

CLAUDE KITCHIN, North Carolina, *Chairman.*

HENRY T. RAINEY, Illinois.

JOSEPH W. FORDNEY, Michigan.

LINCOLN DIXON, Indiana.

J. HAMPTON MOORE, Pennsylvania.

CORDELL HULL, Tennessee.

WILLIAM R. GREEN, Iowa.

JOHN N. GARNER, Texas.

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# REVENUE BILL.

COMMITTEE ON WAYS AND MEANS,  
HOUSE OF REPRESENTATIVES,  
*Friday, June 7, 1918.*

The committee met at 10 o'clock a. m., Hon. Claude Kitchin (chairman) presiding.

There were also present Representatives Rainey, Dixon, Hull, Garner, Collier, Dickinson, Oldfield, Helvering, White, Fordney, Moore, Green, Longworth, Sterling, Martin, Hawley, and Treadway.

The CHAIRMAN. This is the first public hearing on the proposed new revenue bill. The committee is anxious that any person who has any suggestions as to methods of taxation or as to new subjects of taxation, or anyone who has any suggestions as to repeal or amendment or modification of the provisions of the present law, to come before us and state their views. The committee will gladly give full consideration to such suggestions. We recognize that no bill can be perfect. No statute on the books is absolutely perfect. We know that in a large revenue measure such as we enacted last October there must be some inequalities and there must be some provisions that should be modified or amended and, perhaps, repealed. As I said, the committee would be glad to hear any person who may desire to present their views and offer suggestions and such amendments for repeal or modifications as they desire. I hope the press will give this invitation of the committee the widest publicity.

## STATEMENT OF MR. THOMAS O. MARVIN, ATTORNEY, SECRETARY OF THE HOME MARKET CLUB, BOSTON, MASS.

The CHAIRMAN. Mr. Marvin, state whom you represent and your business or occupation.

Mr. MARVIN. Secretary of the Home Market Club of Boston, interested in revenue legislation and particularly such revenue legislation as pertains to the tariff.

In the notice relative to these hearings on the proposed new tax measure it was wisely and properly stated that "in the preparation of the new tax measure the committee will give careful consideration to all suggestions with reference to the measure, together with suggestions of other revenue sources."

This is a broad-minded and statesmanlike proposition and it will meet with a hearty response throughout the country. Revenue in enormous sums has been asked for and revenue in increasing amounts will be needed to bring to fruition the hope, the purpose, and the determination of the American people to fight this war to a victorious issue.

Senator Underwood, who presided with such courtesy and fairness in the hearings in this room in 1913, in a recent interview is quoted as saying:

That in order to carry the great load we must all get ready for a wider and wider distribution of taxes. In many ways this war is rapidly being brought closer and closer home to us, and there will be a more widespread sharing of the burden of taxation. This greater distribution, when found necessary, can be brought about through consumption taxes on necessities. This is a field that we have scarcely touched, and we will not go far into it, of course, until pressed to do so by necessity.

The Senator also referred to the opportunity presented by stamp taxes, a form of taxation to which we have not "resorted to to any considerable extent."

There is another source of revenue, another "field that we have scarcely touched." I refer to revenue derived from customs duties. With importations the largest in value in our history the percentage of revenue derived is the smallest in our history. In 1850 and for several years thereafter the average ad valorem rate of duty on all imports was about 23 per cent. In 1861 it had dropped to 14.21 per cent, but we fought the Civil War from 1862 to 1865 with an average customs duty of 31 per cent, and during the prosperous reconstruction period, when our industries showed remarkable growth and expansion, the average rate of duty was 44 per cent. From 1872 to 1890 it averaged about 30 per cent; then, during the period of the Gorman-Wilson law, about 21 per cent; during the Dingley law, about 28 per cent; and for the last year of the Payne-Aldrich law, 18.58 per cent.

But the average ad valorem rate on all imports for the nine months ending March, 1918, was only 6.21 per cent.

The following table shows the total imports, the per cent of duty-free imports, the duties collected, and the average ad valorem rate of duty for the calendar years 1912 to 1917, and for nine months of the fiscal year 1918:

*United States imports, duties collected, and average rate of duty, 1912-18.*

	Total imports.	Per cent free.	Duties collected.	Average ad valorem rate.
Calendar year:		<i>Per cent.</i>		<i>Per cent.</i>
1912.....	\$1,818,073,055	54.58	\$326,339,620	18.14
1913.....	1,792,596,480	55.34	310,551,961	17.49
1914.....	1,789,276,001	61.36	241,394,619	13.62
1915.....	1,778,596,695	65.64	197,318,004	11.09
1916.....	2,391,635,335	67.39	217,589,766	9.24
1917.....	2,952,467,955	72.32	206,926,754	7.09
9 months ending March, 1918.....	2,083,530,107	73.05	126,028,355	6.21

The following table shows the amount of revenue derived from taxation in the United Kingdom for the fiscal years ending March 31, 1914-1918. It will be seen that the amount of revenue derived from customs duties has doubled since the beginning of the war, whereas our revenue from customs is less than half of what it was in 1912, in spite of the need of all possible revenue from every legitimate source.

*United Kingdom revenue from taxation.*

[Prepared by the Bureau of Foreign and Domestic Commerce, Department of Commerce.]

[Amounts in thousands of pounds sterling.]

	Fiscal years ending Mar. '31.				
	1913-14	1914-15	1915-16	1916-17	1917-18
Customs.....	35,450	38,662	59,606	70,561	71,261
Excise.....	39,590	42,313	61,210	56,380	39,772
Estate and other taxes.....	27,359	28,382	31,035	31,232	31,674
Stamps.....	9,966	7,577	6,764	7,878	8,300
Land tax.....	700	630	660	640	665
House duty.....	2,000	1,930	1,990	1,940	1,960
Property and income tax.....	47,249	69,399	128,320	205,033	239,509
Excess profit.....			140	139,920	220,214
Land value duties.....	715	412	363	521	685
Total receipts from taxes.....	163,029	189,305	290,088	514,105	613,040
Total expenditures.....	197,493	560,474	1,559,158	2,198,113	2,696,221
Advanced by loans.....		337,780	1,165,819	1,622,815	1,984,779

There is, then, ample warrant and justice for an argument for increased revenue from customs duties. Instead of \$206,000,000 of revenue from customs duties for the calendar year 1917, the revenue from those imports would have been \$618,000,000 if even the low average rate of the Gorman-Wilson law had been applied.

It may be well to state in this connection that the United Kingdom raised in customs duties for the fiscal year 1917-18, £71,261,000, or approximately \$350,000,000. We raised in customs duties for the calendar year 1917, \$206,000,000. England raised in customs duties for that year nearly \$8 per capita. We raised about \$2 per capita. It is estimated that for the current fiscal year over \$100,000,000 will be added to the receipts from customs duties in the United Kingdom, making the receipts from customs duties for the fiscal year ending March 31, 1919, \$460,000,000, or \$10.25 per capita. If our revenue from customs duties yielded an equal amount per capita the receipts from customs in this country would be \$1,050,000,000. But instead of a possible revenue from customs of \$1,050,000,000, our receipts from customs for the fiscal year ending June 30, 1918, based upon the yield for nine months ending March, 1918, will be only \$168,000,000, or \$1.60 per capita.

It is evident that England's customs tariff is a tariff for revenue. It is equally evident that ours is not.

The total receipts of the United Kingdom from all taxes for the fiscal year 1917-18 will be £613,000,000, or about \$3,000,000,000. Thus England raises from customs duties about 11 per cent of its total revenue derived from taxes. Our revenue for the current year will be about \$4,200,000,000. Our receipts from customs duties will be about \$168,000,000, or only 4 per cent of the total amount of revenue derived from taxation.

The Constitution empowers Congress "to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States," and from the days of our first Congress it has been customary to raise a very considerable portion of the Federal revenue from duties on imports. In fact, customs duties as an appropriate and effective

source of national revenue were so highly regarded in the early days of the Republic that President Jefferson in his message to Congress December 5, 1801, said that—

There is reasonable ground for confidence that we may now safely dispense with all the internal taxes and that the remaining sources of revenue will be sufficient to provide for the support of the Government, to pay the interest of the public debts, and to discharge the principals within shorter periods than the laws or the general expectation has contemplated.

From the days of Jefferson down almost to these present anxious times customs duties have been relied upon as a very considerable source of revenue by all administrations. During the campaign of 1912 Woodrow Wilson, then candidate of the Democratic Party for election to the Presidency, said:

You can't have free trade in the United States because the Government of the United States is of necessity, with our division of the field of taxation between the Federal and the State Governments, supported in large part by the duties collected at our ports.

It did not escape the attention of that able Democratic President, James Madison, who followed Jefferson in the White House, that "duties laid on imported articles may have an effect which comes within the idea of national prudence." We are in the midst of the greatest crisis in our history. We need the utmost devotion and the most patriotic and enlightened service of every man and woman in the Nation. Our young men by the millions will carry our flag to distant battle fields and many of them will pay the last full measure of devotion. The country asks that partisanship yield to patriotism and theories to necessity. Immense sums of money will be required to see the Nation through to renewed liberty and to a conclusive victory. No legitimate source of revenue should be neglected, and that source, sanctioned by the Constitution and approved by time and precedent, revenue derived from customs duties, should become a recognized and integral part of our revenue legislation; not only because we need to utilize every possible source of revenue, but because, as President Madison said, duties laid on imported articles "have an effect which comes within the idea of national prudence."

Mr. GARNER. Does the gentleman object to being interrogated?

Mr. MARVIN. Not at all, sir.

Mr. GARNER. If I understood you correctly, you said that the English Government is now collecting \$10 and something per capita while we are collecting \$1.60 per capita.

Mr. MARVIN. Yes, sir.

Mr. GARNER. And that theirs was based evidently on a tariff for revenue while ours was not? Will you differentiate or explain how that is? Are you advocating a tariff for revenue only?

Mr. MARVIN. I am here advocating an increase of tariff duties in order to increase the revenues needed by the Government in this emergency.

Mr. GARNER. Then you are not advocating a duty at the custom-house for any other purpose than revenue?

Mr. MARVIN. I am not emphasizing the purpose for which the duty should be applied except to increase our revenues.

Mr. GARNER. I was trying to ascertain your viewpoint. England now collects \$1,050,000,000, if I understood you, at the customhouses,

and our collections would be that much if we collected as much per capita as they do.

Mr. MARVIN. England collected in 1917-18 approximately \$350,000,000 at the customhouse.

Mr. GARNER. That is how much per capita?

Mr. MARVIN. My estimate of \$10.25 was based on the estimate of England's revenue from customs duty in the next fiscal year, which would be \$100,000,000 more than raised in the last fiscal year, or \$460,000,000, about \$10.25 per capita.

Mr. GARNER. And that duty was levied with reference purely to getting revenue?

Mr. MARVIN. Not wholly; no, sir. If you will see the articles on which England has applied its duties, particularly since the war began, you will find that some of them have been in the nature of protective duties, on watches and clocks and automobiles and parts and articles of that nature; but the bulk of it is a pure revenue measure, of course.

Mr. GARNER. You are differing now from the statement in your original paper. In your original paper you said England was levying a duty at the customhouse purely for revenue purposes, whereas in this country it was based on a different theory. Now, I want to ascertain from you whether or not you advocate a tariff for revenue at this time at the customhouse based upon the same theory as the theory of England?

Mr. MARVIN. I am perfectly willing to have it based on the same theory that England has adopted, because England combines both, Mr. Garner.

Mr. RAINEY. Does your organization favor the English system of tariffs at the ports?

Mr. MARVIN. We do, with this modification, which has apparently come over the system employed in England during the last few years. I think England has adopted more of a protective policy than heretofore; perhaps more than we have in recent years.

Mr. RAINEY. As evidenced by these increased collections at the ports?

Mr. MARVIN. As evidenced by the articles upon which duties were placed and the purpose for which they were placed.

Mr. RAINEY. Now let me call your attention to the English tariff and the articles upon which they impose it at the present time. They collect on tobaccos and snuffs, £25,743,000; on tea, £13,962,000; on sugar, £8,848,000; on spirits, £5,324,000; on cocoa, coffee, and chicory, £1,761,000. In other words, of the total, £71,000, to which you called attention, they collect over £50,000 on the articles I have been mentioning here which are not competitive and upon which we do not collect anything at the ports. They come in here free. That is the English system of levying a revenue tariff, and of course that is a revenue tariff without any other element in it. Does your organization favor a tariff at the ports upon the articles I have mentioned?

Mr. MARVIN. Pardon me one moment. If the gentleman will continue the reading of that list he will find that England—

Mr. RAINEY (interposing). I will read the rest of it later. Those are noncompetitive things I have mentioned. There is no element of protection in there at all. Does your organization favor the English tariff on these articles which I have read?

MR. MARVIN. We do not take into consideration in our revenue measures, so far as they are applied to this country, the policy of Great Britain. We look at our own interests and our own welfare. If we were framing or had anything to do with suggesting the framing of a revenue measure, it would be based on protective-tariff lines. I am not appealing to you to-day for protection, because this hearing was called for an increase of revenue, and I was suggesting a means by which, through increased tariff duties, revenues might be raised, regardless of the question of protection.

MR. RAINEY. I understand that; but you have been calling attention to the English collections at the port as amounting to so much per capita, and to our own collections as being inconsiderable as compared therewith. Now, I have called your attention to the major portion of those collections, which are entirely upon articles non-competitive; and to levy such a tax is exactly opposed to the protective theory for which you say your organization stands.

Now, let me call attention to the other items: On motor cars and motorcycles they only collect £541,000; on clocks and watches, to which you have called attention as indicating that they are levying protective tariffs, they only collect £244,000. The manufacture of clocks and watches is not an English business at all. That is a business which is conducted in Switzerland and in the United States and in France and in Germany. On cinematograph films they collect £184,000, and that is an American industry.

MR. MARVIN. Evidently with the idea of protecting their market so that it may some day become a British industry.

MR. RAINEY. So there is not any element of protection in this English tariff which you quote so approvingly at all.

MR. MARVIN. After all, they applied needed protection to the very items the gentleman has referred to, and the purpose for which those taxes were increased and levied shows that England has a decided tread to-day toward a protective tariff; but what is the need, gentlemen, of going into that question at this time?

MR. GARNER. We did not go into it at all.

MR. RAINEY. You have gone into it yourself.

MR. MARVIN. I simply suggested a source of revenue, and I have suggested an increase of tariff duties. The purpose of that increase is for the majority members of the committee to determine. If they prefer a pure revenue system based upon taxes raised at the custom-house from noncompetitive imports, it is within their province to levy such a tax. If the country approves of that, of course, such a law would remain on the statute books.

MR. RAINEY. Would it interrupt you if I asked you upon what articles you would increase the rate now?

MR. MARVIN. I would rather not go into details now because, as I say, I am not here for that purpose. I am here to make the suggestion that in a general way a larger portion of our revenue be raised from increased customs duties. I will be glad to make definite suggestions and if the committee wants me to, I will do it with a great deal of enthusiasm if the committee will say that they will adopt some of the suggestions.

MR. RAINEY. We could not agree to that.

MR. MARVIN. I know you could not.

Mr. RAINEY. But we will be glad to have your suggestions.

Mr. MARVIN. I shall be very glad to do it or to respond in any way I can to any request of the committee.

Mr. MOORE. Mr. Marvin, you have no hesitation in saying that you believe in protection as a policy, have you?

Mr. MARVIN. Absolutely not.

Mr. MOORE. You do believe in a tariff for protection as well as for revenue?

Mr. MARVIN. Yes, sir.

Mr. MOORE. The gentlemen seem to differ with you on that point. You are not ashamed of the fact that you stand for a protective policy?

Mr. MARVIN. I am no more ashamed of that than I am of the American Flag or of the American soldier. I believe it is an American policy.

Mr. MOORE. I want you to restate for the benefit of the gentlemen of the committee who have come in since you started, your statement what it was per capita that the English paid and what it was per capita that the United States paid on the tariff you referred to.

Mr. MARVIN. Based on the estimated revenues for the fiscal year ending March, 1918, the British revenues from customs will be about \$460,000,000, which will be approximately \$10.25 per capita. The best estimate I have been able to obtain on the revenues derived from customs in this country for the fiscal year ending June 30, 1918, is \$168,000,000, or about \$1.60 per capita.

Mr. MOORE. In other words, in England the amount raised per capita from customs duties is \$10.25, and in the United States the amount raised per capita is \$1.60; and your suggestion is that the committee might find that a fruitful source of inquiry and possibly of profit if it took up the matter of increased customs duties?

Mr. MARVIN. I certainly think so; yes, sir.

Mr. HULL. Mr. Marvin, I came in just as you were giving the rate of percentage of revenue to the amount of imports. I believe you gave the rate of the percentage to the value of dutiable imports and also to the value of all imports; is that correct? I came in just as you were on that subject. I am sorry I was not able to get here earlier.

Mr. MARVIN. I asked permission, sir, to incorporate in my remarks a table showing the average ad valorem rate of duties on imports from the year 1912 to the year 1916, and said that the figures showed that for the nine months ending March, 1918, the average ad valorem rate of duty on our imports would be 6.21 per cent. Is that what you referred to?

Mr. HULL. What I was getting at was this: Which is the best criterion to take, the average rate on dutiable imports or the average rate on all imports, dutiable and nondutiable, and what do your rates signify when you do take them?

Mr. MARVIN. I think there is possibly more significance, if we are looking at the question from a protective tariff point of view, in the rate of duty on the dutiable imports, but if we are looking wholly at the question of revenue, it is more important, I think, to see what the average rate of duty is on all imports, because that eliminates the question of dutiable imports and the reason why such imports are dutiable.

Mr. HULL. Then, you would adopt one course in order to determine one proposition and adopt the other in order to determine more accurately the other question?

Mr. MARVIN. It would depend a great deal on which direction I started. If I had my mind definitely made up to go to a certain place, I would take an entirely different course than if I were arriving at another result. It is, perhaps, interesting to note that over 73 per cent of our imports are now absolutely free of duty.

Mr. HULL. Would you base your customs tax program on specific or ad valorem duties at this time?

Mr. MARVIN. Well, I believe that specific duties are more easily collected—there is less danger of misrepresentation, and, I think, they are more effective as a means of gaining revenue and also as a means of protection.

Mr. HULL. The prices of all imports, as well as other things, have practically doubled. If you had an ad valorem basis, would you not get a much larger amount of revenue in the customhouse than you would if you had a specific basis, which would apply to the quantity rather than to the value?

Mr. MARVIN. In the case of inflated values I think there is, perhaps, an advantage in the ad valorem rate, but in normal times I think it is a disadvantage.

Mr. HULL. You would feel inclined, during this emergency, under war conditions and during these times of greatly inflated prices, to recommend an ad valorem duty, would you not?

Mr. MARVIN. If careful safeguards as to the value of the imports could be devised, I should think the point is all right.

Mr. HULL. There is no real way of making a comparison between the customs receipts of this country and Great Britain, because there are wholly different subjects of taxation which would be involved, unless we were to provide a coffee, tea, and sugar tax.

Mr. MARVIN. That is true. The situation in England and in this country is entirely different. England is a trading country, while we are a producing country. I think our economic policies should be based on our needs and not on the needs of England.

Mr. HULL. I remember that Secretary of the Treasury Chase, during the Civil War, stated that customs systems were entirely unreliable as sources of revenue during war times, with embargoes on so many kinds of imports as well as exports. What would you say to the view he then expressed?

Mr. MARVIN. I think it was correct. I think when we are in abnormal times—

Mr. HULL (interposing). You think they should be considered very unreliable?

Mr. MARVIN. I should think so; yes, sir; as a basis for legislation for normal conditions.

Mr. HULL. I notice in the English Parliament when the tax bills come up—although the Parliament is made up of different political parties—that during this war situation they unanimously agree, or with practical unanimity, that in view of the fact that the customs taxes are so unreliable it is not wise to enter into any of these questions except as to the simple items of tea, tobacco, and sugar, in the main. Do you think it would be wise for us to take up all of these



raw materials, or other items that are coming in, and undertake to forecast the situation, the volume of imports and trade movements, and try to get some kind of a substantial and stable revenue at this time from those sources?

Mr. MARVIN. It would be very difficult, I imagine, to draft a tariff law to-day that would be wholly applicable to the conditions that will confront us after the war.

Mr. HULL. If you drafted one now you would have the same necessity to draft a new one under the newer conditions, would you not?

Mr. MARVIN. From my point of view it might become a greater necessity.

Mr. HULL. You were comparing the possible rates under some of the schedules with those under the present schedules. Would you feel justified in taking wool and making it one of the items from which to raise some war taxes? I am speaking of the war period and am not speaking of the situation that will arise when the war closes.

Mr. MARVIN. Personally I should.

Mr. HULL. Taking into consideration the general legislative standpoint and the economic situation as well as the fact that the Government is utilizing and commandeering practically all the wool it can get hold of for the Army?

Mr. MARVIN. It might serve, Mr. Hull, a very useful purpose. We need wool and we have got to have wool. If the difficulties of importing wool were increased, we would raise more wool. If we lost revenue on the basis of free wool as compared to a tax on wool, we would more than make that up in national prosperity by the production of the wool, and instead of sending abroad a part of the money to pay foreign dealers to raise the wool all of that money would remain here, and you would get your money ultimately by income taxes on the producers. You would lose nothing in revenue, the country would prosper, and we would get more wool.

Mr. HULL. In view of the fact that the price of wool has gone up practically four times would you put an ad valorem duty on it for war purposes at this time rather than to put a specific duty on it?

Mr. MARVIN. I should think that would be a fairer plan at present.

Mr. HULL. You are very familiar with the prices of commodities and everything connected with our economic situation. In order to keep the economic situation on a somewhat even keel under these war conditions, if a substantial tax should be put on wool, do you think it would be wise, feasible, or advisable to have the price of manufactured woolen products fixed—an agreement as to the price of labor and then an agreement as to the distribution of the profits with respect to the manufacturer, the laborer, and the consumer who would purchase those products? Then the consumer would not have to pay inflated prices, the manufacturer would get his due share of the profits, and the skilled laborers would get their proportionate share also.

Mr. MARVIN. Personally I am opposed to a price-fixing program, and I think the objections to a price-fixing program are apt to outweigh the reasons in favor of it.

Mr. HULL. This is just during the war!

Mr. MARVIN. Yes, sir; if we could leave the matter of prices to the adjustment of competition, I think it would be fairer all around, but there are so many details that enter into such a question. You might fix the price, but you might overlook the equal obligation to fix the cost. The price must be based on the cost of production, and it is an unfair proposition, it seems to me, to fix one element of the problem, namely, the price, and to leave the cost of production out of consideration.

Mr. HULL. Somebody would have to fix the price in any event before the product is sold.

Mr. MARVIN. Of course, in normal times the price is fixed by supply and demand as well as the amount of competition, but during war times—

Mr. HULL (interposing). I am referring to these war conditions.

Mr. MARVIN. It would be a beautiful thing, I think, if there was some great genius who could work out all of these matters with fairness and justice, but it seems to me that experience has shown that it is better to leave those questions to be worked out in experience rather than to be worked out in the seclusion of some man's office. I doubt if human ability is capable of handling the problem of price fixing and the correlative problem of fixing the cost of production and do justice to everyone concerned.

Mr. HULL. I thank you very much. I am not undertaking to express any views myself, but simply trying to get your views.

Mr. GARNER. I want to ask you one question and then I want to express my views. You live in Boston and you are the attorney of the Home Market Club.

Mr. MARVIN. Yes, sir.

Mr. GARNER. Have you ever raised sheep?

Mr. MARVIN. My duties have not called upon me to raise sheep or cattle.

Mr. GARNER. I am asking you merely for information now. You are not in the sheep business and have never produced sheep. How do you figure out in your mind, as the attorney for the Home Market Club, or in any other way, that a duty on wool at this time would stimulate the production of wool, when the Government is fixing prices?

Mr. MARVIN. As I said to Mr. Hull, I am not in favor of the policy of the Government fixing prices, because I think it does more damage than good.

Mr. GARNER. I agree with you fully on that. I do not favor the Government fixing the price on anything and I would like to have a lot of revenue through the customhouse, but I can not join you in your reasoning that the putting of a duty on wool would stimulate production in this country, and that we, therefore, would have more wool. The Government is fixing the price now.

Mr. MARVIN. Yes. I think if you say to one man, "Go to work," and to another man, "Stand over him and club him if he does not go to work," you are not going to get much work done.

Mr. GARNER. Any duty you levy at the customhouse now can not have the effect that you protectionist gentlemen think it usually has.

Mr. MARVIN. No, sir; it can not have that stimulating effect on production when there is a fixed price and a limited production. One offsets the other.

Mr. DIXON. Will the statement that you are filing show the average rate of duty on the total importations as well as the average rate on dutiable importations?

Mr. MARVIN. The average rate on the total importations and not the average rate on dutiable importations.

Mr. DIXON. Not on the dutiable importations.

Mr. MARVIN. No, sir.

Mr. DIXON. The statement is limited to just the one.

Mr. MARVIN. Yes, sir.

Mr. FORDNEY. Mr. Marvin, the Government has fixed the price on wool at 65 cents a pound.

Mr. MARVIN. Yes, sir.

Mr. FORDNEY. Wool is very largely used for manufacturing cloth?

Mr. MARVIN. Yes, sir.

Mr. FORDNEY. But cotton is used to a greater extent in the manufacture of cloth than wool, is it not?

Mr. MARVIN. Yes, sir.

Mr. FORDNEY. Is there any reason why the Government should fix the price on wool and not fix the price on cotton? Is there any inconsistency in fixing the price on the two if you fix it on the one?

Mr. MARVIN. Well, it would seem to be a fair proposition that if they are going into that policy it should bear on all products. I do not myself approve of the policy, so that I am not keen to have it extended. I think it works a hardship instead of a benefit.

Mr. FORDNEY. Mr. Marvin, a question was just asked you about the percentage of the duty on dutiable goods. Did I catch the question correctly?

Mr. MARVIN. I was asked about the table which I incorporated in my remarks.

Mr. FORDNEY. The duty collected under our law is 6 per cent ad valorem, and 73 per cent of all the imports are on the free list?

Mr. MARVIN. Yes, sir.

Mr. FORDNEY. Great Britain prior to the war—I want you to correct me if I am not correct, because you are an expert on statistics—collected \$3.56 per capita on imports, while we collected \$3.25?

Mr. MARVIN. Yes, sir.

Mr. FORDNEY. She collected 31 cents per capita more than we did?

Mr. MARVIN. Yes, sir.

Mr. FORDNEY. We are now collecting \$1.60 and Great Britain \$10.25?

Mr. MARVIN. That is what I understand.

Mr. FORDNEY. Do you not believe we ought to collect some of this money that we are exacting from the people on imports instead of by direct internal revenue taxes?

Mr. MARVIN. I have spent several minutes in arguing that point. I believe that is the policy that should be adopted.

Mr. LONGWORTH. Do you favor a duty on tea and coffee?

Mr. MARVIN. I quoted Senator Underwood in my remarks as saying that we might have to come to a consumption duty on necessities of that kind. In putting a duty on tea and coffee, particularly on coffee, I think consideration would have to be given to what would be the probable action on the part of Brazil, for instance, from which we get a large part of our coffee. If Brazil should immediately

retaliate by an increase of duty on American exports, the gain from a duty on coffee would be infinitesimal; it might be more than offset

Mr. FORDNEY. We consume 1,200,000,000 pounds of coffee per annum and we consume 1,000,000,000 pounds of tea per annum. At 5 cents a pound on coffee and 5 cents a pound on tea we would get a revenue of from six to seven millions of dollars a year, but a tax upon tea or coffee—which is a tax on something we do not produce—is a direct tax upon the people, is it not?

Mr. MARVIN. It is a direct tax.

Mr. FORDNEY. It is equivalent to a consumption tax.

Mr. MARVIN. Yes, sir.

Mr. FORDNEY. Mr. Marvin, do you recommend a consumption tax on anything?

Mr. MARVIN. I do not, as a general policy, but in times of emergency, when so much is at stake, as it is to-day, it may become necessary to obtain revenue from sources that would not be approved under other conditions and in other times.

Mr. FORDNEY. There is no question, is there, that a consumption tax would be a direct tax upon the consumer?

Mr. MARVIN. It would be a direct tax upon the consumer.

Mr. STERLING. Mr. Marvin, you base your suggestions on the condition in which we find the country at the present time, do you not?

Mr. MARVIN. Yes, sir.

Mr. STERLING. You abandon your theory of protection for the sake of revenue during the war?

Mr. MARVIN. I have not altogether; no. Personally I think that if we could devise a protective tariff that would, perhaps, decrease in some degree certain importations and, perhaps, decrease the amount of revenue derived from those importations, that we would make those things in this country, and that through an income tax, and other measures of that kind, a larger amount of revenue would be derived, and that the prosperity from that amount of increased production would be particularly beneficial to the country.

Mr. STERLING. I assume that in time of peace, in normal times, if you were imposing a tariff duty, you would impose it, first, with a view of protecting American industries, would you not?

Mr. MARVIN. Personally, I would. I think it is more important in normal times than revenue, because under a protective tariff, in normal times, we have always had ample revenue; in fact, we have piled up big surpluses.

Mr. STERLING. In these times, when revenue is the main purpose and main need of the Government, in imposing a tariff duty I take it that you would not frame a tariff duty strictly with the view of protection but with the view of raising the most revenue for the Treasury?

Mr. MARVIN. In this emergency I think tariff legislation should be framed to raise the most revenue.

Mr. STERLING. Do you not think that a consumption tax, during these times, would be a very good way of spreading the burden throughout all the country?

Mr. MARVIN. Yes, sir; and Senator Underwood said it would distribute the burden.

Mr. STERLING. And an excess-profits tax and an income tax, then, would impose a still heavier burden on those who were best able to pay them?

Mr. MARVIN. Yes, sir.

Mr. STERLING. You would not favor a plan whereby all taxes were to be raised by an income tax and excess-profits tax and leave some of the people without any portion of the burden at all, would you?

Mr. MARVIN. I should think that the duty to support and maintain the Government is the main duty; it bears upon every citizen, and to the amount of their ability they should carry that burden.

Mr. STERLING. They should pay in proportion to their ability to pay?

Mr. MARVIN. Yes, sir.

Mr. STERLING. You said, in your remarks, I think, that under the Wilson-Gorman bill the rates there imposed would have produced \$600,000,000 last year on imports, if those rates had been in force.

Mr. MARVIN. Those rates, applied to the same amount of importations, would have produced about \$618,000,000; that is, at the rate of 21 per cent instead of at the rate of 7 per cent.

Mr. STERLING. Did you compute what would have been produced last year on imports if the Payne-Aldrich tariff rates had been in force?

Mr. MARVIN. Well, it would have been a trifle less than that. The rate in the Payne-Aldrich bill was 18.58 instead of 21 and some hundredths, as in the Wilson-Gorman bill; so that would make only a slight difference and bring it down under \$600,000,000, rather than over that amount.

Mr. STERLING. I will ask you whether an ad valorem duty will produce more than a specific duty on imports? I suppose that would depend altogether on the rates, would it not?

Mr. MARVIN. Well, it would depend on the rates, of course, and on the values. With inflated values there would be a larger return than there would be under normal conditions.

Mr. STERLING. You could produce more revenue by one than the other, providing you fixed the rates high enough to do it, could you not?

Mr. MARVIN. That is the idea exactly.

Mr. STERLING. The character of the tariff has nothing to do with the amount of revenue obtained, I take it, whether it be ad valorem or specific.

Mr. MARVIN. Well, in theory that would seem to be so, but in practice it does not work out that way, because of the opportunity there is under the ad valorem system to misrepresent prices—the question has been so thoroughly gone over and there have been so many arguments pro and con.

Mr. STERLING. If they should misrepresent the prices, then the raising of the rates a little higher to offset the misrepresentation would cure the evil, would it not?

Mr. MARVIN. But you know how difficult it is to raise the rates.

Mr. GARNER. I am a little confused about two answers you made to Mr. Sterling. I understood you to say that you would levy the duties at the customhouse, so as to increase the production in this

country, and, therefore, increase the revenues of the Government through an excess-profits and income tax.

Mr. MARVIN. I think it would result in that way. If we had a large production, we would have a larger revenue from taxes on that production.

Mr. GARNER. You would increase the collections at the custom-house through an excess-profits and income tax?

Mr. MARVIN. I hope you will take my answers to these questions in connection with the context in which they are given. I was asked whether I thought a protective tariff would decrease the receipts of the customhouse. I said it might decrease certain importations, and in that sense decrease the amount collected on those importations, but that the protection afforded by those rates would stimulate the production of those goods in this country and give us a larger income on which a direct tax could be levied.

Mr. GARNER. If you were levying this tax—if you were going to prepare the schedules—would that be the theory on which you would work in fixing the rates?

Mr. MARVIN. I am a thorough believer and an honest believer in the advantage of the protective tariff policy, and if I were drafting a revenue law I would consider the advantage to the country of a protective tariff rate, because I believe it is more to our advantage to produce than it is to import.

Mr. GARNER. Perhaps I can get at your idea in this way: If you were going to make it your business to levy the rate at the custom-house, would you levy it on raw materials?

Mr. MARVIN. On such raw materials as we could raise in this country to advantage, because I believe we ought to be self-sustaining as far as possible.

Mr. GARNER. Would you levy it on the raw materials that a manufacturer had to go out and buy during this war?

Mr. MARVIN. I think, Mr. Garner, you asked me about the fixing of the price on wool. I do not think that a protective tariff on such raw materials would stimulate production where the price is limited to a certain figure, so that we can not apply a theory directly to particular items without knowing the conditions surrounding those items, taking into consideration the correlative facts.

Mr. GARNER. In other words, in making up this revenue at the customhouse, you would have to consider all of the approximately 4,000 items that are on the list?

Mr. MARVIN. Yes, sir; and I think in this emergency it is not so much a question of our economic condition as it is the question of the need of the Government, and that is the prime consideration.

Mr. COLLIER. Mr. Marvin, there is a question I wanted to ask you about the tariff on wool, when I yielded to Mr. Fordney. I understood you to say that you believe a tariff on wool would stimulate the production of wool in this country. The question I want to ask you is this, without pretending to go into any extended tariff discussion: How do you explain the fact that at the time of the enactment of the Dingley law, or about that time, we had about 63,000,000 sheep in this country, and from that time up to 1912, during the period when we had the highest protective tariff on wool perhaps in the history of the country the sheep decreased from 63,000,000

to 52,000,000, and at the same time the value of other farm animals increased from \$3,000,000,000 to \$5,000,000,000, an increase during that time of over \$2,000,000,000 in value of other farm animals, whereas in the same time there was a decrease of nearly 12,000,000 in the number of sheep, and in the State of Texas—Mr. Garner has asked you several questions along this line—about the time of the enactment of the Dingley law there were 2,500,000 sheep in Texas, and in 1912 they had decreased to about 1,400,000, a decrease in the value of sheep of about \$7,000,000; and at the same time other farm animals in the State of Texas increased in value something over \$80,000,000. Now, if during the period of the highest protection on wool there was a decrease in the production of sheep in this country, how do you figure it out now that with an increased price on all meat products, and the Government itself wanting all the wool it can get, a tariff on wool would stimulate and increase the production of wool in this country?

Mr. MARVIN. The theory of a tariff on wool is that it will make the wool industry sufficiently profitable to warrant a man engaging in that industry. The figures you have quoted show that men can engage in other lines of agricultural industry either to greater profit or to greater personal comfort. It would indicate, sir, that the stimulation had not been sufficient; that the inducement had not been enough; and if you will compare other tariff periods you will find that while there was a decline under what you call the high protective tariff rates on wool, there was a much more rapid decline as those rates of duties and that degree of protection was reduced, showing—

Mr. COLLIER (interposing). You do not mean to say, Mr. Marvin, that there was a higher tariff on other farm animals than there was on sheep and wool, do you, during those 12 years which showed a great decrease in the number of sheep and in the production of wool and at the same time a tremendous increase on all the other farm animals which did not have anything like such a high tariff?

Mr. MOORE. Mr. Marvin, can you not find a better answer to the question of the gentleman from Mississippi in the fact that the gentleman from Texas, Mr. Garner, succeeded in obtaining through the Underwood tariff a protection of about 150 per cent, in one form or another, to encourage the development and stimulation of the Angora goat in Texas?

Mr. MARVIN. Well, it was a very wise move on the gentleman's part, I think.

Mr. MOORE. I want to ask you while you are on the stand, because you come from a large industrial country which pays enormous taxes into the Treasury, and being interested, and those whom you represent in the textile industry, whether if we put a tax on raw wool, as some gentlemen have seemed to indicate we should do, we should not also put a tax on raw cotton?

Mr. MARVIN. You mean a custom tax?

Mr. MOORE. No; an internal tax—a revenue tax—a war tax. Judge Hull raised the question as to the propriety of putting a tax on raw wool which enters into your manufacture of woolen goods, and I am asking about the propriety of putting a tax on raw cotton, which also enters into your manufacture of cotton goods.

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Mr. MARVIN. You mean a custom tax?

Mr. MOORE. No; an internal tax—a revenue tax—a war tax. Judge Hull raised the question as to the propriety of putting a tax on raw wool which enters into your manufacture of woollen goods, and I am asking about the propriety of putting a tax on raw cotton, which also enters into your manufacture of cotton goods.

I am asking whether if we should put a tax on raw wool we should not also put a tax on raw cotton which pays no tax at all?

Mr. HULL. May I interrupt—

Mr. MOORE. I think it would be better to let the witness answer, because cotton is going to be just as interesting a subject as wool.

Mr. HULL. But I no not want to be put in an improper attitude. We are discussing customhouse taxation, and to take up internal taxation is another matter, which I will be glad to go into—

Mr. MOORE (interposing). Then, perhaps, I did misunderstand the gentleman, because the illustration would be very unfair since much more wool is raised in foreign countries than in the United States, whereas the United States has a complete monopoly in the raising of raw cotton; but I wanted to ask the gentleman who comes from an industrial center, where they fabricate both raw wool and raw cotton, whether, if we should put a tax on raw wool or on raw wool products we should not also put a tax on raw cotton. Let us be fair about it and go right down the line.

Mr. MARVIN. I think so. I am not in favor of a policy that will make sheep of one and goat of another.

Mr. MOORE. When we have got to raise \$24,000,000,000 a year to pay our own expenses and the Treasury demands it, and when we have got to go into consumption taxes as you have already indicated in the opening of your address, quoting Senator Underwood on the subject also, the question is whether or not we should proceed to tax all along the line and include cotton as well as wool, and cotton products as well as woolen products.

Mr. MARVIN. As the gentleman said, the wider and the fairer the distribution of the taxes, the fairer and wiser is the system.

Mr. GARNER. Do you advocate an internal consumption tax?

Mr. MARVIN. I have not advocated that. I am here merely for the purpose of advocating increased customs duties.

Mr. MOORE. Do you not think that cotton has become such an immense necessity during war times, and of course, is a war necessity, that it might prove to be a very fruitful source of revenue, if we should impose some tax upon it and make it bear a part of the burden which the people of the United States have to bear to carry on this war?

Mr. MARVIN. Undoubtedly, much revenue could be derived from that source if thought wise and fair.

Mr. MOORE. Do you think if we imposed a tax on raw cotton it would seriously impair our ability to manufacture raw cotton into fabricated materials and also to pay excess profit taxes and other things to be derived from the manufacture of cotton products?

Mr. MARVIN. Oh, according to the present theory if a tax is put on the raw cotton, of course, the price would be fixed too.

Mr. MOORE. So long as it applies to other commodities, copper, iron steel, and things of that kind, why should it not apply to cotton, wool, grain, or any other substance that enters into the prosecution of the war?

Mr. MARVIN. There is no reason why it should not.

Mr. GREEN. Mr. Marvin, your answer to the gentleman from Mississippi with reference to the wool situation indicated a very clear insight into the course of trade and the natural trend of prices. Being

from an agricultural region and also familiar with the sheep-raising districts farther west, I might make some further suggestions that would throw some light on the situation. You are probably aware that in the latter part of the nineties, that is, of the preceding century, and all along through this century, there has been a very rapid rise in the prices of ordinary agricultural products, particularly food products?

Mr. MARVIN. Yes, sir.

Mr. GREEN. Could you inform me as to whether there was a corresponding rise in the price of wool during that period?

Mr. MARVIN. No, sir; there was not.

Mr. GREEN. That is what I was well aware of. Consequently it became very much more profitable for farmers to raise food products than to produce wool.

Mr. MARVIN. Yes, sir.

Mr. GREEN. And I do not know whether you are aware of the fact or not that during this same period, on account of the increasing price of food products, gradually what had been known as grazing land, and possibly in many instances thought only fit for grazing land, in the West was largely taken up and used for the purpose of raising food products, therefore diminishing the area upon which sheep could be grazed; that is a fact, is it not?

Mr. MARVIN. Yes, sir.

Mr. GREEN. And that is what largely caused the reduction in the number of sheep. Now, turning to another subject, Mr. Longworth asked you with reference to a duty upon tea and coffee. Have you any views to express at this time as to the propriety of levying a duty on food products during this war?

Mr. MARVIN. I would rather not be drawn into the details of a revenue measure of that kind. I do not think I could add anything to the enlightenment of the committee along that line. They involve too many considerations and ought not to be dealt with offhand, it seems to me.

Mr. RAINEX. Mr. Marvin, I understood you to say that in normal times a protective tariff yields ample revenue?

Mr. MARVIN. Yes, sir.

Mr. RAINEX. Did I understand you correctly in that?

Mr. MARVIN. That is the general statement I made; yes, sir.

Mr. RAINEX. You refer to the Payne-Aldrich tariff duty?

Mr. MARVIN. I referred to the period since the Civil War, when for the most part we were under a protective tariff system, in many of the years of which we developed a large surplus.

Mr. RAINEX. Do you know how much money we got during the peak year of the Payne-Aldrich system, which was the highest tariff we ever had?

Mr. MARVIN. The revenue?

Mr. RAINEX. Yes.

Mr. MARVIN. In 1912 the revenue derived from customs duties was \$326,000,000.

Mr. RAINEX. Was that the highest?

Mr. MARVIN. I imagine it was pretty near the highest. I think it went \$350,000,000 or \$360,000,000, perhaps.

Mr. RAINEX. When?

Mr. MARVIN. I have not those facts here, and, of course, I do not keep them in my mind, but there is the fact that in 1912 the revenue from customs under the Payne-Aldrich law was \$326,000,000, and for the present year, under your present tariff law, the estimate is it will be about \$168,000,000, with greatly increased importations.

Mr. RAINEY. And under present war conditions?

Mr. MARVIN. Yes.

Mr. RAINEY. Do you think the amount yielded in the peak year of the Payne-Aldrich tariff bill, which was the biggest we ever got from tariffs, would be sufficient in normal times which are to follow this war?

Mr. MARVIN. Whether that amount of revenue will be sufficient in normal times?

Mr. RAINEY. Whether it will be sufficient in amount when we have a restoration to normal times and when the war is over?

Mr. MARVIN. Sufficient for what?

Mr. RAINEY. Sufficient for revenue purposes. You say a protective tariff has always in normal times yielded ample revenue. That was your exact language.

Mr. MARVIN. Yes.

Mr. RAINEY. After the war is over, do you think a return to the Payne-Aldrich tariff rates would yield ample revenue?

Mr. MARVIN. After the war is over the expenses of the Government will be greatly increased, of course, and we can not for many years to come hope to—

Mr. RAINEY. After the war is over, if we retire any bonds we will have an annual expense of \$5,000,000,000.

Mr. MARVIN. And we can not hope, of course, to raise from customs duties any such proportion of our total revenue as we raised before the war.

Mr. RAINEY. No; of course not.

Mr. MARVIN. But that is not any reason why we should not raise all we can fairly and justly and reasonably.

Mr. RAINEY. We are framing now simply a war-tax bill which will end with the war. What articles besides wool do you think need protection during this war period?

Mr. MARVIN. I think the war itself is the highest form of protection we have had. During the war I have not heard anyone ask for an increase of protective duties.

Mr. RAINEY. And if the war conditions continue indefinitely we will have an ideal tariff from the standpoint of the New England protectionists.

Mr. MARVIN. What do you mean by "war conditions"? No man in New England wants this war to last a second longer than necessary to vindicate American rights.

Mr. RAINEY. I said if it does continue, you will have the highest type of protection, as you have just indicated, from the standpoint of your organization. You said that war conditions furnish all the protection anybody needs, did you not?

Mr. MARVIN. Yes, sir.

Mr. MOORE. In order that the gentleman's statements will not be left in that condition, you do not advocate the continuation of the war for the purpose of continuing a protective policy, do you?

Mr. MARVIN. Absolutely not.

Mr. MOORE. On the other hand, you prefer to have the war cease at once in order that we may have an intelligent and efficient tariff policy; is not that the idea?

Mr. MARVIN. The only thing that I know that is worse than free trade, is war.

Mr. RAINEY. My question did not imply that anybody was in favor of the continuation of this war.

Mr. DICKINSON. Mr. Marvin, I would like to ask you a question. The taxation of cotton has been suggested. I did not understand you to say that you favored a direct tax on cotton for the purpose of raising revenue; but if they should put a direct tax on cotton, would you also favor a direct tax on wool?

Mr. MARVIN. I think if you are going to enter into a system of that kind it should be evenly and wisely distributed, and not just a few items picked out. I am not in favor of a tax on cotton or a direct tax on wool unless the necessities of the Government require the distribution of a similar form of taxation on as many similar products as possible.

Mr. DICKINSON. Formerly, under the Payne bill, there was a customs duty or tax on wool; but to levy a tax on cotton would be a different kind of a tax, because the cotton is raised in this country.

Mr. MARVIN. Yes; the gentleman's question referred to a direct tax, an internal tax and not a customs tax, as I understood it.

Mr. DICKINSON. I did not understand you to say you favored a tax on cotton.

Mr. MARVIN. A customs tax on cotton?

Mr. DICKINSON. No; a direct tax.

Mr. MARVIN. No, sir; not unless the necessities of the Government require a tax of that kind laid on all commodities.

Mr. DICKINSON. But you favor a customs tax on wool?

Mr. MARVIN. Yes, sir.

Mr. DICKINSON. Do you know whether there is now a customs tax on foreign cotton, or Egyptian cotton, or whether that has been taken off?

Mr. MARVIN. In this country?

Mr. DICKINSON. Yes.

Mr. MARVIN. No, sir.

Mr. DICKINSON. There is not one now, but there used to be.

Mr. MARVIN. I do not think there has been.

Mr. GARNER. Yes; there was; on Egyptian cotton.

The CHAIRMAN. Mr. Marvin, there is one matter I want to call your attention to. I am not going into a discussion of the theory of a Democratic tariff or a Republican tariff, because that is something that is not going to enter into the question of our raising revenue. In the framing of the last big revenue bill there was no partisanship involved, and at no time did the Democrats vote one way and the Republicans another. Of course, when we get to talking about protective tariff and tariff for revenue the boys are a little "touchious" and will have little disputes; but there is one matter I want to call your attention to. I understood you to say that with the same rate under the Payne-Aldrich Act we would raise, with the importations now coming in, about \$600,000,000.

Mr. MARVIN. That calculation is not based on the rates of the Payne-Aldrich Act, Mr. Kitchin, but on the average rate that prevailed during the Gorman-Wilson Act.

The CHAIRMAN. You said that it was \$600,000,000 under the Wilson Act and a little less than that under the Payne-Aldrich Act?

Mr. MARVIN. Yes.

The CHAIRMAN. Have you given consideration to the fact that the bulk of the importations or the great increase of importations, as statistics show, are articles that were upon the free list, both under the Underwood Act, the Dingley Act, and the Payne-Aldrich Act; and if you were to take the rates, as I have done, of the Payne-Aldrich Act, the specific and ad valorem rates, and apply them to the specific articles that come in, you will find you would not get \$300,000,000, because there was \$1,850,000,000 of imports on the free list, and practically all of those imports, except wool, were on the free list under the Payne-Aldrich Act and the Underwood Act, and only about \$850,000,000 of dutiable goods came in. So when you apply the specific ad valorem rate of either the Wilson or especially the Payne-Aldrich Act you will find it would be very difficult to get \$300,000,000.

Mr. MARVIN. That shows that the Payne-Aldrich rates were rather low, then, Mr. Kitchin, does it not?

The CHAIRMAN. Yes; they are bound to be low on silk and rubber and tea and coffee and hides, because they were on the free list under the Payne-Aldrich and the Underwood Acts, and a large part of the importations that come in are articles that were on the free list under both acts. I have heard that statement made so often that I have looked into it, and I have found that they have just taken the average rate under each one of the acts and applied that average rate to the total amount of importations, without differentiating between the great increase of importation of articles on the free list and those on the dutiable list remaining practically the same.

Mr. MARVIN. I tried to make it clear that it was the line of my argument that the Gorman-Wilson rate, an average of, say, 21 per cent, was considered at the time very low rate, and probably the country would be willing to concede to-day that an average rate of 21 per cent was a low rate. With such an average rate applied to present importations, necessarily the income derived would be a great deal larger than it is with a rate of only 6 per cent. about.

The CHAIRMAN. But you should not take the average rate.

Mr. MARVIN. And I thought we had gone too far in reducing the rate.

The CHAIRMAN. Both under the Dingley bill, and the Wilson bill, and the Payne-Aldrich bill the free importations and dutiable importations are just about the same. The importations of articles on the free list both under the Payne-Aldrich Act and the Underwood Act are just about double. Now, of course, that applies to either one of the theories and I just wanted to call your attention to that with reference to the basis of making your average.

Mr. MARVIN. Of course, the application of my argument would involve the application of duties to many articles now on the free list and to extending the dutiable list as well as raising the rate.

Mr. GARNER. Mr. Marvin, I would like to call your attention to one thing. In making up the last revenue bill the House of Represent-

sentatives placed a 10 per cent ad valorem on all imports. The bill went over to the Senate and the Senators from New England insisted it go out of the bill. Was that the viewpoint of your organization?

Mr. MARVIN. The viewpoint of our organization was that the application of a flat rate was not a just way of getting at the question. Some items might well have stood a 10 per cent increase, but it would have applied all along the line and would have brought about very serious disarrangement in certain lines of manufacture, and it would not have borne equitably on the product.

Mr. DICKINSON. Mr. Marvin, you referred to the comparatively small amount collected in customs duties this last year, I believe, \$168,000,000.

Mr. MARVIN. That is the estimate for the current fiscal year. Last year it was \$206,000,000.

Mr. DICKINSON. Now, that reduced amount or lower amount collected is due largely to the war having cut off our trade relations with some of the countries, is it not? For instance, we used to collect a larger amount of duties or taxes from German goods that came in, and from other countries, and naturally the amount would be much larger than that if the war was not on; is not that true?

Mr. MARVIN. The total imports, you know, have greatly increased. The importations are \$1,000,000,000 larger than they were at any period with which I have compared in getting up these figures. For revenue purposes we have larger importations to-day than we have ever had in our history.

Mr. DICKINSON. Do you mean of those things that would bear duties?

Mr. MARVIN. Well, it depends upon what the duties are placed, because to-day we have an exceedingly large free list. Seventy-three per cent of the importations are absolutely free of duty.

Mr. GREENE. Mr. Marvin, with reference to this increase of 10 per cent ad valorem in the rate which was placed in the last revenue bill by the House and afterwards taken out by the Senate, I might say that while that provision, as everybody confessed, was unscientific, yet it was a singular fact, and one I think most of the members of the committee will agree with me upon, that there was less objection to it in the House, and less personal objection, so far as I heard, from anybody that was affected by it, than almost any other provision in the bill. Do you think that was because it did not strike anyone very hard, or can you give any reason why there was no more protest against it?

Mr. MARVIN. I heard a great many favorable comments in New England about the suggestion, not because the details of it were approved but because it showed a tendency toward an increase of tariff duties. They liked the manifestation it gave of looking toward a higher rate of customs duties. It seemed to appeal to New England particularly, so far as I was in touch with the men there, as an indication that we were probably in for a period of what they consider wiser and more reasonable tariff rates; not that they approved the suggestion itself, because, as you say, it was not scientifically arranged and did not take into consideration different conditions.

The CHAIRMAN. We are very much obliged to you, Mr. Marvin.

**STATEMENT OF MR. BENJAMIN C. MARSH, SECRETARY FARMERS' NATIONAL COMMITTEE ON WAR FINANCE, 35 BLISS BUILDING, WASHINGTON, D. C.**

The CHAIRMAN. Mr. Marsh, state your name and business, or occupation.

Mr. MARSH. Benjamin C. Marsh, secretary of the Farmers' National Committee on War Finance, a committee of which Gov. Arthur Capper, of Kansas, is chairman and upon which we have representatives of the National Grange, the American National Livestock Growers, the Dairymen's Union, Buttermakers' Association, the Society of Equity, and the Farmers' Union, and the Gleaners.

Mr. MOORE. What is your home place?

Mr. MARSH. I am here in Washington, at the headquarters here. Mr. Chairman, may I say that I think appreciation ought to be expressed to this committee of the sacrifice you are making in staying here and getting right at this job. The Congressmen are often criticized, and I believe it is only due to say to you that I think it is very much appreciated. Personally may I say, Mr. Chairman, that I will not be satisfied with this revenue bill which you gentlemen are preparing if you do not make me pay a much higher income tax next year. Now, I do not know how many of the folks that will appear before you will say that, but I say it in all sincerity. I have been talking to thousands of the boys down at Camp Meade and I am going to do it again, because they have asked me to come down there. I have been talking straight economics to them and why we are in this war, and I can not look those fellows in the face if I pay the income tax I did last year, my wife and I both working, with no exemption, or about \$31.50, or on about \$1,500 net. Now, gentlemen, please make me pay a decently heavy income tax, and for Heaven's sake make it a straight income tax and not a camouflage tax on consumption.

That is the most unpatriotic tax, I believe, that can be conceived, because you do not know who is going to pay it.

I am to speak chiefly this morning on an excess-profits tax and a tax upon incomes, and urge this: That the one principle upon which this war must be financed, and we believe the only adequate principle, is the equality of financial sacrifice. Yesterday I spoke in New York at a meeting at which there were several multimillionaires. I suggested this principle and they did not know whether to faint or call the police. But I think it is absolutely unanswerable. This is not a regular war. We all have got to insist, as far as possible, upon the principle of equality of financial sacrifice.

You may recall that the Grange adopted a resolution last year at St. Louis urging that the Government should take over all incomes in excess of \$100,000. It would seem that \$50,000 would be enough for a patriot, and a certain number are not entitled to more than half that. I do not see how a patriot could ask for more than \$50,000 to live on. I think you gentlemen will agree, having read the statements which many of you have made, and which I have seen in the press, with what I am going to suggest to-day, because I think I know what is in your minds, and what I am going to say I can substantiate with some statistics. May I ask the privilege of submitting later a



much fuller table of statistics and suggestions and just outline the matter this morning?

The CHAIRMAN. Without objection you may do so.

Mr. MARSH. I am here in Washington, in the Bliss Building, and if I can be of any service in getting information for you I will be glad to get it.

It has been suggested that we should put taxes upon consumption. When you come right down to it taxes on consumption are indirect income taxes. A man can not pay them if he does not have them. I am going to quote a rather conservative authority to you this morning, the Bankers Trust Co., of New York, among others, and the Commerce and Finance Journal, published by Mr. Theodore H. Price, at least up until this week, when he came here to be the actuary for the Railroad Administration. The Bankers Trust Co. estimates that in 1916 the total national income was \$50,000,000,000. Prof. Anderson, of Harvard University, estimates the national income for 1917 at \$68,600,000,000. That was criticized and I received a letter from him this morning in which he says that certainly for 1917 it will be \$60,000,000,000 or will be between \$60,000,000,000 and \$63,000,000,000. He is coming down here to do some work and he promises to prepare some figures which I will be glad to submit.

It seems to me that in this revenue bill we have two things which we want to do. We want to raise revenue without producing inflation and in such a way as to conserve the material resources of this country at the same time. Now, I urged yesterday what has been called conscription of wealth, but I think the fairer term is the equality of financial sacrifice. I urged that at this meeting in New York, where they were considering how to get war economy. It seems to me pretty obvious that if you take the income which a man might spend upon luxuries, and I was a little astounded that there was a \$2 luncheon at a meeting on war economy, but I did not take a ticket; but if you are going to have war economy you have got to see to it that people do not blow the money in foolishly. I do not know any better way to prevent that than the way the Government has of putting the property and incomes of this country on the same basis as it is putting the men of the country, or, perhaps, it would be fairer to say, on the same basis that the men of the country ask to be placed in this war.

The distribution of income is simply astounding. I was unable to send a second copy of this statement to you, but out of 27,304,000 families 7,288,000 had an income of under \$850. Many of these were individuals, of course.

Mr. STERLING. What are you reading from?

Mr. MARSH. From the Bankers Trust Co. pamphlet, which I have here. Roughly speaking, out of twenty-seven and a quarter million families, nineteen and a quarter million families had, in 1916, an income of under \$1,950. Now, the inflation is going on very rapidly and—

Mr. MOORE (interposing). I should like to know what authority there is for the figures you are presenting, because they are astounding. I would like to know what you have behind the Bankers Trust Co., or this professor, whose statement is that the incomes last year were anywhere from \$50,000,000,000 to \$68,000,000,000.

Mr. MARSH. In its issue of May 22 that question was taken up by Mr. Price in the Commerce and Finance Journal.

Mr. MOORE. He is an individual. Mr. Price is just the same as any other one of us; the professor you quote is the same as any other one of us, and the actuary of the Bankers Trust Co., who undoubtedly prepared those figures, is no more than any of the rest of us. Where do those figures come from, and from what source do you get your authority for them?

Mr. MARSH. I got the incomes of over \$3,000 from the report of the Commissioner of Internal Revenue. I have had to make an estimate, because they do not—I have not been able to get the total of the receipts from the people in the different classes, but you gentlemen can get those things, of course, at any time. I certainly trust that you will ask that the incomes being made, at least those over \$25,000, be made public, and that ought to be made a part of this bill.

Mr. MOORE. If you try to make the committee start out with the proposition that the incomes were \$60,000,000,000 last year, or any other amount, you can deduce almost anything, but you may be moving entirely away from the figures which the committee should consider.

Mr. MARSH. I am perfectly willing to withdraw all of my figures if you will ask the Commissioner of Internal Revenue to give you all the information he has. For instance, from their report for the year 1916, it appears that the aggregate corporate return was \$8,697,000,000.

Mr. MOORE. That is official, and there is such a wide difference between that and the amount you have gotten from these professors and others that I am wondering where we are going to get the exact facts.

Mr. MARSH. I have not seen anyone who denies that it was less than \$50,000,000,000.

Mr. MOORE. But, you see, that is vague. I want to be frank with you. We have got to pass a law that affects everybody.

Mr. MARSH. I will say this: If you gentlemen will ask for the information I have suggested I will be perfectly satisfied with the figures you find.

Mr. MOORE. I do not expect to interrupt you again except to ask you to authenticate the figures you have given in some way or other.

Mr. MARSH. As I explained in opening, I would like to place fuller figures in the record, and I will be glad to give you a substantiation of them. I have seen statements from a half dozen Senators, as well as many Congressmen, that you have all of these figures available. Senator Borah says you have them and the President says you have them, and I will take his word.

Mr. MOORE. You just quoted from some publication.

Mr. MARSH. Yes; from the report of the Commissioner of Internal Revenue.

Mr. MOORE. But you say you are predicating your plan upon supposititious incomes running up to as high as \$60,000,000,000, and you say the gentleman who gave you those figures is likely to be in Washington to-morrow. What help can he give us?

Mr. MARSH. I will go into more detail in just a minute or so. I will read something to you.

Mr. TREADWAY. Before you proceed let me ask you this question: You are not trying to substantiate this \$50,000,000,000 or \$60,000,000,000 income feature in any way through the official report of the Commissioner of Internal Revenue, which shows \$8,000,000,000?

Mr. MARSH. No, sir; that \$8,000,000,000 represented the corporate income returns and has nothing to do with the incomes from individuals.

Mr. LONGWORTH. How much of our total war expenditures do you want to raise by taxation?

Mr. MARSH. I do not want to put it upon a percentage basis. I think it is illogical to put it upon a percentage basis unless it is necessary, no more than I think it would have been logical at the beginning of the war to say that 1,000,000 men would be our maximum Army; no matter what happens, we will not send one more man over the million men to France to make the world safe for democracy. It would be just as illogical to do that as to say what the percentage of taxation shall be. This is not an ordinary war, it seems to me, and I think we ought to establish a principle of equality of financial sacrifice; and if necessary, raise the expenditures by taxation up to 95 per cent, or 50 per cent, or 60 per cent, as the necessity might arise. It seems to me that the whole conduct of the war should be upon that principle.

Mr. LONGWORTH. You say we should raise 90 per cent of the expenditures by taxation?

Mr. MARSH. I say if it were possible and necessary.

Mr. LONGWORTH. But you would have it lower than 90 per cent, if possible, and as low as 80 per cent?

Mr. MARSH. I certainly would pay as we go along, because I do not like the idea of piling up big debts.

Mr. LONGWORTH. You want to raise all of these expenditures by taxation; is that the idea?

Mr. MARSH. I would like to, sir, but I certainly can not take the position that this war should be an excuse for piling up enormous debts, and my position is that I would like to have the war paid for, as nearly as possible, as we go along. I am sure there is no man in this country who thinks that this war is for the purpose of piling up large debts. I could not put the case with any more force or with more cogency than did the President in his address to you a week ago last Monday.

The Commissioner of Internal Revenue does not give any figures as to the incomes of the 10 people whom he knows to have incomes of over \$5,000,000. Young Mr. Rockefeller agreed that his father's property was worth well over \$1,000,000,000, and I think it is safe to put his income at around \$70,000,000. I am informed that he subscribed that much to the liberty loan, the first one. I think it was, or perhaps the second. I estimate about \$140,000,000, which is pretty conservative. There are several men whom I know have incomes—that is, so far as people pretty high in Wall Street are informed—of from \$10,000,000 to \$12,000,000, so that \$140,000,000 is a pretty low average for the aggregate income of these 10. There are nine men who have an income from \$4,000,000 to \$5,000,000, making an aggregate of \$40,500,000. I do not believe I ought to burden you with all of these details. I have worked them out and it will take a good deal

of time for me read them to you, and unless you want me to do so, I will put them in the record.

Mr. MOORE. That schedule you are going to put in the record, are you not?

Mr. MARSH. I am going to have it copied and put in the record.

Mr. MOORE. Let us get down to your point. You think that \$50,000 is a sufficient income for any man to get in war times?

Mr. MARSH. It does seem so to me.

Mr. MOORE. What would you do with the rest of his income?

Mr. MARSH. I would put it into the Public Treasury.

Mr. MOORE. Would you confiscate it or just deliberately legislate it out of his hands, or what would you do? He might have industries in which he was engaged and if you took all of the balance from him it might do a great deal of harm to people who were dependent on him for employment. I would like to get at your plan.

Mr. MARSH. Of course, this is not the taxable income, but he is to have \$50,000 after he has paid what he owes and paid his taxes. Of course, a property owner has that deducted, while a tenant does not have those things deducted at all, and, frankly, I think that is all of the income that should be allowed a man, although you might put it up to \$100,000. As you know, the Government is now exercising supervision over all sorts of industry through the War Finance Corporation, and I think that this taking of these excess incomes will enable the Government, in large measure, to exercise control over investments in unwise and nonessential industries during the war.

Mr. MOORE. We have had all that before the committee, because the bill providing for the War Finance Corporation came out of this committee. I think Mr. Amos Pinchot has some such theory as this. He wanted the income to be \$100,000, while you have reduced the limit to \$50,000. What I want to know is what we will do with the rest of a man's income? Shall we take it away from him and confine him to \$50,000? Shall we deprive him of going on with his industry and prevent him from engaging in any enterprise, just holding him down to that \$50,000? What will we do with the rest of it? Suppose he were dependent upon that income for the maintenance of a large establishment which employed thousands of people?

Mr. MARSH. If it is an essential war industry and a going concern, under the rulings of the War Finance Corporation, that will be advanced to him, the capital which he needs.

Mr. MOORE. As a matter of fact, is not your plan that of practically confiscating and taking for the Government everything a man earns over \$50,000?

Mr. MARSH. My plan is to put the man of wealth on the same plane as the man who relies upon his earnings. Now, you do not relieve the man with an income of \$2,000, do you?

Mr. MOORE. No; he is taxed, and so is the man who earns \$50,000. But you are getting away from the question which I am putting to you, which is a plain one: What shall we do with everything a man earns over \$50,000, having due regard to the fact that what he does earn over \$50,000 is employed in an industry which helps in keeping the war going?

Mr. MARSH. I would simply say that the income of such an individual should be utilized directly under Government supervision.

Mr. MOORE. Would you take it from him?

Mr. MARSH. If you want to make it \$100,000 I will compromise on that, as far as we are concerned.

Mr. MOORE. Then above \$100,000 you would take everything away from him?

Mr. MARSH. I do not know why you should not. When you ask a soldier to go and fight you do not say, "Will you give 50 per cent of your life to the Government?"

Mr. MOORE. That is all right and that is a very clear answer. But you know that a soldier must be maintained. We have got to supply him with equipment; we have got to supply him with munitions of war; we have got to build ships to take him over and get supplies to him, and do many things to take care of the soldier; but if you take away the money that a man earns through an enterprise which is devoted to the support of the war I am wondering where you are going to land.

Mr. MARSH. But I am not talking of a capital tax; I have not mentioned a capital tax, and your criticism would lie only against a capital tax, which, by the way, has been discussed, as you know, in England, and which, I think, it would be very foolish to attempt at this time. I think it would mean the breaking up of business.

Mr. GARNER. If this war continues two or three years—and some other able men, who know more about it than you or I, have said that it will probably continue that long—you have got to collect taxes in the next fiscal year.

Mr. MARSH. Yes, sir.

Mr. GARNER. And in the next fiscal year. If you destroy the incentive of a man to have an income because the Government is going to take everything away from him above a certain figure, how are you going to collect taxes at all? In other words, you are killing the goose that lays the golden egg.

Mr. MARSH. Your question postulates a lack of patriotism on the part of the rich which I would not expect anybody but an I. W. W. to accuse them of.

Mr. GARNER. I have never seen a man who was so patriotic, as you intimate, as to be willing to give the Government all of his money above a certain amount.

Mr. MARSH. Why in thunder should he not do it? Lincoln said, you know, when a bunch of rich men—

Mr. GARNER (interposing). The fact that he does not do it answers your question.

Mr. MARSH. All right, then, but I think it is on the same basis as the supervision which the Government is now making of almost every individual and industry in the country. It seems to me it is perfectly obvious that the Government could take everything above a certain amount, as well as it can supervise these various industries. May I continue to make some other suggestions?

Mr. HAWLEY. Suppose a man having an industry should earn, after paying all of his obligations, \$1,000,000. He has planned to extend his industry so as to produce more of the things needed for the war and intends, by the expenditure of \$600,000 of that million dollars, to enlarge the industry. Would your proposition to take all in excess of \$100,000 prevent him from putting that \$600,000 into

an enlargement of the industry, or is it your proposition to take all of the \$900,000 and put it into the Treasury of the United States?

Mr. MARSH. It would prevent him from putting that money which he had secured—it would not prevent the money being put into that industry. I tried to make that clear.

Mr. HAWLEY. How would you accomplish that?

Mr. MARSH. The Government is to-day assuming, and necessarily so, absolute control over all industrial activities, financial transactions, and everything else in the United States—railroads, express companies, and everything else, and it can not do that logically as long as the Government has got to go out and compete with private capital which may be going into nonessential industries. I think that such a measure—

Mr. HAWLEY (interposing). My question was based on an essential industry. All enlargements are made by borrowing the surplus earnings of somebody else or using one's own surplus earnings. If he can not put \$600,000 of his own earnings into an expansion of his business he must borrow it from somebody else, which would represent the surplus earnings of somebody else. If all of the surplus earnings must be put into the Treasury where would you get the capital with which to enlarge a business?

Mr. MARSH. Get it from the Treasury, into which it goes, because that is where it will go.

Mr. HAWLEY. That would mean the nationalization of all industries?

Mr. MARSH. If we do not nationalize industry we are going to lose the war.

The CHAIRMAN. We must go to the House in probably three minutes.

Mr. MARSH. May I come back again, because I had only gotten started.

The CHAIRMAN. How long will it take you to finish now?

Mr. MARSH. It will take me about a half or three-quarters of an hour.

The CHAIRMAN. You are in the city?

Mr. MARSH. Yes, sir.

The CHAIRMAN. Would it be perfectly satisfactory for you to come here at some other time?

Mr. MARSH. Absolutely.

The CHAIRMAN. And continue your remarks?

Mr. MARSH. Yes, sir. I have only suggested one of my topics and I have not had time to develop it, so that I would like to continue it.

(Thereupon the committee recessed until 2.30 o'clock p. m.)

# REVENUE BILL

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No. 2

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## HEARINGS

BEFORE THE

## COMMITTEE ON WAYS AND MEANS

HOUSE OF REPRESENTATIVES

WITH REFERENCE TO

## THE NEW REVENUE BILL

[THIS PRINT OF THE HEARINGS IS SUBJECT TO REVISION  
BEFORE THE FINAL PRINT]

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JUNE 8, 1918



WASHINGTON  
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1918

COMMITTEE ON WAYS AND MEANS.

HOUSE OF REPRESENTATIVES.

SIXTY-FIFTH CONGRESS, SECOND SESSION.

CLAUDE KITCHIN, North Carolina, *Chairman.*

HENRY T. RAINEY, Illinois.

LINCOLN DIXON, Indiana.

CORDELL HULL, Tennessee.

JOHN N. GARNER, Texas.

JAMES W. COLLIER, Mississippi.

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WILLIAM R. GREEN, Iowa.

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GEORGE W. FAIRCHILD, New York.

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WHITMELL P. MARTIN, Louisiana.

WILLIS C. HAWLEY, Oregon.

ALLEN T. TREADWAY, Massachusetts.

JOHN E. WALKER, *Clerk.*



## REVENUE BILL.

COMMITTEE ON WAYS AND MEANS,  
HOUSE OF REPRESENTATIVES,  
*Saturday, June 8, 1918.*

The committee this day met, Hon. Claude Kitchin (chairman) presiding.

There were also present Representatives Rainey, Dixon, Hull, Garner, Collier, Dickinson, Oldfield, Crisp, Helvering, O'Shaughnessy, White, Moore, Green, Longworth, Sterling, Martin, Hawley, and Treadway.

The CHAIRMAN. Mr. Johnson, you want to be heard this morning, and we will be glad to hear you.

### STATEMENT OF HON. ALBERT JOHNSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON.

Mr. JOHNSON. I am glad of the opportunity to come before this committee to open briefly the troublesome subject of the second-class postage rates. I would like to say that I have been consulted by no one affected by the zone system. I introduced a bill last may in an effort to advance what I thought was an equitable method of arranging the second-class zone system.

Mr. GARNER. Have you a copy of that bill?

Mr. JOHNSON. Yes; I have a new bill, which is now numbered H. R. 12374.

Mr. GARNER. Will you put it in the record?

Mr. JOHNSON. Yes, sir.

(Said bill follows:)

[H. R. 12374, Sixty-fifth Congress, second session.]

A BILL To provide for the revenue of the Government by establishing a graduated rate for payment of a tax on newspapers and periodicals according to rate of subscription price and number of copies circulated through the mails, in addition to existing rates.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That on and after January first, nineteen hundred and nineteen, the rates of postage on all mail matter of the second class shall be, in addition to the existing rate of 1 cent for each pound or fraction thereof, as follows:

For newspapers, magazines, and other periodicals whose subscription price is 50 cents or less per year, and whose circulation through the mails is less than twenty thousand copies per issue, one-half of 1 cent for each annual subscription circulated through the mails.

For newspapers, magazines, and other periodicals whose subscription price is 50 cents or less per year, and whose circulation through the mails is more than twenty thousand copies but less than one hundred thousand copies per issue, 1 cent for each annual subscription circulated through the mails.

For newspapers, magazines, and other periodicals whose subscription price is 50 cents or less per year, and whose circulation through the mails is more than



For newspapers, magazines, and other periodicals whose subscription price is more than \$5 but less than \$6.01 per year, and whose circulation through the mails is less than twenty thousand copies per issue, 6 cents for each annual subscription circulated through the mails.

For newspapers, magazines, and other periodicals whose subscription price is more than \$5 but less than \$6.01 per year, and whose circulation through the mails is more than twenty thousand copies but less than one hundred thousand copies per issue, 12 cents for each annual subscription circulated through the mails.

For newspapers, magazines, and other periodicals whose subscription price is more than \$5 but less than \$6.01 per year, and whose circulation through the mails is more than one hundred thousand copies per issue, 24 cents for each annual subscription circulated through the mails.

For newspapers, magazines, and other periodicals whose subscription price is more than \$6 per year, and whose circulation through the mails is less than twenty thousand copies per issue, 10 cents for each annual subscription circulated through the mails.

For newspapers, magazines, and other periodicals whose subscription price is more than \$6 per year, and whose circulation through the mails is more than twenty thousand copies per year, 20 cents for each annual subscription circulated through the mails.

SEC. 2. That the additional postage charged provided for in section one hereof shall be due and payable quarterly, on the first days of September, December, March, and June, and shall be collected by the postmaster of the office at which such newspaper, magazine, or other periodical is presented for mailing under the provisions of the general law.

SEC. 3. That the Postmaster General be, and he is hereby, authorized and directed to promulgate such rules and regulations as may be necessary for the proper computation of charges as provided in section one hereof, and for the collection thereof.

SEC. 4. That all free-in-county privileges granted to publications under existing laws are hereby retained.

MR. JOHNSON. The bill can be better understood by noting that the "free-in-county" privilege remains and by condensing the remainder to a table of graduated rates as follows:

*Second-class rates.*

Subscription rate.	Up to 20,000 subscribers.	20,001 to 100,000.	100,000 and up.
	Cents.	Cents.	Cents.
50 cents or less.....	0 1/2	1	2
More than 50 cents, less than \$1.01.....	1	2	4
More than \$1, less than \$2.01.....	2	4	8
More than \$2, less than \$3.01.....	3	6	12
More than \$3, less than \$4.01.....	4	8	16
More than \$4, less than \$5.01.....	5	10	20
More than \$5, less than \$6.01.....	6	12	24
More than \$6.....	10	20	40

MR. JOHNSON. Now, that's a tentative schedule for second-class rates, and only for second-class rates. A war tax on advertising is quite another thing. We will come to that. It is the particular work of this committee, and I would like to say, in parenthesis, that I do not envy the members of this committee the gigantic task ahead of them. If I can help even in a small way, I sincerely desire to do so, and if the committee will but say the word I'll take my coat off and go to it—endeavor to estimate second-class postage receipts and the like.

First, let me affirm that I believe the committee will find it advisable to divorce the matter of equitable second-class rates from the

matter of a war revenue. I believe that it will be necessary to take from all the periodicals carrying advertising a war tax, but I do not think that a war tax on advertising should be confused with the matter of raising the proper amount of money as second-class postage. That is what is about to happen under present law. Congress tried to correct second-class postage inequalities, but between House and Senate, back and forth, we produced a zone system applicable to the advertising pages, which will bring in some additional postage, but puts advertising in a position where you can not readily tax it for war purposes.

So my bill, to put it before you as quickly as I can, proposes to regulate the second-class postage rates on a graduate scale—I think the committee is familiar with that—based on the subscription price and the number of subscribers, carrying it on up to the first division, say, of 20,000, the next division 100,000, and so on. That takes care of the second-class rate. Then after you have done that and are looking for war revenue let some of it come from advertising. Put on a revenue tax of whatever the committee, in its wisdom, thinks necessary, based on the pages of the publication and regulated in accordance with the size of the pages, and the quantity of paid circulation.

Mr. GARNER. You realize, then, that the second-class matter is not paying as much toward the postal receipts as it should pay.

Mr. JOHNSON. I do not dispute that.

Mr. GARNER. Your only criticism is that this should not be considered as a method of getting taxes for war purposes?

Mr. JOHNSON. No. I think we have made a mistake—

Mr. GARNER (interposing). Just a moment. When the committee put that in the bill I do not think the purpose was merely for the purpose of deriving revenue for the purposes of the war, but that it was done more for the regulation of second-class matter, so that it would pay its just portion of the expense of the Post Office Department.

Mr. JOHNSON. And that brings us to the very trouble I now have, namely, in undertaking to appear here, when, as a matter of fact, my bill is always referred to the Committee on Post Offices and Post Roads. That is, the Post Office part of it.

Mr. GARNER. You realize, Mr. Johnson—at least, you have been a Member of Congress long enough to realize—that the influence back of second-class postage makes it impossible for the Post Office Committee of the House and the Post Office Committee of the Senate to pass any such bill, and that therefore the only chance we had was to make it a part of the war revenue bill, which could not be defeated.

Mr. JOHNSON. I realize that. My object is to endeavor to reach an equitable plan. I regret that there does not seem to be a method by which a plan could be made effective prior to July 1, because I am afraid that the zone system is going to make a lot of trouble. However, I did not come here to analyze the zone system or point out any of the many objections, except that I desire to point out a few troubles in connection with its operation.

Here is a sheet containing instructions to postmasters for the handling of the zone system, effective July 1. That sheet has just been printed in the printing office of the Post Office Department in the

city of Washington. It is made up of nearly three hundred lines of the smallest type and has only been sent to the largest post offices. It has not reached the small post offices, and has not reached the small newspapers. They will secure their information through the printing of it, if it has not already been done, in the supplement to the postal guide. The blanks on which newspaper publishers are to report their proportion of advertising and their zones of circulation have not yet been printed; and the Post Office Department tells me that the congestion at the Government Printing Office is such that they can not say when they will be printed. It is not a big blank, and they have given me copies in typewritten form. I discovered all of this in an effort to ascertain how this thing could be put into effect for my own newspaper, published on the edge of the Pacific. I might take up that paper and the Post Office Department's statement just to show the difficulties—

Mr. COLLIER (interposing). Will your bill bring in more revenue than the present law?

Mr. JOHNSON. I think it will—a great deal more.

Mr. STERLING. Is it on the zone plan?

Mr. JOHNSON. No. Let me state the plan again. The bill which I have introduced proposes only a plan to regulate second-class postage rates, and not to make the people in the eighth zone pay extra for the privilege of taking any periodical that they want to take, and at the same time not force the local advertiser to pay anything additional to the newspaper for advertising, because certain copies of that local newspaper are circulated 1,200 or 1,800 miles away. That is the inequality of the zone system as applied to all but the greatest publications. The zone system will be helpful to and will not especially embarrass certain national newspapers. There are about 24,000 periodicals and publications in the United States, and I am satisfied that three-quarters of them will be under a great handicap because of the zone system, to say nothing of unnecessary trouble and expense. The Government will gain heavily in postage from the few at the expense of the many.

Take my own paper, a little local newspaper. It probably has 2,500 subscribers. A short time ago it had less than 200 going throughout the United States; now it has 600, 400 of which go to soldiers 3,000 miles away or more. Ninety per cent of the advertising in that paper is local. The price of the paper is \$7.20 a year, but it is sold to soldiers at \$4 a year. A local advertiser takes a half page at a rate he can pay. Perhaps he thinks he is making the publisher a gift when he pays 20 cents an inch. It is a hardship on the local advertiser to charge him, say, 24 cents an inch because 400 copies go 3,000 miles away, giving him no benefit. As I said a minute ago, 20,000 of these newspapers and publications, or at least 18,000 of all that are printed, receive their advertising chiefly from local sources. In the State of the chairman of this committee, North Carolina, where they have a large number of fine small dailies, the bulk of the national advertising that goes to those papers is paid for at the lowest possible rate.

Mr. GARNER. Your bill has been referred to the Post Office Committee of the House?

Mr. JOHNSON. Yes, sir.

Mr. GARNER. Have you had a hearing before that committee?

Mr. JOHNSON. No; but I am trying to get one. A moment ago the gentleman from Mississippi, Mr. Collier, asked whether I thought my bill would bring in more revenue. We will put it this way: If we can induce the Post Office Committee or this committee to bring out a bill that does not discriminate against the people who live far away from the place of publication but fairly attempts to make the newspapers pay what they ought to pay—and when I say newspapers I mean periodicals—for the use of the second-class privilege, then this committee is perfectly free to fix a tax on advertising, and when this committee undertakes to do that—and I think it is a proper source of revenue—then it must not only tax the advertising in all newspapers and periodicals but all advertising on billboards, street cars, and wherever it can be reached, whether that advertising is done directly or by contract.

Mr. GARNER. You know the status of revenue from second-class matter?

Mr. JOHNSON. Yes.

Mr. GARNER. I think it has been admitted by all parties that the province of the Post Office Department was to carry at cost all letters, parcel post, and other mail matter. Do you agree to that principle?

Mr. JOHNSON. That it should carry it at cost?

Mr. GARNER. As nearly as possible at cost; at least, pay its own way?

Mr. JOHNSON. Yes, sir.

Mr. GARNER. The second-class mail costs the Government about \$90,000,000 a year.

Mr. JOHNSON. Yes; I have heard that stated.

The CHAIRMAN. It was \$103,000,000 last year.

Mr. GARNER. That may be so, but I know that the lowest estimate was \$90,000,000. Out of that the Government got back \$11,000,000. Now, if you or anybody else can devise any scheme whereby we can get \$90,000,000 or \$100,000,000, the cost of carrying second-class matter, speaking for myself, I am for the proposition.

Mr. JOHNSON. I am very glad to hear that. The bill I offer will produce much more than the zone system:

Mr. GARNER. But I do not want you to come along and say, like most of them do, that you do not want to pay your part of the cost of running the Post Office Department.

Mr. JOHNSON. Of course, I have never quite agreed that we positively knew there was a dead loss of \$90,000,000, but we will say there is a great loss, and we will call it \$50,000,000. Then it is proper to devise any plan that is possible to produce that \$50,000,000 or \$60,000,000.

Mr. GARNER. I agree with you.

Mr. JOHNSON. And I think it can be done along the lines of my bill, a copy of which I have placed in these hearings. Let me present an example, and I will place others in the record of the hearings.

For instance, Comfort, with 1,276,800 subscribers, would pay 1 cent a pound, and 2 cents for each and every subscription sent through the mails outside of the county in which it is published, or \$25,536.

But, if a tax of about \$25,000 on a 25-cent periodical with more than a million subscribers is thought to be out of proportion to a

tax of ten cents a subscriber on a \$5 publication with 10,000 subscribers—or \$500 per annum—then the second doubling of the tax for publications selling at 50 cents or less can be omitted—that is, the increase after 20,000 subscriptions are gained.

Now, that is, in a sense, a small indirect tax on the advertising which sustains that publication at its low subscription rate. It is assumed that a circulation of a million or more copies warrants its publisher in charging advertising rates in proportion. There is still left open the door for a direct tax on advertising, based on number of pages and number of subscribers, and possibly all three, collected, not by the Post Office, but by the Treasury Department. And a very small tax on all advertising, day in and day out, will produce a great sum annually. The tax must not be heavy enough to discourage advertising.

To ascertain how the plan will work for small country papers, let us take the Calvert Gazette, published in Prince Frederick County, Md., with 500 subscribers, at \$1 per year. It would have its circulation in county free, pay 1 cent a pound for papers sent outside the county, and would pay 1 cent war tax on each annual subscription sent out of the county. If it sends 100 copies outside, it will pay \$1, which is enough. If when the zone system goes into effect, July 1, the Calvert County Gazette is sending 100 subscriptions to all parts of the United States, it will find itself subject to many perplexities; so will the postmaster at that town.

I believe that newspapers of that size are doing so much work these days free of charge for the Government, and that their very existence is so jeopardized by war costs of print paper, labor, etc., that they should be exempted from the graduated scale if their circulation is 2,000 copies or less and exemption from any increase beyond the 1-cent-a-pound second-class rate.

I have a statement furnished by the Post Office Department showing the difficulties that attach to a little daily paper of 2,500 subscribers, and I would like to present it, as follows:

POST OFFICE DEPARTMENT,  
THIRD ASSISTANT POSTMASTER GENERAL,  
Washington, June 5, 1918.

Hon. ALBERT JOHNSON,

*House of Representatives, Washington, D. C.*

MY DEAR MR. JOHNSON: In response to your request of to-day, there is inclosed a copy of Form 3539a to be used by publishers in setting forth the circulation of their publications outside of the county of publication, as prescribed in paragraph 7 (b), section 536, amended Postal Laws and Regulations, a copy of which is inclosed.

With respect to your particular inquiry concerning mailings of your publication, the Grays Harbor Daily Washingtonian, published at Hoquiam, Wash., I have to say that there were 312 issues of this publication mailed during the year 1917. There were mailed within the county 3,389 pounds free of postage, and there were mailed to subscribers 6,614 pounds on which postage was paid at the rate of 1 cent a pound, an average mailed under postage of 21 pounds a day. It appears from a copy of the publication on file in this office that there are about seven copies to a pound, and thus the average daily mailings on which postage is required amounted to about 147 copies. Some of the copies on which postage was paid are addressed to Aberdeen, Wash., which is within the county of publication and on which there has been no change in the rate of postage under the new law.

The number of copies of your publication going to subscribers outside the county is, therefore, somewhat less than 147. Such of these copies as are addressed for delivery within the first and second zones, even though outside the

county, are subject under the law to the postage rate of 1½ cents a pound during the year beginning July 1, 1918, regardless of the amount of advertising contained in them. Of the remaining copies going to the zones other than the first and second, the portion devoted to advertising would be subject to the zone rates, while the portion devoted to matter other than advertising would be subject to the flat rate of 1½ cents a pound.

No change whatever is made in the manner of mailing copies for distribution in the county of publication. The copies subject to the zone rates may be presented for mailing in bulk as heretofore, the publisher furnishing the postmaster twice a year, or oftener, if he desires, on Form 3539a, the per cent of such copies which go to the respective zones.

The publisher will file with the postmaster a copy of each issue of his publication, marked to show the per cent of the matter which is devoted to advertising and the per cent of that devoted to matter other than advertising. If, therefore, 50 per cent of the matter contained in your publication should be devoted to advertising and 50 per cent devoted to matter other than advertising, one-half of the weight of the copies going to the zones other than the first and second would be subject to the flat rate of 1½ cents a pound, while the other half would be subject to the rates applicable to the respective zones.

Yours, very truly.

A. M. DOCKERY,

*Third Assistant Postmaster General.*

Mr. JOHNSON. I have shown the letter to one member of the committee, and he says he is not quite clear as to what that third paragraph means. I think it means that the advertising charge is not picked up this coming year until the paper reaches the third zone.

But, whatever it means, it is clear that the same processes and the same difficulties apply to all of the smaller daily newspapers everywhere, including those in North Carolina, and I have analyzed those in that State, which I visited recently. Take Charlotte, N. C. I found two fine papers there—the Charlotte Observer, delivering 13,200 copies, at \$8 a year, and the Daily News, with 9,500 subscribers, at \$7 a year. Now, where do those papers circulate? Probably three-fourths of all the circulation is in their counties, not a matter of post-office concern, and the others go out into the State. North Carolina is a long State and runs over three or four zones. Those papers, living largely on local advertising, are handicapped in an effort to reach the parts of the territory in which they should circulate.

The CHAIRMAN. The Charlotte Observer has a State-wide circulation, while the Daily News is an afternoon paper.

Mr. JOHNSON. It is a local paper.

The CHAIRMAN. Yes.

Mr. JOHNSON. Both are good journals. The Charlotte Observer is as fine a newspaper as you will find in any city of Charlotte's size. I might say the same about the Raleigh News-Observer and the Greensboro News.

The CHAIRMAN. Have you the statistics as to the zones in which those papers circulate.

Mr. JOHNSON. No exact statistics.

Mr. MOORE. I understood you to say that North Carolina is a long State and runs over three or four zones.

Mr. JOHNSON. Yes, sir; and is not that so?

Mr. MOORE. That is what I am asking you.

Mr. JOHNSON. Let us see whether we are clear about it. Do the zones for charges on newspaper advertising run the same as the parcel-post zones?



Mr. MOORE. You have looked into it, and I am asking you. As a matter of fact, how many zones are in North Carolina?

Mr. JOHNSON. Well, I am not an expert.

Mr. MOORE. I thought you said three or four.

Mr. JOHNSON. Yes; at least three. Let us look at these instructions as to the increased rates on second-class matter, effective July 1. Let us find out. This statement was put out on May 27 by ex-Gov. Dockery, the Third Assistant Postmaster General. It gives the rates per zone, but does not give the size of the zones, and I assume that the zones were perfected to run with the parcel-post zones when we were passing this law. The first zone is up to 50 miles, and the second zone is from 50 miles to 150 miles. These two are incorporated in the first zone for the postal system, but omitted as regards advertising charges by zones, if I read the provision correctly. The third zone is from 150 to 300 miles; the fourth zone from 300 to 600 miles; the fifth zone from 600 to 1,000 miles; the sixth zone from 1,000 to 1,400 miles; the seventh zone from 1,400 to 1,800 miles; and the eighth zone over 1,800 miles.

Mr. MOORE. You say there are only eight zones. Would not Carolina run into the fourth zone?

Mr. JOHNSON. I believe so.

The CHAIRMAN. What did you say the fourth zone is?

Mr. JOHNSON. From 300 miles to 600 miles.

The CHAIRMAN. From Wilmington to Asheville it is over 300 miles.

Mr. JOHNSON. That would bring it within the fourth zone, then.

The CHAIRMAN. But the average radius of the Charlotte Observer, the News-Observer, and the Daily News, of Greensboro, N. C., would be within the third zone.

Mr. JOHNSON. Of course, on the bulk of the circulation, so that they must go through all of the travail of the zone system, and will not be called upon for much additional postage payment. That is the very point, and I mean it with no disrespect to the smaller dailies.

Further, there are three well-defined zones in North Carolina, and four for some extended cases, and New York City is only 300 miles from North Carolina: 300 miles will take you well into North Carolina. You can not travel around in those little cities and stop at the various hotels without finding copies of the New York Times in every place, and the people waiting for their copies. So, with the zone system or without the zone system, you will not stop the metropolitan newspapers from going as far as they can go.

The CHAIRMAN. Do you know how much the New York Times has increased its advertising rates and its subscription rates since the act of October 3, 1917?

Mr. JOHNSON. I know it has made a great increase above its quoted price in the Newspaper Annual of one year ago. I think the price of the New York Times is now about \$12 a year.

The CHAIRMAN. Have you ever looked up the date in an effort to ascertain how much the Government was losing on the New York Times alone?

Mr. JOHNSON. I have endeavored to do it. I have a statement here about their circulation, but it is a confidential letter from the Post Office Department.

The CHAIRMAN. Have you any figures showing what the Government is losing in that connection?

Mr. JOHNSON. No; I have not the figures. But I hope the chairman will not put me in the attitude of undertaking to exempt any periodical from the payment of the full second-class rates. I believe the big newspapers are quite willing to pay their full share.

Mr. GARNER. In other words, you want the New York Times to pay what it costs the Government to handle that paper?

Mr. JOHNSON. Yes.

Mr. GARNER. That premise is understood.

Mr. JOHNSON. Yes, sir.

The CHAIRMAN. From calculations made while the last revenue act was pending the publisher of the New York Times, for the year 1916, paid the Government \$100,232 for the service of handling, transporting, and distributing its paper, while it cost the Government for rendering such service \$551,276, making a clear loss to the Government of \$451,044 and a clear subsidy to the publisher and its patrons of \$451,044.

Mr. JOHNSON. Let us see what would happen to the New York Times if we made two charges as a matter of post-office regulation, based upon the subscription price of the New York Times, if it is \$12 a year, one scale applying as a post-office charge for that and the second scale based on the price of each subscription, and charged on that. That would be the cost of getting it through the mails.

The Daily Times has approximately 400,000 subscribers. Say it puts one-half in the mails, and we can easily find exactly the number it mails. The top rate I offer is for a \$6 subscription. Let the committee add other rates on up to \$12, and you can secure from the Times several hundred thousand dollars in addition to 1 cent a pound on the twelve million-odd pounds it mails per year.

And then you can look to the matter of raising war revenue. The New York Times, on Sundays, has, we will say, 112 pages. Why has it 112 pages? Because it gets advertising to support that number of pages, and 40 per cent of the pages, roughly speaking, are advertising. Now, then, if you want to tax advertising, tax the number of pages in the periodical or newspaper in proportion to the number of subscribers, and put on any tax that this committee thinks is necessary to raise sufficient revenue, being always careful not to discourage advertising by making the tax too high.

Mr. MOORE. Are you favorable to that?

Mr. JOHNSON. Yes, sir.

Mr. MOORE. To the taxing of advertising?

Mr. JOHNSON. Absolutely. We have got to go far deeper into all places than the public realizes to raise revenue.

Mr. COLLIER. I want to ask you a question to see what your general idea of this is. Do you believe that the second-class mail matter should be carried at a loss or that it should be self-sustaining?

Mr. JOHNSON. I believe it should be placed in the position of sustaining its cost, or nearly so.

The CHAIRMAN. The only difference between Mr. Johnson and this committee is the method.

Mr. JOHNSON. That is it.

Mr. COLLIER. Do you think our present rates are too high?

Mr. JOHNSON. No. I have a letter from a very important weekly saying they hope I will not undertake to disturb the zone system. It seems to think it is getting the best of it.

Mr. COLLIER. You want second-class mail to pay its way?

Mr. JOHNSON. Well, it should nearly pay its way. It can afford to do so, if you do not make some of them pay what they have not got, and will not get under a zone system. I stated to the committee in the beginning that I did not intend to criticize the zone system, although I could do so on many points. I am not going to waste your time in making those criticisms, because they can wait. It is a question now of devising, if possible, a better plan to raise the necessary second-class postage revenue so as to fairly distribute it and not penalize the minor publications.

Mr. COLLIER. You do not take the position that on account of the educational feature of some of the publications they should go through at a very low rate.

Mr. JOHNSON. No. I oppose special privilege. I take the position that it is a mistake to exempt a lot of publications because they are educational, scientific, philanthropic, agricultural, labor, fraternal, or religious, the net income of which goes for the benefit of no private stockholder or individual. Let us see what we do there. We let a large number of classes of publications come into the mail through the second class and thus disturb the situation so that we may never know what is the actual and proportionate cost of carrying second-class matter, because they have practically a free rate as compared with the other publications. On top of that we invite them to solicit advertising and they fill up their pages. A man who has Castoria to sell does not care where he puts his ad if he can get results, and if you make it hard for Castoria to advertise in a Philadelphia periodical that is run for profit and make it easy for him to put his advertisement in a religious paper, he will put his advertisement in the latter, even though it is a cooperative paper. Because of that it will always be difficult, if ever possible, to have a proper classification of the second-class rate, which we want to raise to the point of paying its bills.

Mr. COLLIER. You think that a fraternal and religious journal should bear the same rate as other publications and provide some other way to take care of them?

Mr. JOHNSON. I believe there should be no distinction. If we make these exemptions we defeat our own argument that second-class matter should pay its bills, pay what it costs to circulate it, because the argument generally is that second-class mail matter must not stick the Government for \$90,000,000 a year.

Mr. MOORE. Have you explained your bill or have you read it.

Mr. GARNER. It is in the record.

Mr. MOORE. Several members have come in since that and it might be helpful to briefly explain it again.

Mr. JOHNSON. My bill provides that for a subscription rate of 50 cents a copy, up to 20,000 subscribers, there shall be a charge for the second-class privilege of one-half cent per subscriber; that from 20,001 to 100,000 subscribers the tax rate for the second-class privilege should be 1 cent per subscriber, and in excess of 100,000 subscribers that the tax rate shall be 2 cents per subscriber. All of that is based on a subscription price of 50 cents. High subscription prices, higher rates.

Mr. MOORE. Is that the tax?

Mr. JOHNSON. Perhaps I should not use the word "tax" because I prefer it to mean the cost of delivering the paper through the mail.

Mr. MOORE. That is the revenue the Government is to get under your proposition.

Mr. JOHNSON. Yes, sir; which the Government is to take in to cover the expense of carrying second-class matter through the mails.

Mr. MOORE. Let me see if I understand you. Would you abolish the zone system?

Mr. JOHNSON. Yes, sir.

Mr. MOORE. And substitute a charge in the form of government revenue against the subscriber?

Mr. JOHNSON. It is not against the subscriber.

Mr. MOORE. Let it be laid against the paper but really charged up to the subscribers?

Mr. JOHNSON. Well, not quite. Give me \$500,000, and I'll gladly pay a fair postage toll for each one.

Mr. MOORE. Then you would have to add something to that which you propose, because that would not make up the difference in second-class matter to-day.

Mr. JOHNSON. No, perhaps not. Neither will the zone system.

Mr. MOORE. Then, would you tax advertising?

Mr. JOHNSON. Then I ask this committee to come in and place a tax on the number of pages in every publication, based on the size of the page, whether it be the size of the ordinary small magazine, the Saturday Evening Post page, or the seven-column page of the Chicago Tribune, and based on the number of subscriptions in the mail and out of the mail.

Mr. MOORE. Would not that leave open the same old question of favoritism to a certain class of business men?

Mr. JOHNSON. Not a bit of it. Where does favoritism come in?

Mr. MOORE. In having a certain advantage of the mails which others do not enjoy?

Mr. JOHNSON. Who would have the advantage of the mails?

Mr. MOORE. The publishers.

Mr. JOHNSON. If any publisher circulates anything outside of his county in the mails he pays through two forms of graduation.

Mr. MOORE. Let me put it to you a little more clearly, from the viewpoint of another matter. I am going to do this in your time because you are a newspaper man and it will fit in here very well. We receive many letters from users of the mail, first class, complaining about the prospect of the repeal of the proposed zone system going into effect in July. These protests come from men who pay full postal rates for the use of the mail, and, perhaps, more now under the 3-cent first-class postal charge. They complain that the publishers will have an undue advantage in the matter of the second-class rate under the zone system as they had it heretofore.

This is a business man's point of view and not a public man. I am quoting from a letter from Walter Cox, president of the Pennsylvania Wire Glass Co., and it is in the same form and substantially in the same language of many other protests that come from business men. Mr. Cox says—

It certainly does seem outrageous to us that first-class postage should bear the brunt of all mail-carrying charges; that the business men of the country should be taxed to pay, what amounts to a subsidy, the carrying cost of

second-class postage. The increase in the number and extent of magazines of late years only goes to show the enormous profits which they are getting in the magazine business, owing to a subsidy granted to them by the Government.

You are familiar, of course, with that general line of argument.

Mr. JOHNSON. Oh, yes. It is a just complaint.

Mr. MOORE. And it grows out of the fact that in the matter of publications using the second-class mail privilege, there is a great distinction made. The Government loses money in permitting the use of the second-class mail privilege as it has been permitting it to be used.

Mr. JOHNSON. That is just what we are trying to cure.

Mr. MOORE. It is due to the fact that magazines carrying a large amount of advertising seem to have an unfair advantage over first-class mail, just as the country newspapers, of which, I think, you spoke, have an unfair advantage over other newspapers in their free circulation in the counties where they are published. Those things are what we call subsidies, and I am presenting to you the view of a business man on them so that you can consider it in making your argument.

Mr. JOHNSON. If this committee will consider this plan, I would be glad if the committee would appoint a subcommittee to look into the whole question, because, in my opinion, it will have to be considered in conjunction with the matter of raising revenue. The question of equalizing the zone system or the second-class system has been before another committee, but we want it equalized now so that you will hear no more complaints like that you have just read.

Mr. MOORE. Then, as I understand it, you consider the present system faulty, and think it ought to be modified?

Mr. JOHNSON. Yes; and if the gentleman will permit me I will make the further statement that later on, when all the little daily newspapers—I see there are 30 of them in Mr. Kitchin's State—have to make reports every day as to the number of papers put into the mail by zones and the percentage of the pages of advertising, the percentage to be reported each and every day, it will add greatly to the congestion already existing in the post offices, of which the letter-postage payers are now complaining bitterly. Take any medium-sized post office. The postmaster is already worked nearly to death; he is not only the postmaster but he has many other duties. As postmaster his duties have been greatly added to because of parcel post; but, in addition to all that, he is an important Government factotum in the matter of the draft and in war matters generally. The probabilities are that the zone rules have not yet reached him. The Post Office Department, only day before yesterday—

Mr. MOORE (interposing). We are now putting into effect the zone system?

Mr. JOHNSON. Not until July 1 for newspapers; and these regulations embrace nearly 300 lines of the smallest type that is used.

Mr. MOORE. You must bear in mind the fact that that act was passed on October 3, 1917, and at that time it was generally announced that the newspapers would have six or seven months in which to adjust themselves to it.

Mr. JOHNSON. How can a newspaper adjust itself? Take, for instance, the daily paper at Charlotte, N. C. We will suppose that the

Charlotte paper has 4,000 subscribers in certain zones in that State, with 300 papers going to subscribers clear into the eighth zone. It is a morning daily. The publisher of that paper must certify to the Post Office Department every day the percentage of advertising in those papers for each zone. That will make confusion out of all proportion to what that paper will pay in addition to the second-class postage rate. The regulations say, among other things:

3 (a). The copy of the publication filed with the postmaster as required by paragraph 1 of this section shall be marked by the publisher to show the portion devoted to advertisements and that to matter other than advertisements, and the percentage of each shall be indorsed on the first page of such copy by the publisher. The term "advertisements" as used herein and in paragraph 1 (b), section 429, embraces display, classified, and all other forms of advertisements purporting to be such, as well as all editorial or other reading matter for the publication of which money or other valuable consideration is paid, accepted, or promised. (See par. 2, sec. 443.)

3 (b). When a news agent presents for mailing second-class matter subject to the zone rates of postage, he shall submit to the postmaster a statement showing the per cent of the space in such matter devoted to advertisements and the per cent devoted to other than advertisements. Publishers should furnish this information to news agents purchasing copies of their publications in order that such agents may be able to prepare the statements required.

And so on, with numerous references to forms which are not yet printed.

Mr. MOORE. You are familiar, of course, with the law which requires circulation statements to be made by newspapers?

Mr. JOHNSON. Yes, sir.

Mr. MOORE. Is it not a fact that the newspapers find difficulty in making those statements or returns?

Mr. JOHNSON. I think not.

Mr. MOORE. Have you heard of any statistical companies or auditing companies that have been taking over that business for the papers and covering the work of preparing those circulation statements because of the confusion that was caused by that work in the newspaper offices?

Mr. JOHNSON. No; I doubt if it should be attributed to a matter of confusion in the newspaper offices. There are concerns that audit circulation statements of newspapers and undertake to assist those newspapers having the circulations to get a better rate from foreign advertising because of the fact that the circulations are certified.

Mr. MOORE. Is it not a fact that certain large newspapers have found it difficult to prepare their circulation statements, and for that reason have employed those agents?

Mr. JOHNSON. I do not think so at all. I think those agencies and this auditing business have developed for the purpose of certifying, for instance, that the Jamestown Gazette has so many subscribers, and the Jamestown Gazette can then go to Peruna, for instance, and say, "Here is our certified circulation." They can do that and demand such-and-such a rate based on that circulation.

Mr. MOORE. It did not become necessary to employ those agencies to prepare those statements because of the confusion that was created in the newspaper offices in the preparation of them?

Mr. JOHNSON. I do not think it is necessary on that account. They employ those agents, of course, for other reasons.

Now, gentlemen, I think that the very machinery by which the newspapers now state their circulation to the Post Office Department

could be used in the collection of the form of second-class rates that I have outlined. The newspapers would then have to divide their circulation into free county circulation and outside county circulation reducing it to two forms, rather than dividing it according to zones.

Mr. HAWLEY. Do you propose to withdraw the privilege that local papers now have of circulating free of charge in the counties where they are published?

Mr. JOHNSON. No; I propose to continue that as it is. I think it would be well to exempt them.

Mr. HAWLEY. What does it cost the Government, out of this deficit to which reference has been made, to pay for circulating those papers free in the counties where they are published?

Mr. JOHNSON. I have not exact information as to what it costs, but it is a considerable sum of money.

Mr. HAWLEY. What proportion of the deficit of \$90,000,000 would it be?

Mr. JOHNSON. I would hate to guess, but I should say it would represent \$15,000,000 of the deficit of \$90,000,000.

Mr. RAINEY. I saw the estimate of that, and it was \$1,000,000.

Mr. JOHNSON. For the handling of weekly papers in the mail?

Mr. RAINEY. For circulating them free in the counties.

Mr. JOHNSON. I was brought up on a county weekly that had 8,000 subscribers, and 2,500 of the copies were circulated in the county. I know that it made quite a weight every week. Now, on that subject of exemption, in conjunction with any tax rate made, I would exempt the small papers up to a certain number of subscribers. For instance, I know that Mr. Kitchin's own home paper, the Scotland Neck Commonwealth——

The CHAIRMAN (interposing). You mention that because it is one of the best papers.

Mr. MOORE. Why do you use as an illustration a paper in the chairman's district?

The CHAIRMAN. It is because that is the best country paper published.

Mr. JOHNSON. I am glad to hear that. I am only using that as an illustration, because that belongs to the class of papers that can not exist long if any burdens are added to them. That paper is published on Tuesdays and Fridays, twice a week, at \$1 a year, and it has 1,400 subscribers. Now, if many of the citizens of that county go to France as soldiers and have that paper follow them, the paper can not afford to do it at \$1. That paper has to live on the advertisements of the dry-goods merchants, phonograph-record sellers, and other lines of business in that town. The cost of white paper is sky high and will be higher. Few weekly newspapers will exist at \$1 per year, and this one has an edition twice a week.

The CHAIRMAN. I want to say in that connection that the owners have never complained about the zone system. It may be that they have not found out about it.

Mr. JOHNSON. Perhaps not. It won't pay much zone revenue at best. In my opinion, not many of the newspapers are complaining, and I said at the outset that no newspaper man has asked me to take any steps in regard to this matter.

The CHAIRMAN. As I understand it, a very large majority of the newspapers, especially the editors of the weekly papers, are very strongly in favor of the zone system. In fact, a telegram has just been handed me giving their view on the matter. The National Association of Editors is meeting at Hot Springs, Ark., and this telegram is dated, "Hot Springs, Ark., June 7." It reads as follows:

The National Association reiterates the action of a year ago favoring second-class zone postage, but urge simplification in operations. Publishers Advertising Board have endeavored to put association on record against system, but were overwhelmingly defeated.

That telegram is from the National Editors' Association. You are a member of that association, are you not?

Mr. JOHNSON. I am not a member of it.

The CHAIRMAN. It looks like the newspapers agree with us on that.

Mr. JOHNSON. I am not so sure of that.

Mr. RAINEY. Do you know what action the Chamber of Commerce of the United States took, or the result of their referendum vote?

Mr. JOHNSON. No, sir.

Mr. RAINEY. They favor a system that compels the newspapers to pay their way through the mails.

Mr. JOHNSON. And I do, too. I have said that over and over again.

Mr. RAINEY. That would be three times as much as our bill proposes.

The CHAIRMAN. Yes; three times as much as our bill proposed.

Mr. JOHNSON. I am proposing a bill that would impose at least twice as much in the way of second-class rates alone, and then leaving the newspapers' advertising a subject for war taxes, which I think should be imposed.

The CHAIRMAN. As I said a while ago, we have talked over this matter, and it is the main purpose to make them pay more or something approximating the cost.

Mr. JOHNSON. If the committee will undertake that, we are not a long ways apart.

The CHAIRMAN. Now, the question is as to the method.

Mr. JOHNSON. Whether the National Editors' Association favors the zone system or not makes little difference, because we will presume that few newspapers will be able to sit tight in some little community and because the zone system makes it harder for a national paper to go there, rise to the occasion and be the localized national newspaper. I will not take up any more of your time. I think you will find it necessary to place a tax on all advertising wherever you find it, and it is easy to place it. Then, my suggestion is that you drop the zone system and substitute a graduated system, based on the number of papers carried in the mails and upon the subscription price. Then, you would have the entire advertising field before you from which you could raise more revenue, or such revenue as will not drive the advertisers out of business.

Mr. LONGWORTH. You would not include the sales of papers made over the counter?

Mr. JOHNSON. Yes, sir; for a war tax on advertising. One of the great difficulties, or, rather, the reason for the heavy Saturday Eve-



ning Post expense, for instance, was that the Saturday Evening Post utilized the second-class mails to get great quantities of papers from Philadelphia to Chicago or Seattle, for instance, advertising on the first page a subscription price of \$1.50 per year, and then peddling them out at 5 cents apiece. That justifies the adverse statement that Mr. Moore has read, and it is no wonder that this committee wants to stop that sort of privilege. That is what the leading business men are complaining about.

Mr. HAWLEY. Suppose the deficit is \$90,000,000? Would the provision that you have been referring to, if enacted into law, earn that \$90,000,000?

Mr. JOHNSON. I am frank to say that I have not had time to carry the whole thing out on an estimate of the number of papers circulated outside of the counties of publication by the 24,000 publications in the United States, but I am satisfied that the plan I propose is heavy enough to raise a good large sum.

Mr. HAWLEY. Would it raise more than we are raising now by the other system?

Mr. JOHNSON. By getting a report from the newspapers of the number of subscribers outside of the counties, together with the other data involved here, it would be easy to make an estimate to a nicety.

Mr. HELGESON. You made a suggestion along the line of taxing advertising. Of course, the county newspaper would have a very low rate for advertising as compared with the advertising rate of the big paper.

Mr. JOHNSON. That could be carried right along with the record as to the number of subscribers.

Mr. HELGESON. The advertising rate, of course, is based on the subscriptions.

Mr. JOHNSON. Yes, sir. Owing to the difficulty that the smaller newspapers are having—600 of them dropped out last year—I would exempt the papers from tax on advertising up to 5,000 circulation. If a man has 5,000 subscribers, then charge enough for the advertising to represent a fair percentage on his production as a war tax. As I understand it, the newspapers of the United States and all the magazines are assisting the Government in every way possible, and they are willing to stand any sort of equitable tax.

Mr. HELGESON. I think everybody agrees that the newspapers are rendering good service.

Mr. TREADWAY. Is it your suggestion that we should incorporate here the bill now before the Post Office Committee?

Mr. JOHNSON. I would be glad if you would. My bill can only be referred to the Post Office Committee.

Mr. TREADWAY. You do not think that it is a subject that is properly before this committee?

Mr. JOHNSON. Only for this reason, that when I introduce the bill it is referred to the Committee on the Post Office and Post Roads.

Mr. TREADWAY. The whole zone system arose out of a revenue bill.

Mr. JOHNSON. Yes.

Mr. TREADWAY. I wanted to make sure that I understood you correctly. As I understand it, your bill is before the Post Office Committee?

Mr. JOHNSON. Yes. The zone system came about in connection with a revenue bill in an effort to equalize second-class postage. As the revenue bill finally became a law, the zone system was made applicable to the advertising pages in newspapers, making it an uncertain and unfair proposition—that is, making it partly a provision for the collection of revenue and partly a provision for the equalizing of rates. Now, as I said, I do not see why advertising should not be made the subject of a war tax all along the line, covering street-car advertising and every other sort of advertising, provided that tax is not so heavy as to stop advertising, which is a very vital thing in making the wheels go around in the United States.

I thank the committee for according me this hearing.

**STATEMENT OF MR. WALTER E. KELLY, PRESIDENT OF THE MANHATTAN OIL CO., 27 CEDAR STREET, NEW YORK CITY.**

Mr. KELLY. Mr. Chairman and gentlemen of the committee, I am the president of the Manhattan Oil Co., a producer of crude petroleum. It is my purpose to deal with the proposition of depletion as it now affects oil and gas lands, and more particularly oil lands.

Mr. TREADWAY. Would you mind stating how large a concern the Manhattan Oil Co. is?

Mr. KELLY. We hold approximately 5,200 acres, and the production is about 1,200 barrels per day. The stock is really nominal. The capitalization is nominal in view of the value of the assets. It is \$60,000.

Mr. TREADWAY. Where is the land?

Mr. KELLY. The land is principally under the jurisdiction of the Interior Department, the leases being on land of the Osage Indians. The oil and gas rights were segregated for the Osage Tribe, and we received leases from the Osage Tribe with the approval of the Secretary of the Interior.

Mr. MOORE. In what States are those lands located?

Mr. KELLY. In the State of Oklahoma. I might say, also, that we have some few additional leases in the State of Kansas; and some other holdings which are undeveloped at the present time.

Mr. MOORE. You said that the capital stock of your company was nominal?

Mr. KELLY. I meant that it was nominal in view of the value of the assets held.

Mr. MOORE. What are the assets?

Mr. KELLY. The assets depend largely upon the value of the leases, which, of course, is always problematical, because you can not say ahead how much oil you have. In addition to that, there is the equipment.

Mr. MOORE. Is there any way by which you can estimate the value of the assets?

Mr. KELLY. I should say that according to an appraisal made under ordinary market conditions it would be worth, perhaps, \$3,000,000.

Mr. MOORE. That is not in actual property, but in rights?

Mr. KELLY. It is in rights, and, of course, that goes to the very gist of the question I want to discuss.

Mr. MOORE. Does your company hold title to any of this land?

Mr. KELLY. No, sir.

Mr. MOORE. You simply lease the land?

Mr. KELLY. Yes, sir; we simply lease it; and those leases are for as long a time as oil or gas are found in paying quantities.

Mr. TREADWAY. Is the stock of your company dealt in on any stock exchange?

Mr. KELLY. No, sir; it is a close corporation, the stock being held entirely by my father. He is the holder of all of the capital stock.

The CHAIRMAN. How much money have you actually put into the business?

Mr. KELLY. I should say approximately \$600,000.

The CHAIRMAN. And you think that the property you purchased for \$600,000 is worth about \$3,000,000?

Mr. KELLY. I should think so; yes, sir.

The CHAIRMAN. How long has your company been in existence?

Mr. KELLY. The company has been in existence since 1909. The point just raised goes to the gist of the argument I would like to make. We claim here that there has been a distinction made in the law between owners in fee of oil property and those owners who are lessees. I suppose that, by way of preface, it might be well to refer briefly to the conditions we encounter in oil operations. It is impossible to tell from any surface indications just where oil can be found. While it is true that geologists in late years have assisted us somewhat by their researches, by showing where oil can not be found, and even going further and showing us that there are certain structures which seem favorable, yet the only way that you can finally determine whether oil is under a given piece of land is to put down your drill. Now, it is obvious that that condition causes the business to be very hazardous from the financial standpoint. It is not even like mining for solid minerals, because the miner for solid minerals, after doing a certain amount of development work, can know to some extent, at least, what he has ahead of him and can make his financial calculations accordingly. But in a new field where you are prospecting for oil the percentage of dry holes is very much in the majority. I do not know that there are any exact statistics on that subject. In new localities, or, as they term it, wildcat territory, of course, here and there there is an operator who is fortunate in bringing oil in an oil deposit.

From that time on the field gradually becomes a proven field, but even in the proven territory there is a very considerable percentage of dry holes, and those dry holes, of course, represent a total loss, except for the salvage of the equipment that is used in drilling them. That equipment, or a certain part of it, can be taken out and used again in drilling subsequent wells. However, it is a very hazardous business, even in a field that has been proven. Even after a field has been proven, and the operator has a certain number of wells, he has to contend with the continual decline of those wells. Now, a well at the outset declines rather rapidly, and there is a very material drop in the curve of production during the first few months of its life. If the decline is less rapid there, it is, nevertheless, certain, so that at the end of a given period you may be sure that there is no more oil left in that particular well. You are dealing not only with

a wasting product, but also with a fugitive product, because oil is found in sands and strata beneath the earth. That condition results in your neighbor being able to put down a well and taking oil from the same reservoir that you are taking oil from beneath your land without your being able to stop him in any way. So that the development of oil lands by the operator is dependent on quite a degree of diligence.

It is for this reason, moreover, that the development of that industry in this country has taken place in the form of leases. The average oil operator who goes out in the country where there has been some discovery can not afford to pay large sums to buy property outright, and it is also a generally known thing that it is very seldom that the owner of a piece of property, with his lack of experience in the business, develops that property as oil or gas property. Now, as you can see, by reason of the lease arrangement the owner himself takes none of the risk; the operator, who is the lessee, taking it all. If the operator is successful the owner receives his royalty, and that brings us really to the consideration of the type of lease which is used in the oil-producing industry. This lease is considerably different from any contract used in any other form of industry, and I have made a notation here of the salient provisions, although the details vary in different parts of the country according to the difference in State laws, but the main provisions are the same. The term is generally for a given number of years, three or five, or whatever the parties may agree on, and as long thereafter as oil and gas are found in paying quantities. There is also an initial bonus paid in many cases, but that is a matter of agreement between the lessor and lessee. The lessee is usually bound to complete one or more wells within a given period, or, in default of completing those wells, to pay a rental for the privilege of deferring the completion until the end of a stated term.

He could, in any event, defer it beyond that stated term, so that if the lease is for three years and as long as oil is found in paying quantities, he only has that three years in which to prospect. If he fails to discover oil within that time, then all the rights go back to the lessor and the lease comes to an end.

Mr. MOORE. Is that the universal system of leasing?

Mr. KELLY. Yes; that is the usual form. As I say, whether a man is drilling one well, two wells, or three wells is a matter of agreement between him and the lessor, but the general scheme is the same throughout the country.

Mr. MOORE. The lease runs for three years on the present basis.

Mr. KELLY. Yes, sir. The lease, as I have said, terminates if the prospective well is not found before the expiration of that time, but if the prospective well is found at that point an estate vests in the lessee, and, therefore, he is entitled to all the oil and gas that may be found underneath those premises upon the payment of the one-eighth royalty, or whatever royalty is agreed upon. One-eighth is usually the royalty agreed upon, but there are other rates. We pay one-sixth in the Osage Nation, and I think there are some cases where they pay one-tenth. That is regulated by local conditions.

The nature of the interest, respectively, of the owner and lessee before the discovery of oil leaves no doubt that the owner's right is

a much higher one, because the owner can wait as long as he likes to develop that property and prospect it at his leisure, whereas the lessee only has three years and must complete his operations before his lease terminates.

So far as this depletion question is concerned, we are not very much concerned with that proposition, because it is obvious that once oil is discovered there can be no depletion. What we look to, then, is the interest, respectively, of the owner and the lessee after the discovery of oil. We find that the owner's right really remains what it was before. He has a right to all the oil and gas beneath the surface of that particular land, but, again, it is a peculiar right which is distinguished from any other legal title that I know of, for he has no title to any specific oil or gas until he brings it to the surface and reduces it to possession. In other words, it is a mere naked thing to say that he has title to some oil beneath the surface which may be drawn from beneath the surface by an adjoining operator.

Mr. STERLING. Does not the State law regulate the distance from the partition lines of the lands?

Mr. KELLY. It does in some cases.

Mr. STERLING. Where the wells shall be located?

Mr. KELLY. It does in some cases; yes, sir. As to the property on which we are operating in Oklahoma the Department of the Interior has promulgated regulations which regulate that.

Mr. STERLING. That is so in Illinois.

Mr. KELLY. Yes; that is the usual provision. But even if they are located, as they generally are, some 200 feet back of the boundary line, it is the usual thing to find a pool large enough so that if you drew a line down through the surface it would connect that reservoir. The result is that if an adjoining owner puts down a well, even some distance removed from the boundary line, he is bound to take your oil if you do not offset him within a reasonable time.

Mr. WHITE. Is it not a fact that the Interior Department requires an operator to offset a well?

Mr. KELLY. I have not charged my memory with that particular point, but I believe that is the case. I may say that is generally done.

Mr. WHITE. In self-defense?

Mr. KELLY. Yes. Of course, there are isolated cases where some company may have more capital than another and may have very favorable conditions and be able to put down more line wells than another man or company.

Mr. WHITE. As a matter of fact, those regulations grew out of the fact that the large companies were doing that as against other companies?

Mr. KELLY. I can not think, offhand, of a specific instance, but I have heard that there were some such instances. But that is the condition which exists. The owner is bound, in self-defense, irrespective of regulations, State laws, or what not, to put down his wells and continue his work with a reasonable degree of diligence or he will not get oil.

The particular point that I want to address myself to is just this: That after a lessee has put in a producing well he has the right to all the oil and gas beneath those premises for as long as that oil and gas can be found. Now, that is all that the owner has. It is true

that the owner's estate is quite the more valuable because he does not have to pay a one-eighth royalty to anybody. The lessee must continue to pay that one-eighth royalty, or whatever may be agreed upon, for as long a time as oil and gas can be found. But that difference is a difference not in the character of the property they hold, but merely in its value, and, of course, it is subject to definite appraisal. The existing law provides, in the case of those operators who purchased their properties prior to March 1, 1913, that they may set up the valuation of those properties as of that date, but the regulations of the Treasury Department have construed that—evidently because of the occurrence of the word "purchase" in there—to mean that depletion may only be computed by an owner in fee. It is true that they allow a lessee to compute depletion—

Mr. MOORE (interposing). Have you the law before you, and, if so, can you quote that section?

Mr. KELLY. I think I have made a note of that particular section. It is under the general heading of deductions that are allowed both individuals and corporations. I think the quotation is like this—it is the act of September 8, 1916, as amended by the act of October 3, 1917.

Mr. MOORE. If you have it there, I wish you would read it.

Mr. WHITE. Is it not a fact that that ruling has had the result of men putting their money into royalties rather than into deductions?

Mr. KELLY. I do not think so; because, of course, the allowance after March 1, 1913, is restricted in the case of both the owner and the lessee to the actual amount paid therefor. However, it might have that effect to some extent; but, of course, the purchasers of the royalties are a very small factor in the industry as a whole.

Mr. MOORE. I wish you would quote that law.

Mr. KELLY. I will. It is section 12, paragraph 2.

The CHAIRMAN. That is in the 1916 act?

Mr. KELLY. Yes; but the same provision appears in the amended act of 1917:

In the case of oil and gas wells a reasonable allowance for actual reduction in flow and production to be ascertained not by the flush flow but by the settled production or regular flow.

I will omit the part relating to mines.

*Provided*, That when the allowance authorized in (a) and (b) shall equal the capital originally invested, or in case of purchase made prior to March first, nineteen hundred and thirteen, the fair market value as of that date, no further allowance shall be made.

I think that is the substance of that particular provision. So that in the case of both the owner and the lessee, after March 1, 1913, there will be a restriction as to the amounts actually paid. I am frank to say that I have not given sufficient consideration as to whether or not there ought to be some allowance made there in view of the hazardous nature of the business, but I was confining myself in my prior argument to the capital which existed on March 1, 1913.

The CHAIRMAN. That is provided for in another section. In making up their income tax returns they are to consider the cost of, say, lumber or other raw materials, not as of the time they made the purchase, but the value as of March 1, 1913.

Mr. KELLY. That is what the department has held in respect to owners, but they do not let the lessee take advantage of that. In other words, they say that the lessee, even though he has a right to all the oil and gas beneath that territory for as long as those products can be found, that because of the fact that technically he is some kind of a lessee, and the other man on the other side owns his land in fee, even though the actual value is practically the same, that the owner may deduct the depletion as of March 1, 1913, but that the lessee is restricted to the actual amount put in there, and it is that particular point that seems to me to result in inequity.

Mr. MOORE. Will you state that in some concrete way?

Mr. KELLY. Perhaps I might give an example. Let us take the case of a corporation that would acquire 1,000 acres of land, and take that acquisition as of 1910. By the expenditure of, perhaps, \$50,000 that corporation might be lucky enough to bring in wells making the property worth \$200,000. If that corporation is a lessee there is no deduction or no amount upon which it can ever claim depletion, yet if at the outset instead of taking a lease it had paid, perhaps, \$1 or \$2 more per acre, and had expended, perhaps, \$2,000 more, it would be in the status of an owner and could set up that \$200,000 valuation as of March 1, 1913. In other words, in the case of the owner they make an allowance for the—I do not know whether you would term it the unearned increment or the actual wealth which has been created by reason of their operations, but in the case of the owner they make an allowance which is perfectly proper. But the average oil lessee—and I may say that 90 per cent of the operations are carried on by lessees, there are very few owners—

Mr. MOORE (interposing). How has your concern been drawn into this?

Mr. KELLY. In this way: That in making up our return this last year we have made the claim that under the particular Government regulations our status is practically that of the owner, and that, therefore, we should have an allowance for depletion.

Mr. MOORE. Has the department made a ruling that you shall not have such a deduction?

Mr. KELLY. They have not ruled specifically, no.

Mr. MOORE. Is there any ruling on the part of the department which leads you to believe that will be the result?

Mr. KELLY. Only this general ruling which says that in the case of everyone except the owner in fee a deduction will not be allowed. In other words, they seem to attach some magic to the words "owner in fee" even though that does not comprehend any more, so far as the oil industry goes, than a perpetual lessee.

Mr. MOORE. Take the language you have quoted from the act of September 8, 1916. What changes would you recommend?

Mr. KELLY. I should think that some appropriate language placed in the second clause, beginning with the word "provided," would cover it. Instead of saying in case of purchases made prior to March 1, 1913, I would have some such words as "purchase, lease or other acquisition." I do not know the exact language, but some appropriate language which would cause the perpetual lessee to receive this allowance?

The CHAIRMAN. Just add the words "or acquire" after the word "purchase."

Mr. OLDFIELD. Your desire is to put the owner and the lessee on the same footing?

Mr. KELLY. Yes, sir. Of course, so far as the actual value of those interests are concerned, they will always be slightly different, because the owner does not have to pay his one-eighth royalty to anyone.

Mr. MOORE. Your fear is that while you are the lessee you may be held as a purchaser; is that the point?

Mr. KELLY. No; quite the opposite. I am afraid they will not consider us as a purchaser and will not allow us the deductions. My fear is that we will be held merely to be lessees and will not be allowed the deduction.

Mr. HAWLEY. How much difference would it make to you in money if your status were that of an owner instead of that of a lessee?

Mr. KELLY. That is a rather hard question to answer, because the appraisal of the properties as of March 1, 1913, is subject to the approval of the Secretary of the Treasury, and that will be dependent on the value which he puts on them.

The CHAIRMAN. Do you buy these leases outright or do you pay so much a year? Say you have a lease for 10 years; do you pay so much a year?

Mr. KELLY. We pay a one-sixth royalty on the holdings which we have in the Osage Nation, to the superintendent of the Osage agency for the benefit of the tribe, and in the case of the other leases, we simply remit to the lessor, at stated intervals, one-eighth of the gross production as his royalty.

The CHAIRMAN. Were these leases to which you are referring now made prior to March 1, 1913?

Mr. KELLY. They were not made prior to March 1, 1913; they were actually executed on March 16, 1916, but that was a situation which grew out of prior operations. The Department of the Interior said, in effect, to the lessees who had previously been operating there that the leases which expired on March 1, 1916, should be given to them in the shape of new leases, and that was done.

The CHAIRMAN. They all had notice that after March 1, 1913, an income tax was constitutional and that in all probability one would be passed, and March 1, 1913, was put in because a person might have purchased property long before there was any constitutional power in Congress to levy an income tax. Take lumber, for instance. A person might have purchased lumber at 50 cents a thousand in 1899 and 1900, and on March 1, 1913, it had appreciated in value to \$5. They had no right to put an income tax on that appreciation before March 1, 1913, because there was no constitutional power to levy any income tax. So the committee provided that they could take the fair valuation of the property, say of lumber, oil, or coal, as of March 1, 1913, when Congress did have the right to levy an income tax.

Mr. KELLY. The intent being to fix a fair valuation on the capital existing as of that time.



The CHAIRMAN. Yes. I want to ask you a question for my own information. About what is the average length of time, after you strike oil, that you can continue the operation of a well?

Mr. KELLY. That depends entirely on the field and it is dependent upon so many natural conditions, the depth of the well, the thickness and texture of the sand, and the amount of gas.

The CHAIRMAN. Some last as long as 1 year, some 3 years, and some 10 years.

Mr. KELLY. Yes; and there are some wells in Pennsylvania that have been in operation for 25 years.

The CHAIRMAN. What do you think about the average life of new wells now—wells that have been developed in the last four or five years?

Mr. KELLY. That, again, is dependent on the field.

The CHAIRMAN. Would you say it would be three years or a good deal more?

Mr. KELLY. I should say it would be more than that.

The CHAIRMAN. A committee of oil men told me it was three years.

Mr. KELLY. That may have been true of their particular localities.

The CHAIRMAN. They represented oil wells in Oklahoma and Illinois, as well as other States. I just wanted to get your best judgment.

Mr. KELLY. I was just speaking of the general average.

The CHAIRMAN. But there is really no way you can get at the general average, is there?

Mr. KELLY. No, there is not; although after a field has been proven and in operation for a considerable number of years you can then approximate it, and you can come near enough, perhaps, to do substantial justice for tax purposes in computing depletion, but it is a very difficult situation to compute depletion properly so that the Government will get sufficient revenue and at the same time the producer have a reasonable allowance.

The CHAIRMAN. The real question is the allowance to be granted?

Mr. KELLY. Yes, sir. We feel that under present conditions there is no allowance, because, again, we are in this situation: The oil producer must take the greater part of his earnings every year and put them back into the ground, because as his old wells decline he must drill new wells in order to keep his production stationary. Now, there comes a point after he gets his property pretty well drilled up, that in spite of everything he does he can not keep his production stationary, and it is going to continue to go down. It is not like a steel mill. If you take the greater part of your profits and reinvest them in your steel mill, at the end of 15 years you probably have a big business; but that is not the case with the oil business. You are through; there is no more oil under there, and therefore you must have made enough to pay back the initial investment, the reinvestments you have made, plus a reasonable profit.

The CHAIRMAN. As a matter of fact, in the oil business you get rich mighty quick or poor mighty quick.

Mr. KELLY. That is just about what it sums up to; yes.

Mr. WHITE. How many wells has your company?

Mr. KELLY. I should say in operation about 180.

Mr. WHITE. And you have a 1,200-barrel capacity?

Mr. KELLY. Yes, sir. That, of course, is entirely approximate, because sometimes it might be a little less or a little more.

Mr. WHITE. Is that gross?

Mr. KELLY. That is net.

Mr. WHITE. Are you continuing your drilling operations?

Mr. KELLY. Yes, sir; we are very active on that.

Mr. WHITE. You could not tell us what your falling off in production has been?

Mr. KELLY. No.

Mr. WHITE. You could as to your old wells, could you not?

Mr. KELLY. Yes; although from a practical standpoint it is sometimes difficult to do that, because that comes in again under Treasury Decision 2047, where the department laid down certain rules for the computation of depletion. If you had one well that ran into one tank, so that you could gauge that tank from time to time and see what that well did, it would be practicable to keep a check on it, but you frequently have a number of wells.

Mr. WHITE. You mean that you would have a new well running into an old tank?

Mr. KELLY. Perhaps it would be a well that had been in operation for some time, or a number of old wells, running into the same tank. It is not practicable from the operating standpoint to separate them.

Mr. HULL. On this question as to whom particular allowances for depletion should go, whether to the lessor or the lessee, the courts have been holding that the person who leases land for mineral purposes does not acquire any rights to the minerals in place, as they call it, but that the legal title to the minerals in place, so far as these allowances are concerned, remains in the person who leased the land.

Mr. KELLY. I believe that probably is true with respect to solid minerals, although I believe there was a decision handed down by the Supreme Court of the United States within the last few weeks construing the act of 1909, and, as I recall the decision, they reaffirmed the proposition that there could be no allowance for depletion under the act of 1909. At the same time they discussed at some length the relative interests. But, as you can see, that is the very point of the oil business. Neither the owner or the lessee can get any title to any specific oil in place until he finds it out.

Mr. HULL. That is what I am speaking of. You want legislation to relieve against a practice, and to some extent against the law, or you want relief on account of some court decisions under the present wording of the law.

Mr. KELLY. I think that would probably cover it; yes, sir. If you dealt with abstractions and called this estate of the lessee some intangible thing, you would not get anywhere, but you should look at it from the practical standpoint and see what the lessee in such cases is dealing with. If a man comes to purchase your property, he might give you just as much, with the exception of the royalty interest, for a lease, as long as oil and gas are produced, as he would for the fee.

Mr. HULL. There has been some conflict in the department and in some of the decisions with reference to certain classes of miners. There has been some conflict between their holdings.

Mr. KELLY. Yes, sir. It seems to me that from the standpoint of tax legislation it is entirely proper to cover this estate of the lessee as something different from the estate of the owner. For example, I believe it has been held that if there is a life tenant in possession of property and he attempts to drill oil wells, he can be restrained by the remainderman by reason of the fact that he is committing waste. It is not simply a matter of having some definition of the owner of the fee title, but we are considering here tax legislation, and it seems to me that we must look at the practical situation which is presented.

Mr. MOORE. Are you a mining engineer?

Mr. KELLY. No, sir.

**STATEMENT OF MR. H. B. SPALDING, VICE PRESIDENT A. G.  
SPALDING BROS.**

The CHAIRMAN. Please state your name, business or occupation, and for whom you appear.

Mr. SPALDING. My name is H. B. Spalding, and I am one of the vice presidents and the treasurer of the A. G. Spalding Bros., a company engaged, as you possibly know, in the manufacture and sale of athletic goods. Our head office is in New York City. We have branch stores and factories located throughout this country, as well as in England and France. We have a branch store in Paris, a branch store in Sydney, Australia, and two branches in Canada. We are perhaps alone in the athletic-goods trade, in that we cover the entire athletic-goods field. We have plenty of competitors, but most of our competitors restrict themselves to one or more lines of athletic goods rather than covering the entire field of athletic spots, which we aim and endeavor to do. I therefore feel in competing before you that I am in a position to cover the trade generally far better, perhaps, than our competitors would be able to do, because they are restricted to one or more single lines. I do want to say this, however, with regard to the war-revenue act of October 3, 1917—and I presume that this general scheme of arrangement would be followed in your revenue act under consideration—that the clause covering sporting goods, which is titled 6, section 600, subdivision S, includes in the athletic-goods line billiards and pool, or pool balls and tables, fishing rods and reels, checker boards, chess boards, etc., and also contains the words "games and parts of games."

We are not interested in those items which I have enumerated. They are very frequently dealt with in the same wholesale and retail establishments along with athletic goods, but in the manufacture they are generally manufactured by separate manufacturers, or by manufacturers making other lines than sporting goods, and in the drafting of any new legislation I would suggest that for convenience athletic goods be made a separate subdivision and not be included with other lines which come under another classification.

The CHAIRMAN. You mean to give them a little higher dignity!

Mr. SPALDING. Not so much for additional dignity as for clarifying the matter. We have had a little trouble, to which I will refer at this time, with reference to the interpretation by the Treasury Department of the words "games and parts of games," and I might say with some gratification that they have taken our view as to what

that means, but I am not sure whether our views were really in the minds of the committee that drafted that original subdivision. I am also in a little difficulty as to the principle that is actuating Congress in the matter of taxing athletic goods. In Mr. McAdoo's letter the other day he referred, among other things, to the taxing of luxuries, but we are not assuming that sporting goods would be classed with jewelry in imposing taxes. If the committee assumes that sporting goods are luxuries and should be taxed as luxuries because of their classification, I would call your attention to some other parts of section 600. I find in section 600 that there is an excise tax imposed upon motor trucks, and certainly motor trucks could not be classed as luxuries. They are certainly not luxuries to ride in.

The CHAIRMAN. On the subject of sporting goods, while they may not be luxuries, so far as the revenue bill was concerned they were classed by the committee as luxuries. Now, regardless of whether they are luxuries or not, they are among those things that should be taxed rather than bread, flour, sugar, and other necessaries of life.

Mr. SPALDING. That is the point I was coming to. I assume that what the committee wants to do in the revenue bill is to raise the maximum amount of revenue, and that it is not the intention of the committee, under the guise of raising revenue, to kill any particular industry, and that you are not considering the imposition of taxes such as those imposed in Civil War days upon State-bank notes, and which were intended to exclude State-bank notes from circulation; and that, therefore, it is not so much an effort to tax luxuries, because they are something that the people should not indulge in during the period of the war, as it is to impose a tax upon some articles the users of which can, in the opinion of Congress, afford to pay the taxes upon. I think that at this point we ought to subdivide the different classes of athletic goods, and I have divided them into seven major groups. In the first group is baseball; the second group includes football, basket ball, and all those games that use leather inflated balls, and boxing gloves.

The reason for including boxing gloves is that they are made of leather and are produced in the same factories that produce the leather inflated balls. The third group takes in lawn tennis and a number of similar games in which almost the identical implements are used. The fourth group embraces golf. The fifth group cover skates; and the sixth group embraces implements that are used in what we term field games, such as implements used in running, jumping, hammer throwing, etc. The seventh group covers gymnasium apparatus, both for indoor gymnasiums and outdoor playgrounds. Now, with regard to the first two groups—that is, the football and baseball groups—we can treat those two groups together, because we have very largely the same class of users of those implements. During the past six months, our sales of that class of goods have either gone directly to the Army through the purchases of the Y. M. C. A. or of Mr. Fosdick's committee on training camp activities, or they have gone to the Army indirectly through other committees that have been purchasing them for the same purpose, or they have gone to the Army on purchases made directly by the soldiers themselves. Fifty per cent of them have gone directly to the Y. M. C. A. and

the Fosdick committee, and 25 per cent of the purchases may have reached the Army indirectly through sales made to soldiers or made to people who intended to send the athletic goods to the soldiers. I think that statement is also true of other manufacturers. Therefore three-fourths of the purchases made of baseball and football athletic goods have been made by institutions and others furnishing those goods to the Army.

Mr. LONGWORTH. Any tax that may be imposed on these goods would be passed on to the purchasers, would it not?

Mr. SPALDING. Every consumption tax, I believe; it always is passed on to the consumer. It may be absorbed to some extent or in some slight degree, but eventually it is passed on.

Mr. LONGWORTH. I am glad to hear you say that, because there are certain industries, notably the automobile industry, which claim that this tax would be a tax on their gross receipts.

Mr. SPALDING. I say that it is passed on. If we do not pass it on, it is because we can not do it.

Mr. LONGWORTH. Any tax imposed upon the sale of goods, whether they are luxuries or necessities, is a tax that will be paid by the consumer and not by the producer.

Mr. SPALDING. The tax is unquestionably paid by the consumer. I do not mean to say that if the tax is 10 per cent that 10 per cent is added to the price that the consumer will pay or the price that the dealer or jobber will pay, but the price in some form will include the tax, and it will be paid by the consumer in the end.

Mr. LONGWORTH. And very often more than the amount of the tax is assessed in the price.

Mr. SPALDING. That is possible. I think we are all familiar enough with the tariff law to realize that wherever importers, or in almost every case where importers have paid a higher duty, that duty has gone on to the consumer, with a profit added to the duty that the importer paid.

Mr. STERLING. That is true, because there would be no competition in this country, but suppose there was competition? Then he could not do it.

Mr. SPALDING. I know that some time before the war we were importing from abroad leather for use in footballs. I think it was the tariff law of 1913 that reduced the tariff on leather by 10 per cent, but the net result of that reduction was a 10 per cent increase in the price charged by the foreign producer.

Mr. STERLING. If it had been a protective tariff, he could not have added that profit, because his American competition would have prevented it.

Mr. SPALDING. A protective tariff carried to the fullest extent will, of course, keep foreign goods out entirely, unless they are of such a character that the same things can not be produced in this country.

Mr. STERLING. Then we would not get any revenue on them at all.

Mr. SPALDING. For instance, the high tariff on automobiles does not exclude the importation of automobiles altogether, because there are always a few people who enjoy paying the highest possible price for any articles. I can not personally comprehend why anybody would want to pay twelve or fifteen thousand dollars for a foreign automobile when he can obtain an article which is equally as good, in

my opinion, at least, and, I think, also in the opinion of the American manufacturers of this country, for five or six thousand dollars. But you have only to take a walk along Fifth Avenue and see the number of Rolls-Royces to see that there are a great many people who want to do that very thing. I do not know that it represents a large element in the total volume of sales made.

Mr. MOORE. You always get in trouble here in Washington when you start to using the tariff for illustrative purposes. You have just stated that when a man had to pay a duty at the customhouse the tendency was to add a little more to the price than the amount of the duty paid. Now, is not that also the practice of business where other taxes are imposed, and especially in war times, where a man has paid a little war tax? When a man pays that war tax, does he not add a little more to the price than the war tax amounts to?

Mr. SPALDING. There has been an increase in war taxes, and our prices have increased. Our prices have increased a great deal more than the extent of the war taxes, but materials have gone up and labor has gone up. All the expenses of doing business are going up, and what is still worse, on top of it all, the volume of our sales is decreasing or our percentage of overhead expense is increasing very heavily on individual articles.

Mr. MOORE. Is it not true that the price always goes up in the way I have indicated when a tax is imposed?

Mr. SPALDING. I can only answer that by saying that, so far as our business goes, we are to-day making about 50 per cent of the profit that we were making a little over a year ago, or when the war started. Our sales were affected very materially by the war.

Mr. MOORE. Is that due to the fact that you are selling directly to the Government?

Mr. SPALDING. No, sir; I would say that it is due to the fact that our sales to the public have fallen off.

Mr. HAWLEY. Is that because of the fact that the men who were principally engaged in athletic sports are in the draft?

Mr. SPALDING. I think that is true. I think that is absolutely true.

Mr. LONGWORTH. The reason I ask that question is this: I think that we had as well start now as later with the understanding that we will not listen with favor to any argument which involves the proposition that the producer, in case his sales are taxed, is going to be compelled to pay that tax himself.

Mr. SPALDING. All right

Mr. LONGWORTH. They will raise the price at least as much as the tax amounts to, and possibly a good deal more. I want to mention one instance of that for the record. In the case of cigarettes, we were told that the price of cigarettes could not be raised and that the only resort would be for the factory either to reduce the size of the cigarettes or to reduce the size of the boxes, putting fewer cigarettes in them. They said that it was absolutely impossible to raise the price of a standard brand of cigarettes. For instance, they said that a certain brand of cigarettes put up 20 in a box sold for 15 cents per box, and had been selling at that price for 30 or 40 years. They said that they could not raise the price on the box of cigarettes. They said that they could not sell those cigarettes at 20 cents per

box. They claimed that they could not add enough to pay the tax and that they would have to stand it themselves. Now, those cigarettes have been selling and are selling to-day at 20 cents per box. They have added 5 cents to the price to the consumer to meet a tax that did not amount to over 1½ cents. They are selling the same article for a price which is considerably more than the added cost, although they said that it was impossible to do it. Now, we are not going to listen to arguments of that sort before this committee with any degree of favor.

Mr. SPALDING. I do not see any reason why you should. We have not come down here for the purpose of presenting any such argument. In fact, I am going further and will suggest specific taxes that might go on athletic goods to produce revenue. I do not think that very great revenue is going to be produced out of athletic goods, because there is not a sufficient volume of them produced, but such revenue as can be produced, we are perfectly willing to have produced. I merely want to suggest how it can be done with least inconvenience to the trade and to the Treasury Department, and be shifted on to the shoulders of the consumers best able to pay it. That is the reason I was discussing the question of the football and baseball lines first, because I do not believe that a tax should be imposed on that line of goods, unless Congress is going further and impose a general consumption tax on sugar, meat, clothing, and other necessities, because I believe that particular line of goods is just as essential to the welfare of the people and just as necessary as many of the items of clothing and many of the items of food. Take up the Army situation just for a moment. When the war started in England, there was immediately a sort of sentimental wave that went over the entire country in England to the effect that it was unpatriotic to indulge in athletic sports. Our business there went all to pieces, and we were down and out there after the 1st of August, 1914.

Mr. LONGWORTH. But there was a reaction from that?

Mr. SPALDING. Yes, sir; there has been a violent reaction, and to-day both the English Army authorities and the French Army authorities encourage athletic sports. They consider athletic sports as absolutely essential in promoting the welfare and morale of the army. Capt. Dingle, who is connected with the purchase of athletic goods for the Canadian Army, was in my office the other day on a business matter regarding the purchase of goods for the Canadian Y. M. C. A., and he told us then that the men on coming out of the front-line trenches and going back to rest are ordered by their officers to take part in athletic games. He told of one instance where a company or battalion of Canadians were charging the Germans while the officer leading the charge was carrying a football across No Man's Land, as he approached the German line. I picked up a newspaper article the other day reporting a speech by Mr. Herbert L. Pratt, who is connected with the Y. M. C. A. work and who has just returned from abroad. He was talking before the War Work Council of the Y. M. C. A. and he said this:

The American soldier is more highstrung than the allied soldier. He is always alert and on the go. When he is not fighting he seeks an outlet for that energy, and it is of vital importance that his energies be directed rightly. One of the worst catastrophes to the Y. M. C. A. abroad was the loss by submarines

of \$30,000 worth of baseballs, bats, and other athletic materials, and the impossibility, because of tonnage, to make it up. That loss has deprived thousands of our boys of their ball games, and that is what they need more than anything else.

So much for the importance of athletics in the Army, and I certainly can not believe that it would be a wise piece of legislation to impose a tax on athletic goods which will be sold to the Army, and which must be paid for by the Government, the Red Cross, the Y. M. C. A., or some other Government agency.

Mr. STERLING. Don't you think that the people of this country who give their money to the Red Cross, the Y. M. C. A., and the Knights of Columbus give it as freely and as cheerfully as they would to any other organization in the world? If that is true, why is that not a good way to get taxes for the use of the Government and for the support of its Army? The people give that money voluntarily. The Y. M. C. A. is not a money-making corporation nor is the Red Cross, but they get their money from the people, who give it voluntarily.

Mr. SPALDING. Let me ask you this: Do you think that the Y. M. C. A., the Knights of Columbus, or the Red Cross, or whatever the organization may be, is going to collect from the people any more than they will need to spend?

Mr. STERLING. I believe that they will collect every dollar that they do need, and I believe that the people will give it cheerfully to those organizations.

Mr. SPALDING. Do you think that the people would give it as cheerfully if they felt that a part of their money that they were giving for a specific purpose was going back to the Government in the shape of taxes?

Mr. STERLING. I do not imagine that they would object to it on that account, because the money would go for the support of the Army. I think this committee would like to know, in reference to athletic goods, what rate will produce the greatest amount of income. That is my idea of a tax on sporting goods.

Mr. SPALDING. Then, I can only say this in response to that, that if the committee feels that they should submit athletic goods generally to a tax by reason of the fact that they are going to be bought by the Y. M. C. A., the Knights of Columbus, the Red Cross, and those different organizations, and because it thinks that those people will cheerfully give to those organizations, then they should also put a tax on hospital grounds, and a thousand and one supplies which are being purchased by the Y. M. C. A., the Knights of Columbus, and the Red Cross.

Mr. STERLING. I do not say that that is the reason why the tax should be imposed, but the fact that those organizations do buy some of the goods is no reason why the tax should not be imposed. The purpose of framing a tax law is to get revenue.

Mr. SPALDING. Those organizations are buying to-day probably 50 per cent of the sporting goods directly for the Army, and I should say that 25 per cent more of them are going to the Army. I think that the percentage will be even more than that as the young people are being taken into the Army. I think the percentage will increase rather than decrease.

Mr. O'SHAUGHNESSY. What is the percentage of sales now for war purposes and for the general public?



Mr. SPALDING. Dealing with these particular two groups—

Mr. O'SHAUGHNESSY (interposing). Is it about 50 per cent?

Mr. SPALDING. Fifty per cent of the purchases we know are made for war purposes, and we estimate that one-half of the remaining purchases are indirectly made for the Army.

Mr. O'SHAUGHNESSY. Then, you would say that 75 per cent of the purchases are made for war purposes?

Mr. SPALDING. Yes, sir.

Mr. O'SHAUGHNESSY. Does that proportion obtain also under all of those other schedules that you mentioned?

Mr. SPALDING. No, sir.

Mr. O'SHAUGHNESSY. I want to say that you are absolutely mistaken about the attitude of the people toward taxation. I, as one member of the committee, would be absolutely opposed to your point of view. I think that the people are only too willing to pay the taxes.

Mr. LONGWORTH. Is it your purpose to suggest a rate of taxation for those goods?

Mr. SPALDING. It is my purpose to suggest a tax. I would suggest a tax on tennis balls and golf balls. My idea is to have no tax on baseball goods or any football goods. I see that several members of the committee do not agree with me on that, and I am not arguing against that point of view.

Mr. LONGWORTH. If we are to raise \$8,000,000,000, as suggested by the Secretary of the Treasury, we may be called upon—although I hope not—to put a consumption tax on the necessities of life.

Mr. RAINEY. There is a feeling in the country that sporting goods are nonessential in time of war, and that, therefore, they are really luxuries. The golf players and others who need exercise can get it just as well by working in a war garden, by chopping wood, or doing something of that kind, under the old-fashioned rule of rendering some service. Some of us think that sporting goods are luxuries, and that, therefore, they should be taxed.

Mr. SPALDING. Well, that is a view that I can not discuss at all, because we take precisely the opposite point. Any work in war gardening—tilling the soil—is hard work. It may be physical exercise, but it is hard drudgery, and we contend that people who are engaged in heavy business cares, whose nervous energy is burdened with the volume and magnitude of the problems with which business men, men in public office, are confronted to-day can not secure the relaxation by indulging in hard physical drudgery, but they can secure that relaxation if they go out and play, and they can get that by playing tennis or golf. Take President Wilson; he plays golf regularly, and I believe he does that from a stern sense of duty to keep himself physically fit in this time when he is needed at the helm more than probably at any other period in the history of the United States.

Mr. MOORE. Conceding everything you say about exercise and the wisdom of relaxation for men engaged in hard work, and particularly for men like President Wilson, who necessarily has much upon his mind, but the President, through the Secretary of the Treasury, has indicated that the taxes we raised last year were not sufficient for the purposes of the war, and the Secretary of the Treasury has written this committee that it will be necessary to double those

taxes this year. In other words, whereas we raised \$12,000,000,000 last year, we must raise about \$24,000,000,000 this year. Now, instead of being in the position of reducing taxes, we are put in the position of increasing taxes, doubling them, and I would like to know if you could make any suggestions as to how we can get more money without unnecessarily depriving men like yourself of the opportunity to go on and do business.

Mr. SPALDING. Will you permit me to take up the case of golf and tennis, because that I am prepared on, and then come back to baseball and football?

Mr. RAINY. I do not think that the committee wants to suggest putting any further burden on you that you can not put on your customers.

Mr. SPALDING. That is what I assumed was the attitude of the committee, and it was because I believed that the customers in the baseball and football groups were not in a position to pay this tax that I am urging that it be not imposed upon those two groups.

Mr. COLLIER. As I understand it, you contend that some of these athletic goods are essentials. I believe you described them as being as much essentials as meat, sugar, bread, or hospital garments. You are asking that certain athletic goods pay no tax at all?

Mr. SPALDING. Yes, sir; but I want to correct the opinion of the committee. I did not say that I thought athletic goods were as essential as meat, sugar, or hospital garments. I mere answered a question from the other side of the committee. I said that I thought it was like putting a tax on goods sold to the Red Cross and other organizations, because it was easy to collect the money by subscriptions to the Red Cross or the Young Men's Christian Association.

Mr. COLLIER. I am glad you answered that, because I gathered the other impression.

Mr. SPALDING. I am glad you gave me an opportunity of correcting that impression. I do consider that athletic goods are as necessary to the normal users of athletic goods as certain articles of food and clothing, and by saying that I mean the articles of food and clothing that we might drop into the general luxury class. I do not believe that a man needs to go to Kaskel & Kaskel's on Broadway in New York and pay from \$3 to \$5 for a necktie. That, I suppose, might fall in the luxury class, and that expensive necktie is more of a luxury than golf balls or baseballs.

Mr. COLLIER. I gathered that you said that baseballs and these other athletic goods were just as essential as these actual necessities of life, and for that reason I asked the question to get your viewpoint.

Mr. SPALDING. I am glad you did, because I do not pretend to go to that extent. We have got to have food and clothing and housing in order to live. We do not have to play baseball to live, but there are a thousand other things that are considered necessities that we might name. Take hot and cold running water in our homes. I like it, and I consider it a necessity; but I realize that it is not a necessity, and I could live if I had to go out to the corner pump and draw a pail of water when I wanted water.

Mr. COLLIER. Many claim for play and exercise that to exercise is as necessary as to eat.

Mr. SPALDING. For health.

Mr. COLLIER (continuing). And you have these athletic goods, baseballs, etc., as a part of the exercise and enjoyment at the same time.

Mr. SPALDING. Certainly. It helps them to exercise in an enjoyable way, and they get greater benefit when they get enjoyment from the exercise than if engaged in some hard physical exercise which is mere drudgery.

Mr. COLLIER. In other words, you think more people exercise by reason of the fact that they get pleasure out of it than would exercise if they did not have these athletic paraphernalia to exercise with?

Mr. SPALDING. Exactly. Now, if I may take up, first, tennis goods—

Mr. LONGWORTH. Before you do that, are you going to estimate how much revenue this will bring in?

Mr. SPALDING. I only had about two days at my disposal to gather together information, and these estimates are very rough, and they deal only with the golf and tennis lines. I have estimated the present revenue from the golf goods, balls, and clubs both, at, in round figures, \$35,000. I am proposing a tax of 50 cents a dozen on golf balls alone, which we estimate would produce a tax of \$72,000 more than double the present tax now produced from golf clubs, golf sticks, and balls combined. In the case of tennis I am proposing a tax of 75 cents a dozen on the tennis balls, which would produce a revenue of about \$35,000, as opposed to an estimated revenue of about \$24,000 from the present tax, applying on balls and tennis racquets combined.

The reasons I do not think that tennis and golf are any less essential to the people who engage in them than baseball and football are to those who engage in those games, are, first, the average users of tennis and golf are generally older men and are generally men of greater means—especially in the case of golf. The heaviest expense there is for the golf course, and in order to play the game you have got to be able to contribute your share toward the maintenance of that golf course, and Congress has recognized that in its tax on club dues of 10 per cent.

Mr. MOORE. I would thank you for your suggestion to put a tax on golf balls and tennis balls and those things that have not yet any tax upon them, but I could not understand how at this time, when we have to double the amount of tax we raise, we could very well take it off of something else.

Mr. SPALDING. There is already a tax on tennis balls of 3 per cent.

Mr. LONGWORTH. We have estimated that the tax on sporting goods, altogether, would be \$3,800,000. Would your plan reduce that or increase it?

Mr. SPALDING. That statement surprises me very greatly. Sporting goods, of course, takes in other lines than those lines I referred to, of which I have no knowledge as to what the volume of their sales is.

Mr. HULL. That estimate includes all the items of that subdivision.

Mr. SPALDING. I think we could probably do this. I did not have time to do that in the short time at my disposal. I think we could

have our items analyzed to see what tax has been paid on the different items in that line, and I think that the percentage to our total—the total tax that they paid—would give a reasonably accurate proportion to use in regard to the trade as a whole. In other words, the Treasury Department have got the result of what has been produced as a whole from this section alone. We can tell them what we have paid as a whole, and also how that item is made up—so much on baseballs, so much on tennis balls, so much on tennis racquets, and so on down the line, and I think you can then take that proportion and apply it to the total tax received, according to the revenue department's report, paid under this section, and you will find just what will be paid under the present law.

Mr. LONGWORTH. What I am getting at is, relatively speaking, if we accept your proposition, would it decrease the amount of revenue we are now getting?

Mr. SPALDING. I am dealing now with the group that the tax is now imposed on, baseballs and footballs and tennis balls and tennis racquets and golf sticks and balls.

Mr. LONGWORTH. I know, but I want—

Mr. SPALDING. The tax I am proposing I think would reduce the revenue, because I am suggesting eliminating the tax on baseballs and footballs, and I think it would increase the revenue you received from golf goods alone.

Mr. LONGWORTH. I am speaking about that total of all sporting goods.

Mr. HAWLEY. Suppose your suggestion were adopted, how much revenue would be lost on goods used in baseball and football?

Mr. SPALDING. You mean under the present rate?

Mr. HAWLEY. Yes.

Mr. SPALDING. I should hesitate to make an estimate on that. I should say possibly in the neighborhood of \$100,000 to \$200,000. That is a pretty broad limit.

Mr. LONGWORTH. The total sales last year of baseballs, baseball bats, and footballs amounted to somewhere near half a billion dollars.

Mr. SPALDING. Oh, yes; probably higher than that.

Mr. LONGWORTH. And we would, according to your plan, be deprived of that much revenue—half a billion dollars?

Mr. SPALDING. Half a billion dollars, did you say?

Mr. LONGWORTH. Yes.

Mr. SPALDING. Oh, I thought you said half a million.

Mr. LONGWORTH. No; half a billion.

Mr. SPALDING. Oh, my goodness, no; nowhere near that.

Mr. LONGWORTH. In your brief, which I have here, you said that the total on baseballs and bats figures \$300,000 and on footballs \$500,000. [After making calculations.] This total would be about \$3,800,000.

Mr. SPALDING. I thought you said half a billion.

Mr. LONGWORTH. No; those are the total figures.

Mr. HAWLEY. There are masks and gloves and various other things that go with it?

Mr. SPALDING. Those articles are not now subject to tax.

Mr. LONGWORTH. The total is \$3,800,000.

Mr. SPALDING. I am taking a great deal of the time of the committee, but there have been so many questions asked that I have been shifted off to other lines.

Mr. LONGWORTH. It is very interesting, because it involves the whole principle.

Mr. SPALDING. What I am recommending to the committee is: Take each thing separately, because I think each group stands or falls on its own feet, and in the golf and tennis lines we are of course interested in not having a tax imposed so large as that it would kill the business and reach the point of diminishing the returns; and the committee are equally interested with us in not reaching that point, because they want to raise the maximum amount of revenue, and this revenue that it is desired to be produced can be produced from those sports—can be produced by imposing the tax entirely on the balls instead of on the other implements that are used.

Let me take golf and show why I make that recommendation. We manufacture both the clubs and the balls. We are entirely impartial, and we have not any ax to grind as between the manufacturers of balls and clubs. The golf balls and clubs both have to be produced in quantity production. They have got to be produced in factories of large size. The small man can not start up a shop and make golf balls or tennis balls. It is too difficult a manufacturing proposition. There are a comparatively small number of manufacturers of golf balls in this country. There are a comparatively small number of manufacturers in this country of either golf balls or tennis balls. Therefore the administration of the law, the collection of the tax, becomes a simple matter. I do not believe the total number of reports of golf balls would exceed 20 reports in this country. The amount in each report would run into several hundred dollars, and probably several thousand dollars, each month, and it is a simple matter to keep track of them.

What is the situation with golf sticks? We manufacture completed sticks, but we, as well as all other manufacturers of golf sticks, do a much larger business in turning out the rough shafts and the heads and leather strips for the binding, and we sell those in that shape to golf professionals at golf clubs throughout the country; and a professional takes a shaft and puts the head and the stick together, and polishes it, and fits the handle on, and sells it to some member of the club, or to someone else he comes in contact with. Now, for the manufacture of golf clubs, you have got to ask the Treasury Department to go to all these golf professionals, and they are not often very good business men, they are hard men to deal with, and you have got to ask them to turn in a monthly report on the few sales they have. In the winter time that golf professional would turn in a report with a tax, say of 50 cents. It becomes a burden on the department. The collection of the tax is difficult, and it opens an opportunity where you are dealing with small people that way for a certain kind of evasion. I do not mean to say that the golf people will evade any more than anybody else, but they are ignorant of the law; and that is their sole business and it is located in some country place always where golf is played, and I think that is an unsatisfactory group of manufactures to attempt to collect a tax from.

Now, in addition to that, we find it a great burden, in the case of golf clubs and tennis rackets, with some of our concerns to keep account as we send uncompleted tennis rackets and golf clubs to those places, and we have one or two workmen at the larger points of supply engaged in that work, and we have got to make a return from those. The cost to us of keeping track of those small, picayune reports of the kind I am speaking about is very great; they are small matters with an immense amount of detail and expense attached, and it would simplify the thing enormously not only for us, but also for the Treasury Department, and produce just as much revenue. I do not care how much revenue you want to collect out of golf and tennis, all that you can possibly collect can all be collected, in our opinion, by a tax on balls alone, without trying to include the rackets and clubs. Now, of course, this only covers golf and golf sticks. There are a number of other small things.

For instance, there are the tee-boxes that contain the sand and water. Those can be made by local carpenters. We do make up boxes, some of them under patents, some made of wood and some of metal, that we sell, but the total amount throughout the year would be very small, and it would be unwise to include it because it would produce a large amount of detail and very small tax.

Going into the tennis line, there are nets and posts that are not to-day subject to tax. I think the total sale of the tennis posts at the manufacturer's price does not exceed \$50,000 a year, and probably this year will be considerably less.

Mr. LONGWORTH. Does that include anything else?

Mr. SPALDING. No. I think I have probably referred to all these other points in my brief, here, which with the permission of the committee I will submit; and I will go further and say that if you want to go back and collect a tax on the baseball lines, and on football lines, there again it would be better to confine yourselves to the ball than it would be to spread out and try to include all the thousand and one trivial implements.

Mr. HAWLEY. How about the bats?

Mr. SPALDING. The bat business, at manufacturers' prices, as I said, last year was about \$300,000. It is a very small amount. And the bat is another proposition where you can have the article made anywhere. Any wood-turning establishment can turn out baseball bats. A man can go to any local carpenter shop that has a lathe, and have a bat turned out.

Mr. STERLING. They do not do it much, do they?

Mr. SPALDING. They do not do it much, but there is the possibility.

Mr. STERLING. How many manufacturers are there of baseball bats?

Mr. SPALDING. Of large baseball bats to-day I would say that there are only two principal manufacturers, ourselves and another firm at Louisville. There may be others that make bats in small quantities, but I think those two are the only ones.

Mr. STERLING. Would not a little tax deter them from going into business, so that it could be confined to two or three concerns, and it would be a very simple matter for the Treasury Department to go to those concerns and collect the tax?

Mr. SPALDING. Yes. I will say, so far as baseball bats are concerned, I do not think it is a particularly difficult matter to assess a tax. You do not there run into that difficulty that you do in the case of tennis racquets and golf clubs. Tennis racquets are finished in a great many small retail stores throughout the country.

Mr. STERLING. They are made in the rough, though, in just a few places, are they not?

Mr. SPALDING. Yes.

Mr. STERLING. And the manufacturer pays the price.

Mr. SPALDING. Now, we might point out to the committee where they would lose if they applied that rule, in an enormous amount, in taxation. The finished club at the price at which the manufacturer sells it to the jobber is probably, roughly, about 50 per cent of the retail price of that article when sold over the counter to the consumer.

Mr. STERLING. Then he would just do this, he would just double on the rough manufacture and let him pass it to the man who sells. We could overcome that by the finished rate.

Mr. SPALDING. Do you mean put one tax on the rough product and another on the finished?

Mr. STERLING. No; just put a tax on the manufacturer of the rough article. The next man, do not tax him at all. The Government has got the revenue.

Mr. SPALDING. Now, another reason why I do not like to see a tax on golf clubs and tennis racquets is, this is a consumption tax. It may be called an income tax or anything else, but it is a consumption tax. A man buys a golf club, and he may retain it for a great many years. He does not have to buy a new club this year if he has one. He can use his old set of clubs; and the truth of that is shown by the fact that while our golf-ball sales have fallen off somewhat, they have not fallen off anything like the sale of clubs. The same is true in regard to tennis racquets. Of course, the sales of balls have fallen off because so many players have gone into the Army, but the sales of balls have not fallen off anything like the sales of tennis racquets have. Of course, if a man is going to play golf, he has got to buy new balls, and if he plays tennis he has got to buy new tennis balls. He can not use last season's tennis balls because they are not good, and even old golf balls are not so good as new ones. He wants new balls.

Now, the same people buy tennis racquets and tennis balls as buy golf balls and golf clubs. You are reaching the same class of individuals, if you throw your tax on balls; therefore your tax is in proportion to their consumption and not in proportion to an accidental sale made this year as against a year ago; and by virtue of the very fact that the man has got to buy balls if he wants to play and he has not got to buy clubs, you will get your revenue, because he is so deeply interested that he will not give up. He must buy the balls; whereas he will say, "Tennis racquets have gone up to a pretty high price, and I guess my old one, restrung, will do for this year," or "I will not buy a new golf club this year." In other words, the business of the sale of clubs will be hurt very much more quickly than the sale of the balls.

That is also true to a large extent of baseballs and footballs and the other lines. I would not urge that if I did not feel that you can

collect just as much total revenue of that particular industry by putting your entire tax on the ball as you can be attempting to spread it out thinner over any other industry.

Mr. RAINEY. Are you leaving with us several copies of your brief?

Mr. SPALDING. I have several copies here. I do not know what the custom is about printing briefs.

Mr. RAINEY. You can have that printed in the record if you want to.

Mr. SPALDING. Very well.

Mr. RAINEY. And you may revise your remarks and make any changes that are necessary.

Mr. STERLING. Did you say clubs were not covered by the tax under the present law?

Mr. SPALDING. Yes, sir.

Mr. STERLING. I think you would render this committee a great service if in extending your remarks you would put in everything that you know of that comes within the sporting-goods category.

Mr. SPALDING. You mean athletic goods? Of course, the term "sporting goods" covers guns and fishing tackle and everything else.

Mr. STERLING. Yes.

Mr. SPALDING. I do not know that I can do any better for the committee than to send you one of our general catalogues. That covers every article. I shall be very glad to do that, but I should also be very sorry to see the committee spread itself out over everything, because it has become a serious matter in our accounting to-day—how we can prepare and file the reports which we are required to file. You see, the difficulty we are confronted with is this, that everything we sell is not taxed. It could not be taxed unless you went out to tax clothing and all merchandise. If the committee should decide finally that they want a general consumption tax of 1 per cent or 2 per cent upon sales, I would say all right, because that is something we can find very easily.

Mr. STERLING. How many different articles do you make and handle?

Mr. SPALDING. Individual articles?

Mr. STERLING. Yes.

Mr. SPALDING. I could not give you the number, but our catalogue runs into the thousands.

Mr. STERLING. Thousands?

Mr. SPALDING. Yes. You see, you take it in the baseball line, and there is the subject of baseball uniforms. There is a uniform made for the special purpose of playing baseball, but it is a garment which any dealer can make up. We make initialed sweaters and we make bathing suits and all kinds of garments of that kind—bath shoes and athletic wear of all kinds. You can see that the shoes that these fellows use for baseball can be used for other purposes. The shoe that is made for any special purpose by manufacturers can be usually adapted for baseball. Should that be subject to a tax?

Mr. STERLING. No; I would not say that a shoe that is used in that way—that anybody could wear, that can be used for general purposes—should come within the category.

Mr. SPALDING. What about the other shoes that are used by tennis players? They are bought by thousands of people for other things, who do not want to play tennis.



Mr. STERLING. I should not say that they came within the category of athletic goods—I mean strictly athletic goods.

Mr. SPALDING. Well, you would come, probably, onto a few shoes that are so incidental in their purpose that they could not be used for any other purpose; but the bulk of our goods are not confined specifically to use in a particular sport. The difficulty is that there are so many details in our line that it would take all day to mention them, and I do not know how the committee drafts legislation, or particular sections; whether they have a subcommittee to consider each section or not.

Mr. RAINEY. We are drafting this to get a lot of money.

Mr. SPALDING. Yes; I understand that, but I do not know whether it is intrusted to subcommittees or to individuals to draft a particular section. I should be very glad to hold myself at the disposal of the committee to come down to Washington at any time to cover details; I do not mean to argue on the subject generally, but to assist when you are drafting the thing into form.

Mr. RAINEY. We want to draft this bill for additional revenue, and we are unwilling or reluctant to take up any proposition to take away revenue.

Mr. SPALDING. You know, we are also subject to the income tax and the excess-profits tax, and the individual owners are subject to the taxes.

Mr. RAINEY. Yes. If we exempted individual owners on account of other taxes we would not have anything to draw an additional amount from, at all.

Mr. SPALDING. If any individual tax you might place would have the result of so decreasing the amount of sales in any particular industry that its profits were reduced to a point where you would collect smaller excess and income taxes from the businesses and the owners deriving their incomes from the businesses—

Mr. RAINEY. From the standpoint of raising taxes of course we do not want to do that.

Mr. HAWLEY. You submitted a list of seven specifications there.

Mr. SPALDING. Yes.

Mr. HAWLEY. You mentioned four of them in your discussion.

Mr. SPALDING. I mentioned four because I did not want to go into details. Our business has so great a variety.

Mr. HAWLEY. I want to just ask this question about the other three: In the recommendations you made on the other three classifications you did not discuss or oppose an increase of revenue on them?

Mr. SPALDING. At the present time there is no tax on those other classifications, and I did not propose putting on any tax. Of two of them, the implements for these field games and the gymnasium apparatus, the sale is trivial under any circumstances, and in war times it is going to be very much reduced. The skate industry is in pretty bad condition at present. The largest skate manufacturers in the country, Barnes & Berry, of Springfield, Mass., are in the hands of receivers. We have many other lines that are falling off. I do not think a large tax could be derived from skates without killing the industry to even a larger extent than it is now. You know there is a Member of the House of Representatives who is engaged in the skate business.

Mr. RAINY. If we could get additional revenue from the business, the fact that he is a Member of Congress would not help him.

Mr. SPALDING. I do not believe it would; but he knows more about the skate business than we do, because that is only one of our lines.

I want to thank the committee very much for their attention.  
(The following statement was submitted by Mr. Spalding:)

BRIEF SUBMITTED BY H. BOARDMAN SPALDING, REPRESENTING A. G. SPALDING & BROS.

#### INTRODUCTION.

This brief is submitted by H. Boardman Spalding, vice president and treasurer of A. G. Spalding & Bros. A. G. Spalding & Bros. is a New Jersey corporation engaged in the manufacture and sale of athletic goods, and widely known throughout the United States.

It is assumed that in the original draft of the proposed war-revenue act the general form and arrangement of the war-revenue act of October 3, 1917, would be followed, and hence reference is here made at the outset to Title VI, section 600, subdivision F of the latter law, which imposes an excise tax on certain items of athletic goods, and which reads as follows:

"Upon all tennis rackets, golf clubs, baseball bats, lacrosse sticks, balls of all kinds, including baseballs, footballs, tennis, golf, lacrosse, billiard and pool balls, fishing rods and reels, billiard and pool tables, chess and checker boards and pieces, dice, games and parts of games, except playing cards and children's toys and games sold by a manufacturer, producer, or importer, a tax equivalent to 3 per cent of the price for which so sold."

A. G. Spalding & Bros., on whose behalf this brief is submitted, is in no way interested in the manufacture of any of the items specified in the foregoing subdivision, except the following: Tennis rackets, golf clubs, baseball bats, lacrosse sticks, baseballs, footballs, tennis, golf, lacrosse balls, and other athletic balls.

It was apparently the intent of the framers of section 600, of war-revenue act of October 3, 1917, to subdivide the section by industries, and it is assumed that the reason for the classification of subdivision F was because it is not unusual for retail and wholesale sporting and athletic goods dealers to handle all, or substantially all, the items enumerated in that subdivision. In the case of manufacturers, however, the industry is further subdivided, and by far the greater majority of manufacturers of athletic implements are not engaged in the manufacture of billiard balls and tables, fishing rods and reels, chess and checker boards and pieces. It is, therefore, submitted that in the framing of new legislation it would tend to clarify the law if athletic goods and implements were treated in a separate subdivision.

#### I. PRINCIPLES OF TAXATION APPLICABLE TO THE EXCISE TAX ON ATHLETIC GOODS.

It is not the purpose in this brief to enter into a discussion of the wisdom during war time of imposing an excise tax on so-called luxuries. We assume, as a fundamental basis of the argument herein presented that the purpose of Congress is to raise a maximum amount of revenue in the fairest and most equitable manner and with the least disturbance to industries; that it is not the purpose of Congress in framing revenue legislation to thereby accomplish any direct curtailment in the consumption of the products of a particular industry simply because that industry may not be engaged directly in the production of war materials or necessities.

We therefore assume that if and when the committee has decided that there should be an excise or consumption tax on luxuries, that in so doing it has reached the conclusion that by such an excise tax it will collect more revenue than will be lost under the income and excess-profits sections of the law from the industries subjected to the excise tax by reason of the fact that the excise tax tends to reduce the volume and profits of such industries.

The arguments relating specifically to athletic goods which are herein set forth are built upon the premise that an excise or consumption tax on luxuries or semiluxuries will add materially to the total income of the Government from taxation.

## II. DIVISION OF ATHLETIC GOODS BY SPORTS.

Athletic goods or implements can probably be best classified or grouped in accordance with the major sports or groups of sports in which they are used, and the classification which we would suggest is the following:

1. Baseball.
2. Football, basket ball, and implements for all games played with a leather inflated ball, and boxing gloves.
3. Tennis, including indoor tennis, squash, and racquets.
4. Golf.
5. Skates, which include ice and roller skates.
6. Implements used in field games, such as running, jumping, shot putting, hammer throwing, pole vaulting, etc.
7. Gymnasium and playground apparatus.

In the present law none of the implements included under groups 5, 6, and 7 are made subject to the tax and only a part of the implements in the first four groups are made subject to the tax. What the reasons were for the selection of these items which are taxed, we do not know. It was suggested at one time that the framers of the war-revenue act of October 3, 1917, may have assumed that by the phrase "games and parts of games" they were including all athletic implements not specifically enumerated. When this section, however, came up for interpretation by the Treasury Department, it was found that these words could not, without violating their meaning, be given such broad interpretation. There is no dictionary definition of the word "game" which is broad enough to include implements used in the playing of athletic games or sports, and there is no trade custom to designate or speak of the implements used in athletic sports as a "game or part of a game." The only trade use of the word "game" to cover an article of commerce is in the case of games such as parlor or special card games most generally played by children, and only to a small extent by adults.

## III. BASEBALL AND FOOTBALL IMPLEMENTS SHOULD NOT BE SUBJECT TO AN EXCISE TAX.

The only implements used in the playing of the games of baseball, football, basket ball, and other games in which leather inflated balls are used which are now subjected to any excise tax are the balls themselves used in the games, and, in the case of baseball, the bats. This constitutes only a small part of the equipment ordinarily used by teams engaged in the playing of such games as baseball, football, basket ball, etc. In almost all these games special uniforms and protective devices of various kinds for the players are generally employed and which are not now subject to any excise tax. The same is true of boxing gloves. All the games included within this group are played almost entirely by young men of military age, and as they enlist or are drafted into the Army, the civilian market for these goods is very greatly reduced.

It has been found by the military authorities of all the allies—especially France, England, and the United States—that athletic sports and games play a very important part in the training and morale of the armies. It is perhaps not putting it too strong to say that athletic equipment for the armies is almost as essential as the regular quartermasters' and ordnance supplies, and we believe that they would to-day be a regular part of the quartermasters' supplies had the furnishing of athletic goods to the armies not been so efficiently provided for by such organizations as the Y. M. C. A. and the Fosdick committee for war-camp community and recreation work. Approximately 50 per cent of our production of this class of goods during the past six months has been sold to organizations furnishing goods directly to the Army, and we estimate that at least 25 per cent of the balance has reached the Army indirectly. This latter can not be an accurate estimate, because many sales for goods which are used by soldiers are made at retail through our stores or through dealers handling our goods located near Army camps. We believe it is entirely safe to predict that as time goes on the percentage of these goods used by the Army will increase rather than decrease, and hence any excise tax imposed on such goods falls upon either the Government or semigovernmental agencies engaged in supplying the Army with such goods or upon the soldiers themselves. We believe that it is only necessary to make this statement for it to be self-evident that any tax imposed on the goods so sold does not conform to the principles of the excise tax on luxuries.

With regard to the balance of goods in this class which are sold and consumed by the general public, these in turn may be subdivided into three groups:

1. Professional clubs and leagues, such as exist in baseball.
2. College and school teams, such as exist in all of the sports mentioned in this group.
3. Individual players or teams formed in small communities or amongst the employees of industries.

With regard to the first group, all professional baseball clubs are to-day having great difficulties in paying their expenses, to say nothing of earning any profits, and not only is it unfair to throw any greater tax burden upon them than they are now bearing but there is a great risk that any increase will greatly imperil revenues now being secured directly from professional baseball by the tax on receipts. It must be remembered that in addition to the regular income and profits taxes which they have to pay the same as all individuals and businesses, there is a gross tax of 10 per cent on their receipts, and in addition they are very seriously affected by the increased railroad fares and taxation on railroad fares.

With regard to the second group—that is, college and school teams—these also have had their revenue greatly cut down as the result of the war. Even in the case of the large universities, their athletic program, as the result of the war, has been seriously curtailed, and they are finding it difficult to raise the funds necessary to keep up the amount of athletics which is deemed essential for the physical welfare and morale of the students.

In the past the college athletics have been supported largely by gate receipts from the intercollegiate athletic contests in the major sports, such as football and baseball. The attendance at these games and the curtailment of the number of such contests which have been held has so reduced their revenue that it will be necessary for most of them to appeal to the graduates for subscriptions in order to keep up the athletic sports in the colleges on even the most economical basis.

If this is true of the large universities, it is even to a greater extent true of the small schools and colleges throughout the country.

With regard to the third group—that is, individuals—the individuals who play baseball, football, and basketball, come largely from the poor and people of moderate means, the sports of the relatively wealthier classes falling more in the tennis and golf groups. I don't mean to imply that only the wealthy play tennis and golf, but merely in comparing the players of the two groups that the average in tennis and golf would consist of the people of greater financial means than those in the baseball and football group.

We can appreciate that the fact that a particular class of merchandise is purchased largely by the poor and people of moderate means, would not in itself be a reason for not imposing an excise or consumption tax. If the poor or people of moderate means can in war time indulge in the extravagance of useless luxuries, this is probably in itself a very good reason why they can pay the consumption tax on such luxuries, but we contend that athletic goods do not fall into the group of comparatively useless luxuries. It is in common experience that many things which are luxuries of one decade become the necessities of the next decade. We contend that there is no other single factor which has contributed to a greater extent to the physical development of the youth of the United States than the popularity and indulgence in athletic sports. No one can to-day predict how long this war is to last. Many persons whose views are entitled to respect are predicting a war lasting from four to five years longer. Such a prediction sounds to us to-day as extreme and impossible. Does it sound any more extreme and impossible than did the prediction of Lord Kitchener in August, 1914, when he said that the war would last at least three years? In any event, it is the duty of the Nation to prepare and lay its plans for a long war. Everything, therefore, which will aid to the physical development of the youth of the Nation, especially those in schools and colleges who are now under the draft age, but who will, if the war lasts, in all probability be called into the Army before its end, should be encouraged. Therefore any taxation which might result in limiting or decreasing participation would be unwise at this time. We therefore strongly and respectfully urge on the committee that no tax should be imposed on the balls and implements used in the playing of the sports enumerated in this group.

#### IV. TENNIS AND GOLF.

With lawn tennis should be included the closely related games of indoor tennis, rackets, squash, and handball, which all bear a close similarity to

each other, and which in a way are probably played by the same classes of people.

The present tax covers only tennis balls and tennis rackets; the only other implements, however, used in these games which could be practically subjected to tax would probably only be tennis nets and posts and the sale of these is probably not sufficiently large to warrant including them within the tax.

Assuming that Congress has decided in favor of the policy to impose a consumption tax on luxuries or semiluxuries which presumably will fall on those best able to pay it, we believe that in the application of such a policy it is entirely proper to impose a tax on tennis and golf goods. We do strongly recommend and urge upon the committee, however, that this tax be confined entirely to tennis balls and golf balls and the balls used in playing the games of squash, rackets, and indoor tennis. That there may be no doubt in our motives in urging this, I wish to state at this point that we are manufacturers both of the balls used in these games and of the golf clubs and tennis rackets, we are, therefore, in an entirely impartial position between the manufacture of the rackets and clubs as opposed to the manufacture of balls.

Our reasons for urging that the tax be applied on the balls only are, first, that the volume of sales of balls in these sports constitutes far the greater proportion of all the sales; second, the balls lend themselves to the imposition of a specific tax of so many cents per dozen, the advantage of which as against a percentage tax we will urge in a later part of this brief; third, the tax on balls which are substantially all consumed within the same season conforms more in theory to the war consumption tax than a tax on clubs and rackets, which may be retained and used for a long period of years; fourth, the purchase of balls by each individual is far more closely proportionate to the amount of his indulgence in the games than is represented by the purchase of golf clubs and tennis rackets; fifth, manufacturers and producers of the balls are very few in number, because they can not be produced economically except in quantities, the tax would be collected from a very few individual manufacturers and producers and would all be collected in comparatively large amounts, whereas the manufacturer of tennis rackets—that is, the man who finally completes the racket by stringing it—and even to a greater extent in the case of manufacturers of golf clubs, namely, the man who completes the golf club by joining the shaft and head, varnishing and polishing, and puts on the grip, is in a large number of instances a small retail dealer or golf or tennis professional, producing only a few dozen rackets or clubs a year, and in order to collect the tax requires the filing of hundreds of small monthly reports, the amount of tax collected on each in many instances being less than \$1. This adds very greatly to the expense of the Treasury Department in collecting the tax and is likely to result in evasion in many instances.

This particular feature of the law has in the case of our own business been an extremely troublesome and expensive one, as it renders necessary keeping a separate report of tennis rackets and golf clubs which are finished in branch stores operated by us under subsidiary corporations from those clubs which are manufactured complete at our factories. The expense and trouble involved by this particular feature greatly exceeds the tax which we pay on the clubs and rackets finished in our branch stores; sixth, it is entirely feasible, in our opinion, to fix the tax on the balls at such an amount that the total produced will be equal to the tax which it was contemplated to raise by assessing a tax on tennis rackets and golf clubs, including balls, and that such tax will fall entirely fairly, because it will fall on precisely the same people who would also ultimately pay the tax on the tennis rackets and golf clubs.

The amount of the tax which we would suggest to be assessed on tennis balls is 25 cents per dozen and on golf balls 50 cents per dozen. In our opinion it is not necessary to make any distinction between the prices at which the various grades of golf balls and tennis balls are sold. In the first place, the golf ball and tennis ball trade is an exception to the general rule, in that far the greater majority of the sales are always in the highest priced balls rather than the lowest priced. The majority of the manufacturers in this country produce both the expensive and cheap grades, and in arriving at profits they generally estimate them by averages on the entire line, so that a uniform tax on balls would probably be met by the manufacturers by simply a horizontal increase in prices sufficient to cover the amount of the tax on the whole line, and since this adjustment between balls of different grades can be made by each individual manufacturer, any theoretical unfairness of the same amount of the tax on the cheap

as on the expensive ball is offset by the far greater simplicity and convenience in collecting and assessing the tax at a specific amount on every dozen balls regardless of the price at which sold. Here again we believe that we are in an impartial position, as we manufacture and sell both cheap and expensive balls.

#### V. SKATES.

Skates, either roller or ice, are not to-day subject to any excise tax. We do not, of course, know whether it is the intention of Congress to impose a tax on them. There is probably no part of the athletic goods industry which has been curtailed to a greater extent since the war than the sale of skates. Skating seems more than other athletic sports to be largely subject to great fluctuations of sales in normal times. Skating in one or two years may be very fashionable; everybody is indulging in it. In succeeding years it will probably drop off to only a very small percentage of the consumption in those years. Because the craze for skating would probably have fallen off somewhat under normal circumstances during the past year, also largely as the result of the activities of men and women of leisure in Red Cross and other war work during the past winter, our sale of skates has been only approximately 50 per cent of what it was in the preceding year.

While we are manufacturers of skates, being at the same time manufacturers of athletic goods generally, a falling off in our skate department is not of serious consequences to our business as a whole; on the other hand many of our competitors in skates manufacture nothing else, and when there is a falling off, such as there was last year, they are faced with a very serious financial situation. For these reasons alone we believe it would be a serious mistake to subject a business which will have for the next few years the greatest difficulty in keeping its head above water to an additional burden of an excise tax. We fully appreciate, of course, that an excise tax or consumption tax is only paid in the first instance by the producer and is a tax which must be, and is intended to be, passed on to the consumer of the goods subjected to it. Nevertheless it hurts the business by resulting in higher prices, causing a decrease in consumption, and if business failures enervating to the financial strength of the country are to be avoided, businesses which are already finding difficulty in avoiding insolvency should not be subject to the added burdens of an excise tax.

#### VI. WITH REGARD TO IMPLEMENTS USED IN FIELD GAMES AND GYMNASIUM APPARATUS.

No tax is to-day imposed on such implements. The total volume of their sales is very small. We have never found the manufacture and sale of these goods in our business to be profitable and have only continued their manufacture and sale because we aim to be general athletic outfitters. The equipment is also largely purchased by communities for public buildings, playgrounds, and such semicharitable institutions as the Y. M. C. A. An attempt to classify all the various items would be very difficult and any general classification would probably lead to difficulties and disputes between taxpayers and the Treasury Department. Much of the apparatus also can be made by local carpenters or builders. The great necessity also of curtailing any public or charitable expenditures except for direct war purposes results in a very greatly increased demand for items under this group so that we strongly urge that no tax be imposed on them. The amount collected would be very small and the amount of trouble and expense involved in the collection would greatly exceed the amount of the tax.

#### VII. A SPECIFIC TAX SHOULD BE IMPOSED RATHER THAN A PERCENTAGE TAX.

The present law calls for a tax of 3 per cent on the price at which the articles taxed are sold by the manufacturer, producer, or importer. The manufacturers', producers', and importers' sales may be grouped into three general classes:

1. Sales in considerable quantities to jobbers.
2. Sales to retail dealers,
3. Sales to consumers.

The prices at which the manufacturer sells to these different groups differ very widely in the athletic-goods trade. The average may be stated in the

following percentages: Assuming the price at which the article is sold to the consumer to be 100 per cent, the price to the retail dealer will be 66 $\frac{2}{3}$  per cent, and the price to the jobber will be 50 per cent. Of course, in individual instances, this percentage may be greater or less, but what I have stated is probably a fair average. We can not, without unduly lengthening this brief, enter into a broad general discussion of the business economics which justify these different prices.

It is probably enough for this purpose to say that they have been established under strictly competitive conditions, and from our knowledge of the athletic goods business we know that they result in only very moderate profits to the manufacturer, jobber, and dealer. It is perfectly apparent, however, that the tax which a particular manufacturer must pay will vary to the extent of at least one-half of the possible amount of the tax according to whether the sales were made to the consumer direct or to a jobber. It must be remembered also that merely because he is selling direct to the consumer he is not any more able to pay the double tax because he will have the same and in some cases even greater expenses in reaching the consumer direct than the combined expenses of the jobber and retail dealer where the sales are made through the channel of these two agencies, hence the next result of the tax which is a percentage on the price at which the goods are sold by the manufacturer results in a double burden on the manufacturer who sells directly to the consumer as against the manufacturer selling to the jobber. It would, however, make the matter very much simpler for us and also would be much fairer as between manufacturers, one having a sales policy to sell only to dealers or direct to consumers, and the other a sales policy selling to jobbers, if the price were a specific tax and identically the same on similar articles of the same grade. This can be done very simply if the tax is limited to golf balls and tennis balls, as we have suggested. It could also be done in the case of all athletic goods if Congress should decide to extend the tax to goods other than golf balls and tennis balls by providing that the tax should be a certain percentage on the retail price published and advertised by the manufacturer.

We believe that it is the general custom in the trade for all manufacturers of athletic goods, at least such as would be likely to be subjected to any tax, to publish retail prices. While they can not under the existing decisions of the Supreme Court compel by contract adherence to these selling prices on the part of their purchasers, nevertheless in general the prices are actually adhered to, and, in any event, where they are not adhered to the goods are sold, not at a higher price, but at a cut price, because in the practical operation of competition it is impossible for a dealer to charge more than the retail price published by the manufacturer. It should be borne in mind, however, in fixing any rate of taxation that the amount produced by putting the assessment on the retail price would be very nearly double what it would be if fixed on the manufacturer's price to the jobber.

Some objection might be made to this on the part of the manufacturers who make what are known as "special brand" goods—that is, goods which do not bear their name but bear the name of some jobber or dealer. I recommend that the law be so drawn that the tax on special-brand goods be paid by the jobber or dealer whose name appears on the goods or on the package containing them. He puts himself forth to the public as the ostensible manufacturer, and we believe it is not only fairer but would simplify the administration of the law for the tax to fall on him rather than the man who may actually make the merchandise.

#### VIII. CONCLUSION.

In the short time at our disposal we have been unable to gather any accurate statistics of sales of golf and tennis goods; from our general knowledge, however, of the trade we are able to make some estimates which may be of value to the committee.

In the tennis trade the sales of tennis balls in a normal year in the United States run from 150,000 to 200,000 dozen. The present average manufacturer's price for tennis balls is approximately \$4.25 per dozen, which in a normal year would mean total manufacturers' sales of tennis balls of \$850,000. Tennis rackets in a normal year at manufacturers' prices would make about \$750,000. During the 12 months we have been in the war, and probably continuing during the war, the sales of tennis rackets have decreased to a far greater extent than

the sales of balls, the reason probably being, as we have stated in a prior portion of this brief, that a tennis racket may be used for a number of years while the balls are consumed each season.

We would estimate that in the fiscal year commencing July 1, 1918, the sales of tennis balls in this country would be about 140,000 dozen, or, in round figures, would amount at manufacturers' prices to about \$600,000, and that the sales of tennis rackets will probably not exceed 200,000. Under the present tax of 3 per cent this would produce a revenue of \$24,000. Our suggested tax of 25 cents per dozen on 140,000 dozen would produce revenue of \$35,000.

In the case of golf, the quantities of golf balls sold in a normal year in this country are approximately the same as tennis balls. The average manufacturer's price per dozen for golf balls is to-day about \$6. Assuming that during the fiscal year commencing July 1, 1918, there will be sales of 150,000 dozen golf balls, which we estimate as a probable maximum quantity, this would amount to a total at manufacturers' prices of \$900,000. The sales of golf clubs at manufacturers' prices are in normal years about 600,000. This item of golf clubs is very difficult to estimate from the standpoint of the tax because of the large amount of clubs which are made up and finished by golf professionals and sold by them. During the next ensuing fiscal year we would estimate factory sales on golf clubs at about 300,000, or 50 per cent of normal. This makes the total golf sales 1,200,000, which at the present 3 per cent would produce a revenue of \$36,000. Our suggestion of the tax of 50 cents per dozen on golf balls would produce, if 150,000 dozen were sold, a revenue of \$75,000.

In presenting this brief we have only been able to deal with the general situation of the tax and also present suggestions and criticisms which occur to us in view of the section of the existing law covering athletic goods. It very often happens in the drafting of legislation of as complicated a character as our tax laws that confusion arises in their enforcement due to unfamiliarity with the technical or trade language which has to be used in order to specify the items intended for taxation; also lack of familiarity with conditions existing in the trade may result in the law containing provisions which cause unnecessary hardship and inconvenience. We realize that we can not take up the time of the committee by lengthening a discussion on the general principles involved, or ask for another hearing on those principles, but we do believe that we can render valuable aid and assistance to the committee when it has determined upon the principles that will apply on this section of the tax law in possibly making suggestions for the wording of the section in order to avoid confusion and conflict of opinion in its enforcement. For that purpose we place ourselves at the disposition of the committee for such assistance as we may be able to render.

Respectfully submitted.

H. BOARDMAN SPALDING,  
For A. G. SPALDING & BRO.

#### STATEMENT OF MR. A. H. EMERY, OF GLENN BROOK, CONN.

Mr. RAINEY. Please state your name.

Mr. EMERY. A. H. Emery, civil and mechanical engineer; moving pictures, postal rates, and advertising.

First, I would like to speak on the subject of moving pictures. Moving pictures should be a source of very great education.

Mr. RAINEY. Before he starts, I would suggest that Mr. Emery be allowed to finish his statement, and the members of the committee make notes and ask no questions until he finishes. Would you prefer that, Mr. Emery?

Mr. EMERY. Yes, sir. I will take the moving pictures and finish that subject up; and then there is another subject.

Mr. RAINEY. We will ask you questions on that subject when you finish, and you can indicate when you are ready for questions.

Mr. EMERY. Yes, sir. The moving picture, if properly selected and properly made, should be a source of very great education. The moving pictures as they are made and shown to-day are a source of



very great revenue to the operators and of very great payment by the public who patronize the pictures, and of very great injury to millions of people who patronize them. We have in the little town of Stamford, Conn., half a dozen of those picture shows. They are all of them open in the evening, and part of them in the afternoon. Many of them are low priced places—10 or 15 cents. The Government tax on all these moving pictures is 10 per cent. Whatever the patron pays for admission, 10 per cent is added to what he pays for the tax.

Many children—boys and girls—and others, go to these moving pictures, if they can get away, every evening. Many of these pictures that are shown are pictures of crimes, and they are in the class of our old sensational dime novels—showing many scenes of crime—and many boys who go to see these pictures are thus led into crime. They are made bad citizens by seeing these pictures. They are taking time to see them which should be spent in study or a useful pursuit; so that they are wasting a large portion of their evenings, and they are being despoiled of good morals. A minister in my town will not allow his children to go to these pictures. I tell him that he is right. The children think it is very hard to be kept from them. There are persons in that town that are supported largely by charity, and it is found that they go almost every evening to these pictures.

If we would raise the price of those pictures to just double the amount of admission that the proprietor charges, instead of making the tax 10 per cent make it 100 per cent, or double the admission, we would wipe out a lot of those pictures. Those that now charge 25 cents admission would charge 50 cents instead of 28 cents, and these little boys and girls, and the poor people who go to these places and lose so much time could not go. The other people would go very much less frequently and be less harmed by those things. This mass of pictures, many of them, show infidelities in the family; they teach crime; they teach that the relations of men and women are very bad; they promulgate whoredom. They are teaching children and educating them to make the way to hell easy. We want to submit that, as good citizens, we want to stop this waste of time of all children and other people who support these pictures.

If we could have only good pictures shown, pictures which would educate us, they would be very useful. Now, I can go in and see a film and see the cotton plant growing and see the men picking the cotton, and see cotton baled and shipped to the market, see it carded, spun, and woven. That teaches us in a single hour as much as we could get running around the country in a week. That is very useful. But that is a small part of the moving picture; seeing things that way. If we had, on the other hand, these pictures of stories which are often useful as to morals, which would make us better, our censors would not permit any pictures to be shown unless they were right and tended to increase the morals of the people, then the result would be good.

Let us cut down these objectionable pictures and at the same time give the Government additional revenue. This will give you a lot of revenue and at the same time wipe out a lot of this cheap stuff. There should not be any admission less than 25 cents, and adding the tax of 25 cents it would make the admission 50 cents. That will

create a great reduction in the number of those who attend and will save a great deal of the time of the people who are now patronizing these pictures, to the great detriment of their own interests and destruction of their morals and waste of their time. I think that is enough on the moving picture.

Mr. RAINEY. Does any member of the committee want to ask any questions on the subject of moving pictures?

Mr. GREEN. Did you appear before the committee that was investigating the subject of moving pictures in the Senate?

Mr. EMERY. I did not.

Mr. MOORE. Do you think we could regulate that by Federal law—censorship; by Federal enactment?

Mr. EMERY. It is a difficult thing to do; but it would be very beneficial to the public. Our generation of children growing up now would be the better for it.

Mr. MOORE. I asked because I wondered how your supposed remedy to raise more revenue by reducing the number of bad shows and increasing the number of better shows would work out. It is a question whether, if they paid more, the moral tone would rise as you intend. Some people are willing to pay a higher price to see—

Mr. EMERY. One that is worse.

Mr. MOORE. To see a worse show. That is the point. How would we get more revenue out of it?

Mr. EMERY. We should have two objects in making these laws, one to get revenue and one to make our people better.

Mr. MOORE. Our idea, of course, is to get two dollars for one to-day, in the way of revenue. We have got to have two dollars this year where we got but one last year.

Mr. EMERY. No man can say how much your revenue would be changed by wiping out these low-priced admissions.

Mr. MOORE. The question is whether by abolishing them we would increase or decrease the revenue. I suppose primarily we have nothing to do with the moral question.

Mr. EMERY. I doubt very much whether it would make much difference. I think the revenue would be very much increased. Of course, it would not wipe out all those that are bad. The probability is that the revenue would be increased very much by charging double the price instead of only 10 per cent on the price of admission.

Mr. MOORE. Just illustrating, and not for the purpose of detaining you at all, there are a number of people that would pay a pretty high price for a show that was a little risqué.

Mr. EMERY. The revenue will not help those people. They will continue. They will pay the increased admission. You will get more revenue that way, but you will not help the morals of those men or women; but the censorship must do that, and that is a much more difficult problem.

Mr. MOORE. That does not help the revenue very much.

Mr. EMERY. No; I think not.

Mr. RAINEY. Will you proceed, now, with the other subject you had?

Mr. EMERY. If we take the zone-postal rate and add a tax on advertisements, it becomes a very complicated subject; whereas if you take the zone rate and you carry this piece of paper which weighs a pound [indicating pamphlet] and put a tax on that pound, it is

very simple; and it matters not to this postal expense whether this car carrying a ton of this paper is carrying some advertisements in it or not. The expense of carrying it is so much per pound.

Now, if you leave the advertisements out of that entirely, out of this zone rate, you will simplify the matter very much. All these advertisements that are published in these papers, if they had to pay a postal rate on the advertisements, because of the advertisements going in there, for this week, not because it is an advertisement, but because it is in this paper they are carrying, it is very complicated. Leave the advertisement business out of the carriage of these mails. It is second-class postage. What shall the second-class postage be to-day? As a matter of fact, there was a loss of \$80,000,000 to pay its costs. If the postal rate is fixed on zones, as it should be, in my mind, it will do two things. In the first place, it will help to wipe out a large class of 15-cent and 10-cent magazines which to-day are a curse to this country. They are the old dime novel dressed up and sent about over the country at a cost of one-fifth of what it costs the Government for carrying them. Let the Government charge whatever the cost of carriage may be. Then you can wipe out a large class of these cheap magazines, and you will save to the country a large amount of paper which, by its consumption, to-day is destroying our forests; and that is destroying our climate.

Now, if you will put that tax on advertising, where it belongs, then you will simplify the procedure and you will carry the second-class mail at a price which makes it up, which is not 1 cent a pound for this zone but several times that; and if you are carrying it to the farther zone, you will pay a price that makes it up; so that instead of collecting ten or eleven millions a year for second-class matter you may wipe out that cheap magazine business and collect \$40,000,000 from the second-class mail. If you carry it at cost, you will get \$40,000,000 instead of \$10,000,000.

Now, let us raise that revenue to the cost of carrying the mail, whatever it is; and the cost of carrying depends on the weight, not on the number of pages or the size of it, but the weight of it. If you put the tax on advertising in a revenue bill, the postage should be paid to the post office for that. You will increase the revenue to the Government about \$40,000,000 instead of having a loss of \$80,000,000. They will get that \$40,000,000 back, and they will not have wasted so much of our forests or done so much harm to the morals of our people through these cheap magazines, which are carried by the Government for one-fifth of the cost of carrying them.

Mr. RAINEY. Are there any questions that any member desires to ask? If there are none, you may proceed, Mr. Emery.

Mr. EMERY. This divorces the tax on advertisements from postal rates and puts it where it belongs, and puts a tax on this second-class matter such as that it shall pay the cost of carrying it.

Mr. RAINEY. Have you anything else you want to discuss?

Mr. EMERY. Yes; I want to discuss another subject in the law, and that is the tax on advertisements and a tax on pictures in all papers and magazines. I have written a little paper, which I will read, and then bring in the details again [reading]:

A very large revenue may be collected each year by leaving a large tax on all advertisements of all our newspapers and magazines, and on all the pictures published therein.

I should add to that the billboards and tax all car advertisements, wherever they appear. All those advertisements which appear under a glass should be taxed [reading]:

This is especially the case as regards the newspapers, which are rapidly wasting our forests and greatly injuring our climate by using so much paper, much of which is worse than wasted in publishing comic pictures; much more is wasted in pictures there is no excuse for publishing; and still more is wasted in publishing advertisements far beyond the necessities of the public.

In regard to this wasting of our forests, I read last winter that we were paying men \$15 a day for cutting up our forests to make paper. Cutting up those forests does this, it destroys our climate. When I was a child our southern wind would come up to the north where I live, and there great big masses of trees protected the snow, which had fallen there, and those winds were quickly checked and killed by those forests, and our winter remained winter from November to April, and it was very rare to see a bare spot of ground. You would say, "I saw a spot of bare ground to-day," in March, which was unusual. You might be able to say, "I did not see a spot of bare ground in April." To-day, these forests are so denuded that those warm winds come up there in winter and we get freshet after freshet, and thaw after thaw. It is hurting our climate very much.

Now, the northern winds come south, and our forests being cut away, they come down much farther, and to-day frosts in Florida and in New Orleans and in Texas are common, where they used to be very rare. They go down there and spoil our orange groves and our lemon groves and our pineapple gardens and other growing things. Now, let us try to protect our climate by trying to protect our forests; and one great source of waste to-day is the paper, consuming so much of the woods, and the magazines, consuming so much of the woods. [Reading:]

To illustrate this waste, we find from Ayers Newspaper Directory of 1917 that the daily circulation of all the papers published in the State of New York may be taken approximately at 6,000,000 copies on week days, and 5,000,000 copies on Sunday. The weight of to-day's Washington Post for 14 pages is 4 ounces, at which rate 6,000,000 copies would be 1,500,000 pounds, or for six days, 9,000,000 pounds. The Sunday papers are much larger, fully five times the average number of pages that the dailies have. Taking the average weight of the Sunday paper at 1½ pounds for 5,000,000 copies it is 6,250,000 pounds more, which added to the papers for the other six days of the week makes together 15,250,000 pounds for all the dailies published in the State of New York for one week, or more than 7,500 tons, at which rate the paper used for these dailies for 52 weeks, or one year, would be 390,000 tons, and this is for the dailies published in the State of New York only.

Of the Sunday issues probably a fourth of this paper is required for the pictures only, and fully half of the rest for advertising.

I may say right here that the advertising, which was very small 50 years ago, is very large to-day, and is rapidly growing, so that the advertising, if there is no change in the law, will increase and soon be much more than 50 per cent [reading]:

In part of the papers one section is devoted almost exclusively to pictures of fine quality, but they are all out of place and go mainly to enlarge the volume of waste paper, while in many of the papers many pages are devoted to comic pictures of no good use to anyone, but very bad for the children to see them, and all the colored sections are particularly bad and not fit to be seen in any home. All the Sunday papers have a very large quantity of advertising.

In most of the Sunday editions we have four sheets, each printed on both sides, making eight pages, and there is some advertising in that, and those pictures are printed on a heavier paper, a more expensive paper, not with black ink, but mostly with colors, and they are works of art. If the work of printing that eight pages on that quality of paper was put into a single sheet of paper of the same size of that eight pages, and of the cost of the paper which is put into that eight pages, and the same quality of work in good artistic form, that single page would be worth a dollar, to buy and hang in your house; but to-day the eight pages is looked at for four or five minutes and then goes into the wastebasket. The paper is expensive and the pictures are beautiful, and there they are, each Sunday, millions of copies going into the wastebasket. That is wasting our forests again. [Reading:]

The advertisements in the daily papers are, many of them, needless. For instance, on May 3, the Washington Post had an advertisement of the Saturday Evening Post covering a whole page, calling attention of the public to this paper. There was no need for this advertisement. All the reading public of the United States know well of the Saturday Evening Post, its cost, its value, and where to get it. To publish this advertisement it consumed about 400 pounds of paper in the Washington Post that date. The circulation of the Washington Post of May 3 may be taken at, say, 45,000 copies. For the same reason this advertisement covering a whole page was put in the Washington Post that day, it might have been put in a hundred other papers in the country. I don't know that it was in any of them, but there was the same reason to put it in a hundred that there was in this one Washington Post. If it had been put in 50 of them with the consumption of paper equal to that used by the Post for this advertisement, there would have been consumed for this needless advertisement in these 50 papers 10 tons of paper. This one advertisement in the Washington Post covered many thousand pages of the issue. If there were 50,000 copies of the paper published, there were 50,000 pages of this waste paper, wasting the paper on which it was printed. I give this as a single instance of waste.

Many instances might be cited showing an unnecessary advertisement in the daily papers. For instance, a single cigarette is advertised, day after day, in many papers, and on Sundays a very large advertisement of this cigarette, which does the public no good, but, in proportion to the extent it benefits the advertiser it curses humanity by the use of these cigarettes. All advertisements for tobacco in any form, and all advertisements for liquor in any form should be taxed at either double or triple the rates the Government should tax ordinary advertisements. As a rule, all the papers contain several times as much advertising matter on Sundays that they do in other issues.

The pictures and advertisements in the Sunday papers bring up the Sunday issues to fully five times the weight of the ordinary daily issues. Many single advertisements cover a whole page in each of several different papers on Sunday, and thus waste an enormous sum of money. The people who buy the advertised goods have to pay for this advertising, most of which should not have been made. If half the money spent in this advertising were spent in making the goods better, the buyers of the goods would be that much better off, and the manufacturer might have saved the other half for his pocket, because if he made these goods so much better, he would still get the sales.

A good way to save a very large part of this paper wasted in advertising would be to tax every square inch of advertisement 30 per cent of the charge made by the papers and magazines therefor, tripling this charge on all advertisements of tobacco, in any form, and all liquor, in any form, and doubling all these rates of advertising in the Sunday papers.

I want to wipe out these great issues of the Sunday papers.

Mr. MOORE. You would abolish the Sunday issues altogether?

Mr. EMERY. No; I would double the advertising tax on Sunday issues.

Mr. MOORE. You have given a great deal of thought to this. Have you made any calculation of the amount of revenue that might be derived?

Mr. EMERY. I will get to that a little later.

Mr. MOORE. All right.

Mr. EMERY (reading):

Again, a very large quantity of paper may be saved with great profit to the public by charging on each square inch of space used for pictures, the same price that is charged for the ordinary commercial business advertising.

That is, charge the publisher for a page of pictures as much tax as he is charging for a page of advertisement; and all space used for comic pictures, tripling the price, as advised in the case of liquors and tobacco, and on Sunday issues doubling this charge.

That would wipe out a very large quantity of these pictures, and would decrease very largely the quantity of paper used, and still bring a large revenue to the Government. [Reading:]

This would cut our papers down to a reasonable amount of space and would save an enormous amount of paper that is now worse than being wasted. Our children are being greatly injured by seeing these comic pictures; no one is benefited by seeing them, and their use results in this fearful waste. The other pictures are of little real value and result in a very large waste of paper. If the plan recommended is adopted, a very large revenue will be obtained, and the public will be saved this fearful waste of voluminous Sunday papers—first, of paying for them, and next in wasting their time in looking at and reading them. Most of the advertisements in the Sunday papers are probably not read by one person in a thousand who look at the papers. Now, let us save this waste of paper, and not go on destroying our forests and injuring our climate by this great waste.

I should have stated in this paper that the habit of mixing the advertisements all through the reading matter of any magazine or paper is seriously objectionable. To illustrate, a few years ago the Ladies' Home Journal was a delight to any household and a credit to any household. To-day it is a mass of advertisements—the reading matter scattered all through the advertisements—and a cumbersome nuisance in any house. I would not have it as a gift. It is so voluminous that you can not keep it for long, and the reading matter, as I say, is scattered through a great mass of advertisements.

Our magazines to-day have their advertisements scattered all through them. Every piece of reading matter in them we will find "continued on such-and-such a page," and the result is that few of our magazines are fit to keep on account of having the advertisements scattered all through them and being so voluminous.

Many years ago Harper's Magazine was a beautiful and well illustrated magazine, and we could keep the numbers and have them bound at the end of the year, and it was a good book to keep in our own house, to keep in the library. To-day, the advertisements will occupy probably one-third of that paper, and they are mixed into the reading matter so that it is not fit to keep, and it is not fit to bind, and so it becomes waste, only as you read it to-day and then give it away or throw it away. [Reading:]

To prevent scattering the advertisements through the reading matter I would suggest that whenever an advertisement is put in through the reading matter the Government tax should be double what it is otherwise.

That would probably cause them to put the advertisements where they belong, together at the end of the other matter in the magazine. [Reading:]

I want the tax on advertisements high enough so that we can bind the reading matter of our magazines together if we wish.

Let us assume that the 390,000 tons of paper used for the daily papers of the State of New York is one-sixth of all the paper used

for newspapers in United States in one year, and that without a change in the laws one-half of the paper used in the next four years is for advertising. I speak of four years here because I think that this law should be made in such a way that we would not need to change it in four years and because there is very likely to be four years of war.

If one-half of this paper is going to be used in the next four years for advertising, then we have 390,000 tons multiplied by 6 to get the quantity of paper used in the United States, instead of that in the State of New York, for newspapers, which gives 2,340,000 tons of paper to be used in one year in the entire United States, and that multiplied by 4, for the four years, gives us 9,360,000 tons of paper used by the newspapers alone in the United States in four years. One-half of this used for advertising would be 4,680,000 tons. Now, make the tax on this advertising such that the average equals the charge for advertising; and suppose that this tax cuts the advertising to one-sixth of the estimated amount, then we have a saving of the paper used of five-sixths of the 4,680,000 tons, or 3,900,000 tons, saved in the four years, and this for the newspapers alone. That does not include the magazines, but it is the saving in paper used for newspapers alone.

Now, take the cost of advertising in the various papers and magazines, billboards, cars, and one way and another at \$500,000,000 a year. That is the estimate that Mr. Koons gave in this statement in the hearings before the Senate committee in May—the entire charge for advertising \$500,000,000 per year. If you take one-sixth of that, supposing that we cut the advertising down to one-sixth, that would give us \$83,333,333.33, and you have to add for the taxes proposed a tax sum of \$83,333,333.33 for a period of a year. That would give the Government this three million and upward of dollars for this tax in one year. The saving per year to the advertisers is just three times this. They pay for the advertising one-sixth of what they pay now; but the Government steps in and doubles that rate, because it is one-sixth of the advertising at double the rate, and that would give the sum paid by the men who are paying for the advertising \$250,000,000 for one year, or for four years \$1,000,000,000, besides the amount paid to the Government of \$83,333,333.33, which is just that much gain for the people. They have gained this \$1,000,000,000 that they do not pay for the advertisements, and, counting what they have to pay for the advertisements, we have \$333,333,000 saved to the public in four years by cutting these advertisements down to one-sixth of their present volume.

Now, what will one-sixth of the present volume do for us? Here is a merchant in Washington. In this morning's Post there is a half a page of advertisement, and to-night I will buy the Star, and there he has got another half page of advertisement. That makes twice that I have paid for those advertisements to-day, and in six days I will have paid 12 times for them. I do not read those advertisements at all, and you do not, and there is not 1 out of 1,000 who does read them. If this publisher had stated to this advertiser, "Now, instead of advertising six days in the week you advertise one day in the week and pay double the rate, then he would pay only one-third as much for his advertisement; and if that paper is

known to have his advertisements in it on Wednesdays, and there is any reader who wants to read his advertisements in the future, he can just lay that Wednesday's copy by and read it later.

Mr. GREEN. Do you think those advertisements always tell the truth?

Mr. EMERY. No, sir; I know they do not.

Mr. COLLIER. The fact is, is it not, that notwithstanding the food advertisements of bargains, practically the prices are always the same?

Mr. EMERY. The prices are the same. Let me tell you of two instances to illustrate this point. John Wanamaker has built up a very large business. John Wanamaker puts in his stores in New York and Philadelphia first-class goods. Now, when I want to buy any goods in that line which he deals in, and it is a large line, I always go to his store, because I know I will get good goods at a fair price. I do not read his advertisements at all. John Wanamaker puts in the Sunday Sun a whole page of advertisements, and he pays a lot of money for that. Here is a 75,000-copy edition of that.

Mr. RAINEY. And you pay part of that.

Mr. EMERY. Yes; a very small part, though. Yes; I help to pay it. The consumers of his goods pay for the advertisements.

Mr. GREEN. The consumers of goods eventually pay it all?

Mr. EMERY. They pay it all. Now, John Wanamaker puts that in the Sunday Sun; but for the same reason that he puts it in the Sunday Sun he must put it in the New York Times and in the New York Tribune and in the New York World and in the New York Journal, and in the Hearst papers and in several papers in Philadelphia. Now, that comes to my attention, and that advertisement being by John Wanamaker, and he is a first-class business man, but all the money for that comes from his consumers of his goods. He gets somewhat larger sales by that, but nothing like in proportion to the cost. As I say, I and a lot of other people, when we buy, buy from him. We do not do it because we see his advertisements, though, but because we know that we always get good goods from him at a fair price. I never got poor goods there in my life.

Mr. RAINEY. You are giving him a very fine advertisement now.

Mr. EMERY. That is very true. Now, Mr. Hearn keeps a department store also in New York. He advertises to sell goods very cheap, very much below their value, and people reading those advertisements would actually think they were getting goods at a low price. And so they are fools; for they go and pay for those advertisements and pay for the poor goods which they think they are getting at a bargain. Now, if he put half that money in making those goods better and left off the advertisements, he would not sell as many goods, and he would not fool as many people, but the goods that people want would be bought by them, which is something. Suppose there was no advertising. I am doing work, and my son wrote me the other day that work was being forced on me, more than I could do. Why is that? It is because I am known to do good work. I do not advertise at all and never did. I pay not one solitary cent for advertising in any direction in the year; and I am busy enough. If there was very little advertising, only one-sixth of what is done now,



and then in these daily papers they put in a single issue one advertisement, and it was known by people that we did put in an advertisement one day of the week, they could take the issue of that day and save it for that advertisement.

These figures which I have given show what could be done with that saving, and so that you would get a large revenue, you would get in four years this large amount which I have calculated, and the public will be saved this enormous bill for advertising and paper, paying only one-third as much, and the same goods are sold everywhere in the country, and the only difference is that these fellows that are trying to skin you by advertising cheap goods and making you think you are getting bargains, do not get the business, and people who furnish good goods, who are entitled to it, get it. The people will get their goods, and they will be saved that enormous cost of advertising and saved the wiping out of the forests, which is done to supply these enormous amounts of paper.

Mr. RAINEX. Are you through, now?

Mr. EMERY. Yes, sir.

Mr. RAINEX. Are there any questions? If none of the members have any questions to ask, that will be all.

(At 1 o'clock p. m. the committee adjourned until Monday, June 10, 1918, at 10 o'clock a. m.)

# REVENUE BILL

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No. 3

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HEARINGS.

BEFORE THE

COMMITTEE ON WAYS AND MEANS

HOUSE OF REPRESENTATIVES

WITH REFERENCE TO

**THE NEW REVENUE BILL**

[THIS PRINT OF THE HEARINGS IS SUBJECT TO REVISION  
BEFORE THE FINAL PRINT]

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JUNE 10, 1918



WASHINGTON  
GOVERNMENT PRINTING OFFICE  
1918

COMMITTEE ON WAYS AND MEANS.

HOUSE OF REPRESENTATIVES.

SIXTY-FIFTH CONGRESS, SECOND SESSION.

CLAUDE KITCHIN, North Carolina, *Chairman.*

HENRY T. RAINEY, Illinois.

LINCOLN DIXON, Indiana.

CORDELL HULL, Tennessee.

JOHN N. GARNER, Texas.

JAMES W. COLLIER, Mississippi.

CLEMENT C. DICKINSON, Missouri.

WILLIAM A. OLDFIELD, Arkansas.

CHARLES R. CRISP, Georgia.

GUY T. HELVERING, Kansas.

GEORGE F. O'SHAUNESSY, Rhode Island.

JOHN F. CAREW, New York.

GEORGE WHITE, Ohio.

JOSEPH W. FORDNEY, Michigan.

J. HAMPTON MOORE, Pennsylvania.

WILLIAM R. GREEN, Iowa.

CHARLES H. SLOAN, Nebraska.

NICHOLAS LONGWORTH, Ohio.

GEORGE W. FAIRCHILD, New York.

JOHN A. STERLING, Illinois.

WHITMELL P. MARTIN, Louisiana.

WILLIS C. HAWLEY, Oregon.

ALLEN T. TREADWAY, Massachusetts.

JOHN E. WALKER, *Clerk.*

# REVENUE BILL.

COMMITTEE ON WAYS AND MEANS,  
HOUSE OF REPRESENTATIVES,  
*Monday, June 10, 1918.*

The committee met at 10 o'clock a. m., Hon. Claude Kitchin (chairman) presiding.

There were also present Representatives Rainey, Dixon, Hull, Garner, Collier, Dickinson, Oldfield, Crisp, Helvering, O'Shaunessy, White, Moore, Green, Longworth, Fairchild, Sterling, Martin, Hawley, and Treadway.

## STATEMENT OF MR. BENJAMIN C. MARSH, SECRETARY FARMERS' NATIONAL COMMITTEE ON WAR FINANCE—Continued.

The CHAIRMAN. Mr. Marsh, we will hear you now for 20 minutes.

Mr. MARSH. If by any chance it could be made half an hour, I would appreciate it. As I stated previously, Mr. Chairman and gentlemen, I appear in behalf of the Farmers' National Committee on War Finance.

Mr. GARNER. How is that committee constituted? Is it a governmental organization?

Mr. MARSH. No, sir; it is entirely a private organization. I will be glad to read, or to insert in the record, a list of the gentlemen who are members of this committee. We organized it hurriedly when we thought that a revenue bill would probably come up at this session.

Mr. HAWLEY. How long has that organization been in existence?

Mr. MARSH. About three weeks or a month. We are confident that you gentlemen will be hearing from your constituents back home on this question. We believe that we completely and sincerely represent their position.

Mr. GARNER. As I understand it, you organized this committee in the District of Columbia about three weeks ago?

Mr. MARSH. In the District of Columbia, yes, sir; but there are representatives from all over the country, as I was going to say, and out as far as the Pacific coast.

Mr. GARNER. Did you select these members by yourself, or how did you get them to be members of your organization?

Mr. MARSH. We wrote to them and told them what the situation was, as we saw it; and asked them if they would become members of this committee, so as to get the principles that we believed in enacted into legislation in this revenue bill. Some of them have been seen personally and others we have heard from through correspondence.

Mr. GARNER. From that beginning you started a propaganda throughout the United States by correspondence—

Mr. MARSH (interposing). No, sir; we believed that the resolutions adopted by the National Grange, the National Nonpartisan League, the Society of Equity, the Gleaners, the Farmers' Union, the Dairy Union, the Buttermakers' Association, etc., on the subject of revenue, or on the means of raising revenue, were pretty indicative of the opinion of the people of this country; and I might add parenthetically, although I have no right to speak for organized labor, that they have adopted substantially the same resolutions as most of those adopted by those big farm organizations. But you gentlemen are well aware how valuable it is to have an organization for a specific purpose. We do not want you to accept a single one of our suggestions because it emanates from the Farmers' National Committee on War Finance, but we want you to consider our suggestions solely on their merits.

Mr. HAWLEY. Did you have a public meeting or some assemblage at which your organization adopted a platform of principles?

Mr. MARSH. No, sir; we discussed that in this committee.

Mr. HAWLEY. How many were here when it was discussed?

Mr. MARSH. They have not been here. We got this committee together here. We knew the principles of most of them, because we knew what resolutions their organizations had adopted, and we submitted these proposals. You will hear from every one of those organizations, and I hope your mail will be full of this.

Mr. HAWLEY. You have never had any meeting of your organization?

Mr. MARSH. We never had a meeting of this organization, but the organizations which these gentlemen represent have had meetings and have adopted substantially the same proposals. I can quote what they were in some cases. I explained one of them on Friday when I said that the grange had suggested a maximum income of \$100,000 if anything like the amount that it is anticipated will be necessary next year is to be raised.

Now, I would like to take up the discussion at the point where I stopped last Friday. Last Friday, as the meeting was closing, the question was asked me whether or not I thought that we ought to have nationalization of industries, and I said that that was to be taken entirely in connection with the question of financing industries. My reply was that we would have to win the war. I did not mean by that that the Government should take over and operate all industrial organizations, but we were discussing then the question of the financing of industries, and it was in that connection that I said that we would have to have practically a nationalization of industries during the war. Now, if the Federal, State, and local governments spend, exclusive of the war, about \$3,000,000,000, and if the war costs what it is estimated to cost next year, then the cost of Government next year will be about one-half of the total national income this year. That is something that I think we will agree upon.

Mr. Moore asked me concerning the validity of some of my figures the other day, and I said that I would show the facts by the figures of the Commissioner of Internal Revenue, and I have been informed since that he has approximately those same figures. It has been stated frequently that this war has got to be paid for out of the earnings of the present generation, or paid out of the earnings of

the people during the war. I want to refer to that, because the point was raised as to whether or not those wealthy men could stand it to have their incomes in excess of \$100,000 or \$50,000 taken. Now, as a matter of fact, is it not true that this war will not be paid for out of earnings during the war, but that it will be underwritten out of earnings or savings made during the war? Now, if gentlemen with an income, we will say, of \$10,000,000 do not contribute all of their income in excess of \$100,000 to the cost of the war, then, in order to raise for the purposes of the Government during the war one-half of the total national income, the Government will have to take that money as a loan. Can anybody suggest any other alternative? We must raise in the neighborhood of \$30,000,000,000. Now, there is a certain minimum which the people have got to have for subsistence, and the Government can not tax below that minimum necessary for subsistence. So far as the business of the individual is concerned, it does not make any difference whether the Government takes all of his income in excess of \$100,000 or not.

It does not make any difference, so far as the immediate conduct of that business is concerned, if the money is taken out of the individual's control, whether by taxation or in the form of a loan, because it is out of the control of the man to use it in his business. There are two or three other aspects of the matter to be considered in connection with this financial bill besides merely the question of how to get revenue. When I suggest to you that we are in this war, and are in this war to win, I think you will agree with me that billionairism is pretty nearly as big a menace as Kaiserism. I suggested that to a Federal official yesterday, and he said, "No; billionairism is a greater menace." However, I did not agree to that, because I think that Kaiserism is the greater menace right now until it is defeated. Now, we have men in this country with these enormous incomes of ten, fifteen, twenty, twenty-five, or fifty million dollars, and I do not know how many million dollars a year, and if we do not compel that wealth to be as patriotic as the great mass of the people of this country are it is going to have a bad effect upon the country and will create a condition of general industrial revolution and unrest. We therefore suggest that you will achieve two purposes by making the principle of equality of service and sacrifice the principle on which this bill is drafted—that is, you will raise this revenue and you will reinforce the morale of the people of this country.

Frankly, I can not conceive of a better stroke against Kaiserism nor anything more apt to bring Russia back into this war with us, where she belongs, than to have the inspiration of the American Government saying, "We are going to put property on a par with individuals or human beings in this war." It has been stated, but stated unjustly, that this is a rich man's war. In proportion to the number of men engaged in the war, I think that there are as many rich men's sons in the war as there are poor men's sons. When you take a large proportion of the earned income of a working man he has nothing to fall back upon, but when you take the incomes of those men who derive their incomes from securities and investments, their capital remains. Now, frankly, it seems to me that any man who asserts that the 10,000 men, roughly estimated, who have incomes in excess of \$50,000, would refuse to work if the Government

limited their income to \$50,000, is asserting something that is very unfortunate, because that is equivalent to saying that those 10,000 men are traitors and slackers. If they are, they should be treated as traitors and slackers, and if you gentlemen have any hesitation or misgivings about those men responding to the levies made in this war revenue bill, if incomes are limited to, say, \$100,000, or even \$50,000, I suggest that their names ought to be made public so as to let the people know where they stand on this question of financing the war.

I say that because it will be a very unfortunate thing for the impression to get abroad that we can not bring these men to exactly the same basis of service and sacrifice to which we are bringing the people of smaller means. In urging that at least \$10,000,000,000 should be raised by means of a revenue bill, I want to refer to the fact that if we do not raise the maximum possible proportion of the revenue necessary for the prosecution of this war by taxation, we are going to have a tremendous inflation. I would like to read into this record two statements. One of them is from a report recently published by the Treasury Department of a special committee of the American Economic Association. I will read one paragraph of the report, as follows:

While the war lasts the commodity price level will inevitably mount by leaps and bounds unless we adopt rigorous preventive measures. In particular we must avoid, so far as possible, lending by borrowing. Loans to the Government made not from savings but from borrowings will tend to increase bank credit. Further extension of bank credit will chiefly bring about a rise in commodity prices.

The British select committee on national expenditure, in its second report, discusses the causes of the increase in prices and the possible check that may be applied and says:

The chief causes are—

The expansion of credits during the war.

The demand for commodities exceeding the supply and the inadequacy of Government action to control prices.

While this committee found it difficult to determine the order of importance of these factors it said that—

It is certain that among the most important is the extension of credits.

When the committee made its recommendations as to what might be done to keep the cost of living from going higher and higher, its first proposal was:

Whatever measures are possible should be taken by the Government to avoid the creation of new credits in financing the war.

I completely concur in that suggestion.

Now, I want to read at this point four specific recommendations as to the new revenue bill. We think that the revenue bill should—

1. Make it a criminal offense not to give the real equitable ownership of stocks in corporations and business concerns.
2. Compel all corporations and business concerns to declare dividends and prohibit the issuance of stock to conceal earnings.
3. Provide for full publicity as to incomes of over \$25,000.
4. Levy flat instead of graded rates.

In other words, instead of saying that between \$5,000 and \$10,000 the rate shall be so much and between \$10,000 and \$20,000 the rate

shall be so much, to say that there will be a flat rate on the whole income.

Mr. GARNER. Let me see if I understand you: Under that arrangement you would not have a supertax at all?

Mr. MARSH. I would put a supertax or a higher rate on all of the incomes. For instance, on all incomes from \$2,500 or \$3,000 up to \$5,000, say, have a rate of 6 or 8 per cent, or have that rate on all income in excess of \$2,000. On incomes from \$10,000 to \$15,000 have a flat rate, say, of 10 or 15 per cent on all surplus in excess of \$2,000. That would greatly simplify it and would yield a great deal more revenue. I hope I have made it clear that I am not trying to get an exemption for myself or anybody else. I think that with an income of \$3,000 or \$3,500, which my wife and I earned last year, instead of paying \$32 income tax we ought to have paid \$100. I expect to have an income larger than that this year, and if we have an income of \$4,500 or \$5,000, I think we ought to be compelled to pay a tax of \$400 or \$500.

Mr. GARNER. Are you representing all of the people you spoke about? Have you authority to represent them?

Mr. MARSH. I am speaking personally now.

Mr. GARNER. But from what you said this morning, I am frank to say that I do not know whether you represent the farmers in Texas, Indiana, Washington, or anywhere else. It appears that you simply organized a little committee while here three or four weeks ago and wrote to these other people asking them if they agreed with you, and, as I understand it, they have not authorized you to speak for them. That, it seems to me, from your statement is the size of it. I am frank to say to you that I have a great deal of respect for the element of people for whom you are undertaking to speak through this committee you have referred to, and if I knew that you had full authority to speak for them I would give much greater weight to your testimony. Of course, you want me to be frank with you, and I certainly want to be frank with you.

Mr. MARSH. As I said earlier in my statement, you will be getting letters from these people shortly, and you do not have to rely upon my statements.

Mr. GARNER. I understand that, but I would like to know whether or not, in your opinion, these people you speak for want this limit reduced for single men from \$1,000 to, say, \$700, and for married men from \$2,000 to \$1,200?

Mr. MARSH. I think they would rather have that than a consumption tax.

Mr. GARNER. Do you believe that the people you purport to represent would like to have those exemptions reduced to \$700 for single men and to twelve or fifteen hundred dollars for married men?

Mr. MARSH. As I said, I was speaking there personally—

Mr. GARNER (interposing). What is your opinion as to their position on that subject?

Mr. MARSH. I think, frankly, having talked with representatives of those big farm organizations and with individual farmers from at least 15 or 20 States within the last few months, that if you will take all incomes in excess of \$100,000 they will say "Yes" to that proposition.



Mr. GARNER. But suppose we do not do that?

Mr. MARSH. Well, I think they would say, then, that it was not fair to do it. I will not say that it should be exactly that figure of \$100,000, but it should be approximately that.

Mr. GARNER. You were just speaking of the menace of billionaireism. You stated that that should not be permitted, and with that statement I agree. Have you ever studied the question of how you would take care of that problem? Of course, we will have to take up all of those questions in the course of time; but we are now talking about war revenue. We have undertaken in this committee heretofore to levy an inheritance tax. By imposing a stipulated rate of inheritance tax you can in the course of two or three generations dissipate those large fortunes or turn them into the Treasury. Is not that a better way to deal with that problem than to levy a rate of income tax now that would produce that result?

Mr. MARSH. You asked me first how I would do it. Personally, I think, Mr. Congressman, that the Government has got to take over all of the natural resources from which those big fortunes come. For instance, the Government must take over the oil resources, and pay nothing for that which is given by nature and nothing for good will. The same thing is true of coal and water power and everything else of that kind. That would simply mean taking the investment and wiping out the huge unearned income derived from such resources. I think that the second, and equally fundamental, measure would be to take over all of the land into the Public Treasury—and by that I do not mean a single tax but a triple tax—

Mr. GARNER (interposing). You have gone clear off from the question we were discussing. I asked you what was the best way to dissipate those great incomes, or whether it should be done by means of an inheritance tax or an income tax?

Mr. MARSH. I think that for the present an income tax would be preferable, and I will tell you why: I do not think that this is the final way of doing it, but I think the income tax is preferable, because the raising of revenue by an inheritance tax now would mean the unscrambling of a good deal of property; and it seems to me that an inheritance tax of that sort would practically mean the taking of large amounts of money from business; and I think that during the war we ought to be as careful as possible not to upset or disturb existing business arrangements. I think that we ought to allow a fair amount of profit in business; and, therefore, I think that to levy so large an inheritance tax would be an unfortunate thing during the war, because we want the capital that is invested in business to be kept intact and unmolested, so as to secure the maximum production. I think that a reasonable inheritance tax would be all right. However, I do want to say this very strongly, that, in addition to paying a big excess-profits and a large income tax, it seems to us that there ought to be imposed a tax of 1½ or possibly 2 per cent on the value of unused or inadequately used lands held for speculation, because that is one class of property that is exempt from Federal taxation.

It is completely exempt under the law. I was informed that some people are investing in unused land as a safe investment that could not be reached by the Treasury officials, or as a safe investment

which could not be reached by a Federal income tax, because there is no income from it for the time being. I will not take time to read the Grange resolutions I received Saturday. A lot of them are coming in. These resolutions are on the line of conscripting wealth, and, with your permission—

Mr. MOORE (interposing). Is that organization in favor of conscripting wealth?

Mr. MARSH. Absolutely.

Mr. MOORE. From whom did those resolutions come?

Mr. MARSH. These are from the Thurston County, Pomona Grange, of Washington.

Mr. MOORE. Washington City?

Mr. MARSH. No, sir; Washington State.

Mr. MOORE. That is from one local grange?

Mr. MARSH. Yes, sir.

Mr. MOORE. If Mr. Garner is through, I want to ask you some questions concerning your organization, because your prospectus is so broad as to startle business conditions. I will be frank with you about that. You represent, as I understand it, the Farmers' National Headquarters here in the city of Washington?

Mr. MARSH. I am the secretary of that organization, and I am the executive secretary of the Farmers' National Committee on War Finance.

Mr. MOORE. Does that include in its membership the Farmers' National Legislative Council, of which G. P. Hampton is the secretary?

Mr. MARSH. If you will permit me to interrupt you, I am speaking now on behalf of the Farmers' National Committee on War Finance.

Mr. MOORE. Let us come down to these associations that seem to be affiliated with the Farmers' National Headquarters, of which you are the secretary and director of publicity here in Washington. I believe,

Mr. MARSH. Yes, sir.

Mr. MOORE. I find represented here the Farmers' National Legislative Council, of which G. P. Hampton is the secretary, and the American Society of Equity, D. O. Mahoney, president, and J. Weller Long, secretary and treasurer, Madison, Wis. How large an organization is the American Society of Equity?

Mr. MARSH. I think they have in the neighborhood of 125,000 or 130,000 members, although I can not state that positively.

Mr. MOORE. Is that a branch of the Nonpartisan League?

Mr. MARSH. No, sir; it has nothing to do with it.

Mr. MOORE. Is that Mr. Townley's organization?

Mr. MARSH. No, sir; that has been going for a quarter of a century.

Mr. MOORE. The next organization here is the Gleaners, John Livingston, president, and Grant Slocum, superintendent-secretary, of Detroit, Mich. What are the Gleaners?

Mr. MARSH. It is an order of farmers that is strongest in Michigan and out through the Central West. The Gleaners order is one that works for legislation, and it has a membership of over 100,000.

Mr. MOORE. That organization is affiliated with the general organization that you speak for?

Mr. MARSH. Yes, sir; they have adopted resolutions. Mr. John Livingston is the president and Mr. Grant Slocum is the secretary of the Gleaners, and they are members of this Farmers' National Committee on War Finance.

Mr. MOORE. The next is the National Dairy Union, of which William T. Creasy, is secretary. I know Mr. Creasy, who is a Pennsylvanian. How large an organization is that?

Mr. MARSH. I can not tell you. It is a State organization. I think they have thirty-five or forty thousand members.

Mr. MOORE. The next is the National Creamery Butter Makers' Association, of which John J. Farrell is president. Is that organization connected with this committee?

Mr. MARSH. Yes, sir; the National Creamery Butter Makers' Association is connected with the Farmers' National Committee on War Finance.

Mr. MOORE. The next is the American Association of Creamery Butter Manufacturers, of which Prof. George L. McKay is the secretary.

Mr. MARSH. That is not connected with this organization at all. That is not connected with the Farmers' National Committee on War Finance.

Mr. MOORE. That is aside from this general organization?

Mr. MARSH. It is connected with the work of the Farmers' National Headquarters here.

Mr. MOORE. The next one is the Rural Credit League of America, of which G. P. Hampton is the secretary. Mr. Hampton also appears to be the secretary of the Farmers' Legislative Council. Is that a separate organization?

Mr. MARSH. That is an organization that has been working for land banks, and has also been working for rural credits for farmers.

Mr. MOORE. How large an organization is it?

Mr. MARSH. That is a large committee or league, I meant to say. It has 50 or 75 members.

Mr. MOORE. Where do they get together and when?

Mr. MARSH. They do not get together except when they are going to make a drive for some legislation, such as rural credits.

Mr. MOORE. It is a legislative committee?

Mr. MARSH. Yes, sir; it is a legislative committee to work for specific purposes. You see the farmers have adopted precisely the principle that the large business interests in this country are so successfully using, and that is that, while they do not always agree upon everything, yet when there is one proposition on which they do agree, then they have a committee here for that specific proposition.

Mr. MOORE. The next is the Postal Express Federation, Frederick F. Ingram, chairman of the executive committee. How large a body is that?

Mr. MARSH. I do not know how large an organization they have, and, to be frank with you, it really has nothing to do with this Farmers' National Committee on War Finance.

Mr. MOORE. It is listed here as a member of your organization.

Mr. MARSH. It is, but they are a working committee on parcels post, rural credits, etc.

Mr. MOORE. Was that a promotion committee for the purpose of securing legislation?

Mr. MARSH. Most of those committees are promoting committees, if you would so designate them, for securing legislation that the farmers want, following a time-honored practice from one end of America to the other.

Mr. MOORE. Then I find listed the Farmers' National Committees on Marketing, War Finance, Popular Government, Food Supply, Postal Reform, and Industrial Alcohol. Are those farmers' committees made up of members of the other committees?

Mr. MARSH. There are a few duplications, but very few.

Mr. MOORE. You present a very formidable list of organizations here for whom you speak, and I am endeavoring to get at the mass of people that they represent. Apparently, they are committees, or legislative committees.

Mr. MARSH. They are just what they purport themselves to be.

Mr. MOORE. Is the Farmers Open Forum, of which you are the editor, connected with those various committees?

Mr. MARSH. It is entirely independent of those committees. I am the managing editor of that publication.

Mr. MOORE. The Farmers' Open Forum, of which you are the managing editor, claims to be the Bulletin of the Farmers' National Legislative Council and affiliated organizations, including the Rural Credit League of America, the National Marketing Committee, the Postal Express Federation, and the Farmers' National Committee on Tax Reform.

Mr. MARSH. Yes, sir; but none of those committees contribute anything for the support of this magazine. The magazine does serve as the propaganda agency or educational feature of their programs.

Mr. MOORE. You have a subscription blank for subscriptions to the Farmers' Open Forum, in which rates are given and which seeks to increase the circulation of that paper. You have the second-class postage privilege, I suppose?

Mr. MARSH. Yes, sir; but we have very little advertising.

Mr. MOORE. One of the articles in the May issue of the Farmers' Open Forum is headed "Shall privilege or property pay the cost of the war." Is that article written by you?

Mr. MARSH. Yes, sir; I wish I could get it into every household in America.

Mr. MOORE. That is a point I wanted to be clear upon. I want to ask you about this statement in that article:

The writer was told a few weeks ago by one of the leaders in the House that the reason Congress did not levy higher rates of taxation on excess profits and large incomes last year was that the bankers controlled the newspapers, and that the newspapers intimidated the Members of Congress.

Was that written by you?

Mr. MARSH. Yes, sir.

Mr. MOORE. Do you mind stating who made that statement to you?

Mr. MARSH. I will go to that gentleman and ask him if I may do so. I asked him at the time to let me make his name public, and he said no.

Mr. MOORE. Your statement is that a Member of Congress told you that the reason Congress did not levy higher rates of taxation

on excess profits and large incomes last year was because the bankers controlled the newspapers and the newspapers intimidated the Members of Congress.

Mr. MARSH. Yes, sir.

Mr. MOORE. You do not care to say at this time what Member of Congress made that statement to you?

Mr. MARSH. You would not want me to betray a confidence, would you?

Mr. MOORE. Do you think that statement is true?

Mr. MARSH. That is a direct question.

Mr. MOORE. I am a newspaper man myself and evidently you are, and it is not fair to ask you who was your informant, because you have admitted you wrote this article, but if you published the article believing it to be true it is perfectly fair to ask you whether, in your judgment, it is true.

Mr. MARSH. I am afraid it is, in large measure.

Mr. MOORE. Your judgment is, then, that Members of Congress are intimidated by bankers and by newspapers?

Mr. MARSH. I am afraid in some cases that is true. You asked me the direct question.

Mr. MOORE. That is a frank answer.

Mr. MARSH. I say in some cases, because I want this to be accurate.

Mr. MOORE. Do you make that suggestion with regard to any member of the Ways and Means Committee?

Mr. MARSH. I do not.

Mr. MOORE. But you have a belief that apart from the Ways and Means Committee there are Members of Congress who are intimidated by bankers and newspapers?

Mr. MARSH. I am afraid so.

Mr. MOORE. Do you think the intimidation is more on the part of the bankers than it is on the part of the newspapers?

Mr. MARSH. Well, it would be hard to differentiate.

Mr. MOORE. I gather from the statements you have heretofore made that you have no special love for the bankers.

Mr. MARSH. I have no occasion to have.

Mr. MOORE. You continue this article by expressing an opinion. You say:

A timid Congressman has no place in a war Congress, and it is the privilege—is it not the duty?—of the farmers of the country to insist that there be a show-down in Congress on the question of financing the war, right now.

That you wrote?

Mr. MARSH. I did.

Mr. MOORE. And you were appealing to the farmers to have a show-down on the part of the Members of Congress who are being intimidated by bankers and newspapers.

Mr. MARSH. I think it would be wise. And that is why I urged upon the President and some others some weeks ago, on behalf of these organizations, that there be a revenue bill enacted at this session, because we are fighting to make the world safe for democracy, and we have got some fight to do that right here in America. Our first job is over there. I am for this war to the limit, but I also think we have got to do something against the enemies of democracy in this country.

Mr. MOORE. You are following President Wilson in prosecuting the war?

Mr. MARSH. Absolutely.

Mr. MOORE. You are quoting him constantly in your publication and in your public speeches.

Mr. MARSH. Very nearly all; yes; because I think he voices the best democratic statesmanship of the world.

Mr. MOORE. In the circular which you issued under date of June 5, 1918, you urge the Members of Congress to read the articles which you say are in process of publication for the Forum, which is your Farmers' Open Forum, by Robert Lansing, Secretary of State; William G. McAdoo, Director General of Railroads; Newton D. Baker, Secretary of War; Josephus Daniels, Secretary of the Navy; Franklin K. Lane, Secretary of the Interior; David F. Houston, Secretary of Agriculture; and William B. Wilson, Secretary of Labor. You also say that "the following representatives of important commissions and bureaus of the Government have promised to write an article" for the Farmers' Open Forum, which you represent and which expresses the views that you are now advocating.

Mr. MARSH. Yes, sir.

Mr. MOORE. Hon. Daniel C. Roper, Commissioner of Internal Revenue; Hon. Herbert Quick, member Federal Farm Loan Board; Hon. William Kent, member of the Tariff Commission; Hon. W. B. Colver, member of the Federal Trade Commission; Hon. Frank P. Walsh, member of the War Labor Board; and Mr. George Creel, chairman of the Committee on Public Information. You say in this circular that "a majority of the members of the President's Cabinet felt that the Farmers' Open Forum is such an important method of reaching the farmers that they have agreed to write an article for the Forum during the next year on the relation of their department to the farmers of the country." Have you letters or promises from the members of the Cabinet and the other prominent gentlemen indicated here, that they will write articles for the Forum to the farmers of the country on the lines indicated by you?

Mr. MARSH. I have the articles in hand, one by Secretary Houston, one by Secretary Baker, and one by Mr. Creel.

Mr. MOORE. Secretary Baker has written an article for you?

Mr. MARSH. A very brief article.

Mr. MOORE. Secretary Houston has written an article for you?

Mr. MARSH. Secretary Houston wrote that he would be very glad to do it.

Mr. MOORE. And you have received those articles at the hands of Mr. Creel, chairman of the Committee on Public Information?

Mr. MARSH. No; Mr. Houston's article came directly to us; so did Mr. Baker's; and Mr. Creel sent me his own article. But, mind you, I am not joining Mr. Creel's campaign in connection with Congress, and I do not want to be misunderstood.

Mr. MOORE. You are enough of a newspaper man and enough of an advertising man to know that if you get a little publicity in regard to these articles that it will not hurt your publication?

Mr. MARSH. But I am not trying to do that. And I did not initiate the procedure here. I am here to discuss the specific problem of how to raise revenue and help us to win the war in the most effective way.

Mr. MOORE. But you say these gentlemen have promised you articles, and two of them are already in. I want to ask you whether you wrote the article which appears on page 7 of the Farmers' Open Forum for the month of May, 1918, entitled "Menace of mammoth fortunes," in which you say:

Let the intelligent people of this country remember always that wherever a democracy, a government of, for, and by the people, has fallen anywhere in the world, it has fallen at the hands of those who have built up great private fortunes, and it has fallen the moment when those possessing these great fortunes reached a point in power which enabled them to overthrow the democratic government.

Do you care to say at this time whether Secretary Baker, or any one of these gentlemen who have promised to write you an article, holds the same views that you do with regard to the destruction of private fortunes?

Mr. MARSH. I do not feel that I could speak for them, but I am very sure that if you will ask Secretary Baker to come before you he will tell you what he thinks about the democratic financing of the war.

Mr. MOORE. I presume you know that Mr. Baker has officially sent to the Committee on Appropriations estimates asking for very large sums of money which must be raised by taxation of the people to prosecute the war, and some of those large sums must come from private fortunes as well as from other sources. Now, I want to ask you again whether any of the gentlemen know of your views with regard to the destruction of private fortunes and whether any of them have written you along that line?

Mr. MARSH. In the first place, let me correct you. I have not urged the destruction of private fortunes. I think you were here the other day when I said specifically that I did not favor a capital tax, and let me add that I think it is a great misfortune that the Republican Party did not, when it was in power for some 30 years, make an enumeration of the incomes in this country.

Mr. TREADWAY. Are we obliged to listen to criticisms of political parties?

The CHAIRMAN. I would not do that.

Mr. MARSH. I apologize, and ask to have it stricken out; but I thought it was germane to the question that was put to me.

Mr. TREADWAY. It is not.

Mr. MARSH. Then I apologize and withdraw it.

Mr. MOORE. I am only quoting to you from the document before me, and I am not endeavoring to introduce politics at all.

Mr. MARSH. Neither am I.

Mr. MOORE. I trust not. You are advocating something with which some of us may disagree, and it is only fair that we should get your viewpoint and find what is behind it.

Mr. MARSH. Surely. I was trying to lead up to that.

Mr. MOORE. You say that you do not believe in the destruction of private fortunes. How, then, do you account for this article headed, "Menace of mammoth fortunes," in which you refer to the fact that so far as the history of the world is concerned, it shows that governments built up by great private fortunes have been the first to fall?

Mr. MARSH. There is very little difference between destroying fortunes and between the Government taking those fortunes for public

use. That is my answer, if I get your question clearly. Now, I think it is utterly un-American and undemocratic for any man to have an income of over \$10,000,000 a year.

Mr. MOORE. An income?

Mr. MARSH. Yes.

Mr. MOORE. How many have that?

Mr. MARSH. I will have to refer you to the Commissioner of Internal Revenue—or even over \$5,000,000, of which there are 10.

Mr. MOORE. Why are you unable to say how many men in the Nation have an income of \$10,000,000 a year?

Mr. MARSH. Because the Commissioner of Internal Revenue—

Mr. MOORE (interposing). Let me ask you—

Mr. MARSH (interposing). I appeal to the chairman whether it is fair for you to put these questions and then interrupt me before I can answer them.

Mr. MOORE. I asked you how many and then you started in on an—

Mr. MARSH (interposing). And then you started in and asked me another question, and I am not going to stand for that. I am going to stand on my rights as an American citizen.

Mr. MOORE. The answer to the question would be one, two, three, or whatever the number might be.

Mr. MARSH. It would not. You asked me why I did not know, and I am trying to tell you why. The Commissioner of Internal Revenue does not give out those figures, although I will say that I think it proper that he should give the public information as to the recipients of those incomes.

Mr. MOORE. Have you any reason to believe how many men there are in the United States who have incomes of \$10,000,000?

Mr. MARSH. I am not entering into any conjecture. I think there are several, however.

Mr. MOORE. That would be three or four.

Mr. MARSH. I think so, but I do not know. That is one reason why I suggested that there should be full publicity as to incomes of over \$25,000.

Mr. MOORE. What would you do as to those incomes exceeding \$100,000 per annum?

Mr. MARSH. I should say, if the recipients cared to hang to democracy, that those incomes should be devoted toward the successful prosecution of this war.

Mr. MOORE. How many do you think there are who have an income of over \$100,000?

Mr. MARSH. I am afraid my data has been mislaid, but it is my recollection that there are about 2,200. I have not the figures, but I can get them and read them to you from the report of the Commissioner of Internal Revenue, if you want me to take the time to do it.

Mr. MOORE. I can help you on that.

Mr. MARSH. I can get it, because it is just a question of addition. It would be about 4,000, according to his last figures. I do not know how it stands this year.

Mr. MOORE. I think it is 2,900, Mr. Marsh, in excess of \$100,000. Now, I ask you again, what would you do—



Mr. MARSH (interposing). May I correct that for the record? It says here, \$100,000 to \$150,000, 2,900; \$150,000 to \$200,000, 1,284; \$200,000 to \$250,000, 726; \$250,000 to \$300,000, 427. So, I was mistaken. It is about 6,000, but I was just speaking informally. That number of people have incomes in excess of \$100,000. And many of these men—let me make it clear—are not doing a stroke of work; they are sitting still and raking in the dividends.

Mr. MOORE. May I ask you what the income is doing?

Mr. MARSH. The income which those gentlemen receive is breeding more income.

Mr. MOORE. In what way?

Mr. MARSH. In production.

Mr. MOORE. Is not that commendable?

Mr. MARSH. Yes. But if the income which those gentlemen take to breed more income were taken in taxes, then the income of the toiling men could be left in their hands, and those toilers could have a little income to breed some more income, so that they could have some income with which to look the future in the face, which would result in relieving the poor people of Philadelphia, where I lived for several years.

Mr. MOORE. We have imposed no taxes on poverty.

Mr. MARSH. My dear Congressman, pardon me—

Mr. MOORE (interposing). We can not tax poverty, because poverty has nothing with which to pay.

Mr. MARSH. Let me say a thing, Mr. Congressman, which I think can not be controverted, that the poor people of America are to-day paying infinitely more in proportion to their incomes than are the rich.

Mr. MOORE. Let us get back, then, to the question of income.

Mr. MARSH. Where does this \$2,000,000,000 of miscellaneous receipts come from? Who pays the taxes on food and on clothing? Who pays the increase of 50 per cent in postage on first-class matter?

Mr. MOORE. That is general, of course.

Mr. MARSH. Who pays taxes on all consumption? The working people, who are the enormously great consumers, I do not want to go into this tariff issue and excess-profits issue, but you have raised the question. I would like to show you that you do tax the poor.

Mr. MOORE. If you are going to rest your case on the increase in first-class postage I will ask you to tell me how much the Government derived from the increased first-class postage last year?

Mr. MARSH. I can not tell you exactly. It is a small amount, relatively, and I just mentioned that as one out of a dozen things.

Mr. MOORE. We are expected to raise \$8,000,000,000 through taxation, and I would like to know how much that increase in first-class postage is going to furnish?

Mr. MARSH. It will be a small amount, and I only picked that out as one of many things.

Mr. MOORE. Is it not so small as to make the general argument almost ridiculous?

Mr. MARSH. Not as a part of several. If it was to be so small, what was the necessity for the imposition of the increased cost?

Mr. MOORE. Because we sought to get more money in that way and every other way we could, and, as far as possible, make a fair apportionment.

Mr. MARSH. What do you think is a fair apportionment?

Mr. MOORE. That was determined, according to the judgment of the committee, by the bill that passed last year, with which you are familiar. We apportioned it as fairly as the committee thought it could be apportioned amongst the people of the United States. We taxed excess profits; we taxed incomes; we taxed—

Mr. MARSH. Excess profits were taxed 31 cents, whereas Great Britain taxes them 80 cents.

Mr. MOORE. And consumption taxes were not imposed. It is a question now whether they will have to be imposed or not. But I want to get back to your organization.

Mr. MARSH. May I answer your question from the report of the Secretary of the Treasury, because I think I can make it clear that they are being compelled to pay something at least. He estimates the total receipts from miscellaneous as something over \$1,000,000,000.

Mr. MOORE. But, you see, that is very much under \$8,000,000,000.

Mr. MARSH. I am endeavoring to show you how to get the balance.

Mr. MOORE. How are you going to get the balance if you destroy production, because you admit that these excess incomes are going into production.

Mr. MARSH. As I understand, the Government is going to have need for about \$30,000,000, and that money has got to come either by taxes or by loans, and your rich men have got to put their big surplus either into loans or they have got to pay it in taxes. Now, the question is whether the Government of the United States will compel something approximating the equality of financial sacrifice, if you please, by taking those big incomes and taxes, and then I can assure you that the farmers and laboring men of this country will loan the Government the difference.

Mr. MOORE. Are you the secretary of the Association for an Equitable Federal Income Tax?

Mr. MARSH. I am.

Mr. MOORE. The president of that association is John J. Hopper?

Mr. MARSH. Of New York; yes.

Mr. MOORE. Do you have headquarters in New York?

Mr. MARSH. No; they are closed. I am doing everything from here now.

Mr. MOORE. What is the main purpose of that association?

Mr. MARSH. The main purpose of that association is to secure a rapid and progressive tax on big incomes, a heavy excess-profits tax, and taxation on land values for the Federal Government, particularly of unused or inadequately used land.

Mr. MOORE. Who is John J. Hopper?

Mr. MARSH. John J. Hopper is a large contractor and engineer in New York City. He was the registrar of the county of New York for four years.

Mr. MOORE. I see that the Hon. Frederic C. Howe is a member of the executive committee of that association?

Mr. MARSH. He is.

Mr. MOORE. Who is Mr. Howe?

Mr. MARSH. Mr. Howe is a well-known publicist and writer and now commissioner of immigration at the port of New York.

Mr. MOORE. Is he in favor of the overthrow of private fortunes and the cutting down of incomes in excess of \$100,000 or \$50,000?

Mr. MARSH. I think he will be very heartily in favor of that.

Mr. MOORE. Have you gentlemen had conferences—you gentlemen of these various associations, and also the committees to which you have referred—on this subject recently?

Mr. MARSH. We had one in January of this year.

Mr. MOORE. Was that the one which was attended by Mr. Townley, the head of the Nonpartisan League?

Mr. MARSH. It was not.

Mr. MOORE. Did you attend a conference in which Mr. Townley took part a short time ago?

Mr. MARSH. Did I attend the conference?

Mr. MOORE. Yes.

Mr. MARSH. Yes, sir.

Mr. MOORE. Did you write an article in the Farmers' Open Forum of May, 1918, headed "Charges of disloyalty against the National Nonpartisan League"?

Mr. MARSH. I did.

Mr. MOORE. That article was rather friendly to Mr. Townley, was it not?

Mr. MARSH. I think that that article was fair.

Mr. MOORE. Mr. Townley is now under indictment for seditious utterances in Minnesota, is he not?

Mr. MARSH. Well, many wealthy men have been under indictment but they have not been found guilty under the indictment.

Mr. MOORE. But he is under indictment, is he not?

Mr. MARSH. I believe he was indicted, but whether the indictment has been quashed or not I do not know. Will you read a list of the officials who were present at that meeting which I attended?

Mr. MOORE. I intended to do that, because I think that ought to be in the record. I think these people ought to know with whom they are associating, so that it will be clear to everybody.

Mr. MARSH. Do you think that the National Grange, which adopted at its last session a resolution in favor of taking incomes of over \$100,000 to pay for the war, was influenced by anything unfair?

Mr. MOORE. It depends on whether the National Grange was acting through one of these legislative committees to which you have referred, or whether that resolution represented the real farmer element of the country and thoroughly and honestly represented the sentiment of the farmer body of this country. But if they were indorsing anybody who made seditious utterances, that would be a very serious matter.

Mr. MARSH. You are not charging me with engaging in seditious utterances, are you?

Mr. MOORE. No; but I am going to read to you a few of these paragraphs and ascertain whether you sympathize with Mr. Townley's views?

The CHAIRMAN. I might suggest that you make it as brief as possible.

Mr. MARSH. I have not quite finished my statement, and I have not had 10 minutes in which to submit my statement, because most of my time has been taken up in answering these questions.

Mr. O'SHAUNESSY. I think that the question is how we are going to raise revenue, and I think he ought to first tell us what his idea is of raising revenue.

Mr. MOORE. If you gentlemen do not want me to go on I will quit.

Mr. MARSH. I would like to have a chance to reach the proposition as to how to get revenue.

Mr. MOORE. In this article to which I refer, after the conference with Mr. Townley, which you say was participated in by William Kent, member of the United States Tariff Commission; William B. Colver, member of the Federal Trade Commission; Mr. Carl Vrooman, Assistant Secretary of Agriculture; United States Senator Robert L. Owen, president, National Popular Government League; Mr. Herbert Quick, member of the Federal Land Bank Board; Mr. Charles R. Crane, member of the President's commission to Russia; Mr. George P. Hampton, director the Farmers' National Headquarters; Mr. Judson King, executive secretary of the National Popular Government League; Mr. E. P. Costigan, member of the United States Tariff Commission; Congressman John M. Baer, of North Dakota; Judge Lawrence Becker, counsel in Treasury Department; and Mr. William Denman, formerly of the Shipping Board—you say:

Mr. Townley admitted the indictment and prosecution of officers of the league, and made it clear that the indictments were in nearly every case not for disloyalty but for illegal assemblage. He created a distinctly favorable impression and certainly convinced a large part of the audience that the league is fundamentally loyal and devoted to the successful prosecution of the war, but equally devoted to terminating profiteering and privilege in this country.

Then you conclude by saying:

The program of the league and the methods by which it has been developed were discussed on these two occasions. Mr. Townley and his associates left no doubt as to the sincerity of their loyalty to the Government and to the principles for which we have entered the war, as enunciated by President Wilson.

I ask you to harmonize your own views and Mr. Townley's views, as indorsed by you, with the fact that Mr. Townley and a number of his associates are now under indictment for seditious utterances in Minnesota and in one or two other States.

Mr. MARSH. I will do that, and ask you whether you ask me that question because you are afraid to face the question of democratic financing of the war? You know perfectly well that an American citizen has a perfect right to be tried by a jury of his peers. I am not before a jury, but I will answer that question. However, I submit that when I am asked to appear on behalf of a revenue bill that the questions of Congressman Moore as to the disloyalty of the Nonpartisan League are unworthy. Mr. Townley saw President Wilson last fall. Does that mean that President Wilson is seditious? I think there are in the Nonpartisan League, as there are in every organization, perhaps, a few men who are pro-German, and I think they ought to be punished to the limit of the law. I have been with the National Nonpartisan League, and I helped them last fall. I am going to be very frank with you about it.

Mr. MOORE. Where; in Minnesota?

Mr. MARSH. In St. Paul.

Mr. MOORE. That is in Minnesota?

Mr. MARSH. Yes; I was at their headquarters there. And I have talked with a lot of those farmers, and I know that it is true of them, as it is of most of the farmers, as Secretary Houston said, that they are working from early in the morning until black darkness at night raising crops, and some of them are going broke. There may be a few disloyalists among the National Nonpartisan League, just as there are a few disloyalists among those of great wealth, who say, "We will strike if you take our money to win the war." You have no more business to indict the National Nonpartisan League on that ground than you have to indict the great body of men who get incomes of over \$25,000, because a great many of them are loyal and are firmly loyal. I think, though, that Gov. Lindbergh was right when he made the statement—although I have never read his book—that this was undoubtedly a profiteer's war, because I think there are some people who want to make money out of the war more than anything else.

Mr. MOORE. Mr. Kent is a member of the United States Tariff Commission?

Mr. MARSH. Yes, sir.

Mr. MOORE. He is a very wealthy man?

Mr. MARSH. I presume he is worth, perhaps, several millions.

Mr. MOORE. He was one of the speakers at the luncheon you had?

Mr. MARSH. Yes; and a strong supporter of Senator Lenroot.

Mr. MOORE. Your article says:

While Mr. Townley was in Washington the National Popular Government League, of which United States Senator Robert L. Owen is chairman and Mr. Judson King, secretary, arranged a meeting for the representatives of the National Nonpartisan League who had come to present the league's answer to the Senate Committee on Military Affairs—Mr. A. C. Townley, president, and Messrs. Arthur Le Sueur and John M. Thompson. Mr. William Kent, a member of the Tariff Commission, who spoke at the recent convention of the National Nonpartisan League in St. Paul, also tendered a luncheon to these representatives of the league.

Among the prominent people present at the meeting or luncheon were the gentlemen to whom I have already referred.

Mr. MARSH. I was not at the luncheon.

Mr. MOORE. Did you hear the speech of Mr. William Kent at the luncheon?

Mr. MARSH. No; I have just said that I was not at the luncheon.

Mr. MOORE. Do you know whether he indorsed the views of Mr. A. C. Townley, Mr. Arthur Le Sueur, and Mr. John M. Thompson, who were being entertained when they came here to call on these public officials?

Mr. MARSH. Do I know whether he indorsed their views?

Mr. MOORE. Yes. He spoke at the luncheon, I understand.

Mr. MARSH. Yes. As I say, I was not at the luncheon, but Mr. Kent spoke at their convention which, I think, was in March.

Mr. MOORE. Was Mr. Townley here when your new national headquarters were organized?

Mr. MARSH. I was not with the headquarters at that time, and I can not answer that question; I am almost positive, however, that he was not, because I think he was out in the northwest then.

Mr. MOORE. Did you hear Mr. Kent speak on this subject at all? Mr. Kent spoke in St. Paul, I understand, according to your report?

Mr. MARSH. Yes.

Mr. MOORE. You say here that—

Mr. William Kent, a member of the Tariff Commission, who spoke at the recent convention of the National Nonpartisan League in St. Paul, also tendered a luncheon to these representatives of the league.

Mr. Kent, of course, as you know, is a former Member of Congress, and he was a very prominent Member, and he is a man of considerable wealth. I wanted to know whether he indorses these general views of yourself and of Mr. Townley?

Mr. MARSH. Why not invite him here and ask him to tell you?

Mr. MOORE. No; you are here—

Mr. MARSH (interposing). I think it is very strange that I am asked to speak here for all the prominent Democrats in America, and I suggest that you ask these gentlemen of conspicuous ability and large business experience to appear here before you and let them acquaint you with their views on this subject of war revenue. May I proceed now with my statement?

The CHAIRMAN. You had half an hour on Friday, and you have been for an hour now on your feet. Can you finish in five minutes?

Mr. MARSH. I hope so.

The CHAIRMAN. Then, if you do not finish in five minutes, you can extend your remarks in the record.

Mr. MARSH. Gentlemen, I apologize if I seem to speak heatedly. It has not been so intended. I am perfectly willing for Mr. Moore to look into my record in Philadelphia, where I lived for seven years. He can do that to the fullest extent he desires.

Mr. MOORE. You have expressed some peculiar views here.

Mr. MARSH. They are held by millions of workers throughout the country, and they are no longer peculiar.

Now, resuming where I left off, the fifth recommendation is:

Tax unearned incomes from secure investments more heavily than incomes earned by labor.

The sixth recommendation is:

Initiate a policy of greater reliance upon income taxes, rather than upon taxes on corporations, excess, and war profits.

We make those suggestions for this reason, that a corporation may for a year or two make enormous excess profits and war profits, but they may be distributed among a lot of small stockholders, whereas a corporation may make a little money, but if the concern is owned by only two or three stockholders, they will make a big percentage of profits. In the one case there will be a wider distribution of the profits.

Now, we suggest that the equitable way to get at it, and the way to apply the principle of equality of financial sacrifice is not to rely so much upon excess-profits taxes and war-profits taxes but to adopt a policy of greater reliance upon income taxes. You should not rely so much upon excess and war profits taxes as a permanent measure, although you must do it this year, but you should rely upon a gradually progressive tax on these incomes. I think that the suggestion that we should have a consumption tax is a very tragic disparagement of the loyalty of the American people in this war. A consumption tax is like a thief in the night, and the man who urges a con-

sumption tax practically implies that the American people do not want this war enough to be willing to pay for it in an open and above-board way. I think that they do want it enough to be willing to pay for it in that way. I do not believe that one-tenth of 1 per cent of the people of America are unwilling to see the thing right through. They know what the purposes of the war are, and they want to go through with it. A consumption tax is a sort of evasion, and we believe that it would be far better to place the chief reliance upon income and excess-profits taxes and upon taxes on the value of unused land or upon the value of inadequately used land. I do not believe in taxing a man's home, or anything of that sort, but a tax should be imposed upon unused land or inadequately used land. I would like to repeat, because there were only five members present when I made the statement, that the man who owns unused land is practically exempt from any Federal tax whatsoever.

Mr. HAWLEY. How much do you suppose you could get from a tax of that sort?

Mr. MARSH. I think that a tax of  $1\frac{1}{2}$  or 2 per cent would yield anywhere from three to four hundred million dollars. I think that much could be derived from the taxation of unused and inadequately used land. That would apply, for instance, to lands in cities where the building does not represent at least twice as much as the value of the land. Usually in a city the value of the building is three times the value of the land, or, at least, one and a half times the value of the land. You may know, perhaps, that the value of the land in New York City is greater than the value of the agricultural farm lands in 20 agricultural States. That would give you some idea of who would pay the tax on inadequately used land. I shall only take enough of your time to summarize my statement in this way: This revenue bill will be watched by everybody in the world, and those who are doing the fighting and dying do not want to have to do the paying. From the way prices have been inflated, the \$30 pay of the soldier, as it was a year ago, will be worth very much less this year. It will be worth only eighteen or twenty dollars, probably, as economists have told me. I have not any official figures on that, but I have talked with some very careful economists, and that is the statement they make. If you estimated it even as high as \$25 it represents a big slump.

It seems unfair to the soldiers and to their families that the Government should adopt a system which would inflate prices to such an extent that their earnings would be reduced that much in real value. I reiterate my statement that I believe that these enormous fortunes are a great menace to any democracy, and we believe that it would be of great encouragement to Russia to come back into the war if America should say, "Although it is the first time that it has ever happened, we are going to put property and human beings on exactly the same basis in this war." The Government has not only the legal but the moral right to conscript men in war times, and it is not only the moral right of the Government but its solemn duty to put wealth on all fours with men in the war. I believe that it will also scare this Kaiser a little bit. He would say, "Those folks are dead back of this war, because their rich people are coming across." I think that Congressman Longworth said in a speech

that Germany was paying only about 11 per cent of the cost of the war in taxation.

Mr. LONGWORTH. I have not the exact figures.

Mr. MARSH. Of course, none of us have the exact figures. Now, why do they do that? It is because the Germans are hoping to be able to collect large indemnities at the end of the war, but, of course, they are not going to do it. We are not in the war on that basis. If we should go into the war on the basis that I have suggested, we could not pay a greater tribute to the worth of the American, English, French, Belgian, and Italian Armies. Now, of course, we all understand that this revenue bill will have a big bearing on the conduct of the war as well as on the revenue.

I thank you very much for your courtesies, and I would be glad to come back and call on Congressman Moore and talk over this matter with him at any time he wants me to.

Mr. LONGWORTH. I want to ask you one or two questions. You say that the reason that Germany has collected only about 11½ per cent of her war costs by taxation is because they hope to collect indemnities.

Mr. MARSH. That is the only reason I can see.

Mr. LONGWORTH. Of course, you know that Italy and France are financing their war expenses at about the same ratio. You would not say that there was any ulterior motive there, would you?

Mr. MARSH. No, sir; I think that they are taking just as large a percentage, or nearly as large a percentage, as we are.

Mr. LONGWORTH. In France they are raising about 15 per cent by taxation, but in Italy only 11 or 12 per cent.

Mr. MARSH. I do not know exactly what their reason is, but I am sure that with all of our wealth we have no reason to do it.

Mr. LONGWORTH. Do you know any instance in history where a nation has financed a war by over 25 per cent in taxation?

Mr. MARSH. I think we financed about 40 per cent of the Civil War by taxation. I may be mistaken, but I think so. I have seen that statement, but I do not know whether we did or not. But, at the same time, there was never any war like this, and there was never any country in the world that had the accumulation of wealth that we have. I do not know of any country that has had to fight with poison gas, or airplanes, or submarines, etc., before. As new methods arise, we must meet the situation that confronts us, not according to precedents, but in the fairest and most just way. That, I know, is what we all want to do. I want to say this, that I think your suggestion in which you urged a rate of unearned incomes higher than upon earned incomes is an admirable one, and you deserve great commendation for the fight that you have made.

Mr. LONGWORTH. I am only asking you what is your theory for the financing of this war, and it seems that you think that we should finance it on a basis entirely different from that on which we have heretofore financed any war, or upon which any nation in history has ever financed a war.

Mr. MARSH. I think we should because of the enormous accumulation of wealth here. I would also suggest that no nation has ever gone into a war before when that nation has had the opportunity to make so much money out of a war that had been raging for some



time. I refer to the profits made by the manufacturers of munitions of different kinds that were sold to the allies before we entered the war. We had a vast sum accumulated in the way of war profits—a sum which, I think, was unique in the history of the world.

Mr. LONGWORTH. Do you mean excess profits or war profits?

Mr. MARSH. War profits. I said war profits, because since going into the war we have had excess profits, but before going into the war we had war profits.

Mr. LONGWORTH. I simply asked that because awhile ago you indicated a comparison between the amount of war profits and the amount of excess profits taxed here and, of course, there is no real relation between the two things.

Mr. MARSH. They are on a different basis. Now, as I said before, we ought to recognize the danger of inflation. You know how prices are being inflated, because it is inevitable where we have large loans, and that is a serious menace to the working people of this country. Have you not felt that the country's situation is very serious?

Mr. LONGWORTH. Because of inflation?

Mr. MARSH. Yes, sir. In England they have gone further, as I understand it, although I have not been able to get any final figures or definite statement, but I think they have gone further in England than we have gone with the program that we have initiated for regulating profits.

Mr. LONGWORTH. I was only speaking about the relative proportion of bonds to taxes.

Mr. MARSH. I am speaking of the regulation of prices.

Mr. LONGWORTH. I was speaking of an inflated currency.

Mr. MARSH. That is what I am talking about, because that is connected with the question of the inflation of prices. I think that England intends to make up a program now, and, as I understand it, it is now being initiated, for the regulation of prices right straight through to the consumer. We can not leave any leaks between the consumer and the producer.

Mr. LONGWORTH. Nevertheless, if England can finance the war in the proportion of 75 per cent by bonds and 25 per cent by taxation, it represents a higher relative proportion by taxation than any other European country has ever had.

Mr. MARSH. But England is now suggesting that the English Government should levy a big capital tax at the close of the war. I think that is inevitable in every country that is engaged in the war. I think that private capital is going to be put right into the hopper of public needs at the close of the war and that private property will have what is left after the Government pays its bills. That is the program of the British Labor Party and that is the plank that has been incorporated in their platform. I think that our proposition that we should have a heavy tax on incomes and excess profits is wiser than a system of taxation that would necessarily involve the unscrambling of property. When the Government calls upon you to give something equivalent to 20 per cent of your property it means that you must sell something.

Mr. HAWLEY. I want to read to you an extract from a speech by Mr. Bonar Law upon the German situation and the difficulty that

they have been having in raising revenues to finance the war. He says:

But there is something else in connection with their taxation worthy of note. With the exception of the increment war tax, to which I have referred, scarcely any of the additional revenue has been obtained from the wealthier classes in Germany. Taxation has been indirect and on commodities which are paid for by the masses of the people. The lesson to be drawn from these facts is not difficult to see. The rulers of Germany, in spite of their hopes of an indemnity, must recognize that financial stability is one of the elements of national strength. They have not added to their financial stability. The reason, I think, is largely psychological. It is, in the first place, because they do not care to add to the discontent by increased taxation all over the country; but it is still more due to this, that in Germany the classes which have any influence on or control of the Government are the wealthier classes, and the Government has been absolutely afraid to force taxation upon them.

Mr. MARSH. God grant that our Government may profit from their terrible experience.

Mr. GREEN. Mr. Longworth spoke of the percentage of revenues raised in England by taxation. You are aware of the fact that many financial authorities in England think that a great mistake has been made in that regard, are you not?

Mr. MARSH. They say that law should have been on a fifty-fifty basis. That is what the British labor party has been urging.

Mr. GREEN. I mean the higher financial authorities.

Mr. MARSH. I know that; yes, sir.

#### STATEMENT OF MR. A. F. THOMAS, OF LYNCHBURG, VA.

Mr. THOMAS. Mr. Chairman and gentlemen of the committee, my name is A. F. Thomas, and I am a resident of Lynchburg, Va. I am interested in manufacturing.

The CHAIRMAN. What kind of manufacturing?

Mr. THOMAS. In the manufacture of wagons. I desire to appear here, however, in a more important rôle than that of manufacturer. I am an American citizen, and my remarks, if the committee will be kind enough to follow them, I think, will absolve me from any purpose to appear in behalf of any special interest in this matter. I further wish to place before the committee as clearly as I may the statement that I have no purpose in appealing to them on the ground of authority, because in the views I shall express I represent no one but myself. I take it that this committee is composed of loyal patriotic American citizens who want to arrive at the best solution of the difficult matter that it has in hand and that its actions will not be decided by precedent or influenced unduly by authority, and that it will exercise its own good judgment, its common sense, its loyalty and patriotism in arriving at a conclusion and in embracing it as the thing that should be done. It is in that capacity and in that spirit that I appear before your committee to-day. In the discussion of economic questions, the bypaths that lead off are innumerable, and as the experience of the preceding witness will confirm, we may become diverted if we undertake to discuss the matter as between the witness and the committee, and leave aside the gist and germ of the thing that should be made most prominent.

The CHAIRMAN. Do you have your statement prepared?

Mr. THOMAS. Yes, sir; and I want to ask that I be permitted to read it.

The CHAIRMAN. I suggest that you read it through, and if any member desires to ask any questions, he may ask them when you have concluded.

Mr. THOMAS. I thank you very much, Mr. Chairman. You anticipated the request that I was going to make of the committee. I will ask also, Mr. Chairman, that members of the committee make a note as I go along of any particular questions that they may desire to discuss with me further when I have finished my statement.

The CHAIRMAN. You may proceed.

Mr. THOMAS (reading):

The highest duty of the American people is to win this war. The death struggle between soul-giving democracy, functioning under and in accord with moral law and autocratic materialistic power, recognizing only the jungle law of the tooth and claw, is now taking place. The result will determine whether mankind shall climb to higher planes as the ages pass or shall descend precipitately into the abysmal depths from which it came in the thousands of years of struggle and suffering that make up the sum of human experience. The time for compromise or accommodation has passed. There is no longer room in the world for these two contending forces. The one must conquer and subjugate the other. We have taken our position. Our lives, our fortunes, and our sacred honor are pledged to the support of the first and to the destruction of the latter. Neither sacrifice of material interest nor dread of loss of life itself must weaken our resolution—that moral law shall be the supreme governing force and that under it the world shall be free. It is in this spirit that we should approach the subject under consideration. We should divest our minds of selfish consideration, and our highest purpose should be to enact revenue legislation that will most fully support the main object in view. The methods adopted should be those that will keep production as near as may be at its maximum efficiency.

#### PRESENT PRODUCTION ALONE AVAILABLE.

War needs can not be supplied from future production. It is absolutely impossible for the Government to feed its armies on wheat and potatoes that are to be produced in the succeeding years, neither can it clothe them with the wool that is to grow on the sheep that are not yet born. There is no such thing as imposing upon future generations the burden of furnishing the sinews of war. War supplies must be furnished by the people who are living, working, and producing now.

The Government has two principal methods of getting its supplies—the one by taxation, the other by bond issue—and both of these sources of support go to the same market to secure the things needed; that is to say, they purchase the things that are in existence now. The difference between the two methods of financing the purchases is that taxation is a final adjustment between the Government and the individual, while the bond-issue method leaves the Government the task of collecting from private debtors and paying the amounts due private creditors when the due date arrives. In other words, the one makes the individual pay as he goes, while the other puts him in debt for the purchase of nonproductive things.

If I may, I would like to develop that further in an explanatory way. A Government bond is not a Government debt. The transaction is one under which the whole people of the Government become debtor to a part of the people of the Government, and the relation of the Government to it is purely that of an intermediary. The Government simply takes money from all the people when the due date arrives to pay the part of the people who hold the obligation. In that connection we will observe that if the tax which the Government collects is properly adjusted every man who buys a bond

is theoretically obliged to remit a part of the bond when he accepts payment for it, because as one of the taxpayers he pays his part of the contribution. [Reading:]

It is manifestly desirable that the war expense should be paid, so far as practicable, from the proceeds of general taxation, apportioned as nearly as may be uniformly, so that the burden will be equitably distributed. The measure of uniform taxation should be the maximum which the weaker classes could reasonably be called upon to pay.

In the imperfect state of social development in which nations find themselves to-day uniform legislation is sometimes impracticable, and even undesirable, since the uniform condition upon which it should rest does not exist. The perfect tax system has not yet been developed, and whether the money is raised by taxation or bond issue the most that can be hoped for is an approximation of the distribution of the burden between individual taxpayers as nearly as may be in accord with the demands of justice, which would seem to require the surrender by every taxpayer of the same percentage of his products for the use of the State in order that it may be enabled to perform a common service. In the matter of taxation, owing to the unequal distribution of wealth, the basic principle may require a graduated scale for individual incomes, while the vital question in the bond-issue method is to preserve a stationary standard by which the public will be required to repay the same amount of products that it borrowed from the bond buyer.

Assuming that capital is entitled to a return for its use the interest paid discharges this part of the obligation, and all that the lender is entitled to receive, as a matter of equity, is the same quantity of products or their equivalents that he originally loaned. A serious objection to bond sales is that the public must borrow in a period of tremendous inflation, while pay day will likely arrive in a period of great deflation. Hence the public may borrow a hundred bushels of wheat, issuing \$225 bonds for it, but when they come due these same bonds, owing to decline in the market price of products, will command 100 bushels of wheat, which gives to the lender the interest on his investment, the repayment of the full product that he loaned, and 100 per cent additional. It does not appear unreasonable, in view of the colossal public debt that the nations are piling up, that an adjustment based upon the average price of products both at the times of the contraction of the debts and the times of the payment of them will be not only equitable and advisable but imperative. This phase of the subject is referred to here, not for the purpose of dealing with it constructively at this time, but merely to show that there is real cause for the objection to paying for the war by unlimited bond issues. Due weight should be given this matter and proper consideration shown those who for this reason are insistent that the greater part of the expenditures of the war should be met by taxation. It is well, however, to keep in mind that judgments based on partial facts are unsafe. While, as already pointed out, there are unreasonable objections to bond issues, we must likewise concede that there are also potent objections to excessive taxation. The safer ground will be found in dividing the sources of revenue between taxation and bond issue. It has been suggested that the proportion be 40 per cent taxation and 60 per cent bond issue, and doubtless the Congress will be able to approximate the correct division.

When the part to be raised by taxation is ascertained the methods of accomplishing the purpose with the least possible harm become matters of prime importance, and it is to this phase of the subject that I desire to invite the committee's attention.

#### THE ECONOMIC SITUATION.

While assessment both of material and liquid values would show that the United States is richer to-day than ever before, this increase is largely imaginary. It partakes of the nature of the limitless wealth of some crazy Monte Cristo, who in his padded cell vainly imagines himself the owner of the universe. The psychology of such periods is always interesting and even ludicrous when the seriousness of the final effect is not considered. Whether this inflation of values comes as the result of rag doll paper money inflation or the general expansion of credit for destructive purposes the results are the same—a rise in nominal values and a decrease in actual wealth. In such periods general waste assumes command and disruption of relative values follows,

necessitating incessant readjustments in the attempt to reestablish the proper ratios—the debtor robs the creditor, wages, salaries, and fixed incomes decrease in purchasing power, and general exhilaration on account of a supposed increase of wealth supervenes. The disorganization that results necessarily increases risks and the percentage of profit increases to cover them.

#### THE INCREASE OF PROFITS.

Once begun, the fever to get as much as possible seizes the public mind, and an era of profiteering is ushered in affecting everybody from the bootblack to the financial magnate. It is as useless as it is unjust to undertake to select a particular class as the horrid example of the conscienceless and unpatriotic profiteer. The humble laborer who does his bit in getting his wage raised from \$1 per day to \$7, the small corner grocer who keeps busy marking up his goods to the limit, the wayside innkeeper who patriotically follows the advice of Mr. Hoover to conserve food by reducing by half the portion and at the same time doubling the price, the poor farmer upon whose shoulders the burdens of civilization have weighed so heavily in the past imbibes that hope that springs eternal and who proceeds to get all he can for his products, that quintessence of patriotic fervor, the dollar-a-year industrial magnate who offers his valuable services upon the altar of his country with apparently no objections to a few large contracts to be sent to his former associates merely as a token of remembrance, are all doing what they can to avail themselves of the present opportunity, if for no other reason, to provide a surplus against the evil day that even a novice knows must come when the inevitable reaction takes place. The fault is not primarily personal. It is the result of a defective economic system that can not function normally under the severe strain that such conditions produce. The defect is inherent in an economic system that requires individual initiative and private assumption of risk.

Price regulation and taxation may mitigate the evil, but they can only effect a cure by killing the patient. Doubtless large profits have been made during this war, and they will likely continue to be made whenever disturbed conditions exist, but it is not altogether so bad as surface indications would lead us to believe. When we consider that our money in circulation has increased two billions—about 60 per cent in four years—Federal Reserve notes from one hundred and eighty-seven million to one billion five hundred millions, our circulation per capita from \$34 to \$50, national debts of the world from forty-three billions to one hundred and sixty-one billions, uncovered paper in the principal countries from two billions eight hundred millions to nineteen billions five hundred millions, and money in the principal countries from thirteen billion six hundred millions to thirty-one billion five hundred millions, and compare it with the production of actual wealth expressed in bushels, pounds, etc.—corn from two billion four hundred million bushels to three billion one hundred million bushels, an increase of about 30 per cent; wheat from seven hundred and sixty-three million bushels to six hundred and fifty million, a decrease of about 14 per cent; coal from five hundred and eight thousand tons to five hundred and eighty thousand, an increase of 14 per cent; copper, five hundred and forty-six thousand tons to eight hundred and forty-three thousand, an increase of 35 per cent; iron ore from fifty-nine million tons to seventy five million tons, an increase of 25 per cent; and petroleum about 40 per cent increase in gallons. And when we further consider that the real wealth produced is being largely devoted to destructive purposes, and, therefore, being consumed more wastefully and more rapidly than in normal times, we must conclude that the increase in the nominal amount of credit instruments has been out of reasonable proportion to the amount of increase of actual wealth, and therefore the nations have embarked upon a sea of inflation which is uncharted, and, as the price index shows, the commerce of the world is being done by guess.

Present profits, invested as they must be in inventories at inflated prices, when the bubble bursts, as in time it must do, will shrink to an alarming extent. Measured by the purchasing power of real wealth to-day these nominal profits would be reduced half. Final judgment, if it is to be just, can not be rendered until the cycle is completed and all the evidence is in. The ascending period is now in process, the descending is yet to follow. It might be well to remember that to be punitive the pains of sin must exceed its pleasures. The reasonable supposition is that during the orgy of inflation, with its fool's paradise of apparent prosperity in which the world is now indulging itself, wealth will be dissipated to a large extent, and when the tide turns we will find a

maximum debt with its additional burden of interest, both to be paid out of a reduced amount of real wealth that will be constantly declining in nominal value. In view of these possible contingencies, it might be well to defer final judgment upon even the most conscienceless profiteer. If conviction is to be had upon motive, it is to be feared that there are not enough innocents to incarcerate the guilty, while if actual accomplishment of the purpose is to be the test, justice demands that the game be concluded first.

#### BUSINESS AN INSTRUMENT.

Business, whether individual, partnership, or corporate in form, is the economic mechanism for supplying the wants of society. Conducted under private initiative, its life principle is profit. Anything that increases profit accelerates it and whatever decreases profit retards it. Its constant aim is to increase profits and conserve gains.

In normal times the mention of taxation gives it tremors, and at the sight of the tax bill it begins to cry, "Murder!" In the great crisis in which the world now finds itself, business, in the main, recognizes that it must do its part, not only in performing its functions efficiently but in supplying means, to a large extent, to keep things going. It must be emphasized, however, that business, normally, is not a taxpayer. It levies tribute for itself and surrenders to the Government only a part of what it collects. Business taxation is the modern adaptation of the Roman and Chinese methods of farming out the taxing function. The principle of the present economic system confers upon business the special privilege of levying tribute upon the individual, who, in the last analysis, is the only ultimate taxpayer. Business, therefore, is a shifter and diffuser of taxes. If it fail to levy sufficient tribute upon individuals to cover all expenses, including taxes, it at once begins the march toward bankruptcy.

The welfare of society and the safety of the Nation make it imperative that all necessary and useful business shall now be kept functioning at its maximum efficiency. Any other course would be legislative sabotage. Any legislation that would weaken the springs of production at this time would in effect be throwing the monkey wrench into the machine to the delectation and benefit of our enemies.

The principles governing the taxation of business and individuals are different. The first must be dealt with as an instrumentality—a utility that must not be taxed to the extent of decreasing its efficiency—while the latter must pay what is necessary, and if the public exigency demands it lower the standard of living in order to make ends meet. In taxing business we should make the egg the object of quest rather than the goose, although I am quite in accord with Talleyrand's suggestion that we take incidentally all the feathers we can get provided we do not excite too much squawking or materially affect the goose's egg-laying capacity. It is generally recognized that the Government must have more income. The problem is how to get the most with the least harm. If business is taxed more heavily, it will probably produce the effect of raising prices, thus shifting the tax to consumers, or of reducing working reserves, which will impair efficiency and lessen production or of curtailing dividends to investors or, what is more probable, it will likely result in a combination of these effects. It is unthinkable that a policy of repression of business activity will be adopted now, when every nerve should be strained to meet the urgent demands for maximum production.

#### TAXATION OF INCOME.

The taxation of income may be most conveniently considered under two heads, viz, business income and individual income. The principles governing the two are different, and the methods must likewise be different. The term "individual income" in this connection being used to designate the results of one's own labor and the returns on capital invested.

#### BUSINESS INCOME.

Let us conceive of the national income derived from business conducted by individuals, partnerships, and corporations as a unit. This represents the net return on the operation of the national economic machine. Each part of this machine, if it is functioning properly, performs its part in the public service, and the whole should be dealt with in a uniform way. If the mechanism is

faulty and there unnecessary parts that produce undesirable results, these can be severely regulated, if not entirely eliminated, by methods that will be explained in the discussion of individual income. The point is that business income should be approached with the single purpose of confiscating so much of it for governmental purposes as can be done without reducing the speed and efficiency of business itself. If undue profits have been taken in the past, and it is conceded that many cases of this kind can be found, the imposition of punitive rates on business income is not a proper remedy for the very simple reason that the effect of the tax on business will be measured not by the innate justice of it, but by the ratio it bears to the present income. If it bears too heavily upon present earnings, the machine will begin to slow down. Less than a proper ration for the work horse now is a poor remedy for over-feeding last year. The income tax, if its potentialities are understood, is a most effective instrument in the hands of democracy. The undue accumulation referred to above can be reached by it, but business does not furnish the means.

I do not think the world comprehends the possibilities of the income-tax principle. I think we will find, as we grow older and the urgent needs of society press more insistently, that we can use it for a great many purposes that are, perhaps, not well understood at present.

The profit fund of business having been selected as the source from which to draw revenue, equitable principles, and effective methods both demand that the tax be definite and the method simple and uniform. Without first analyzing statistics of income not available to the public, it would be difficult to suggest with any degree of certainty the proportion of business income that should be taken. I believe, however, that business could stand a tax of one-third of its net income which if uniformly laid upon all business with no exemptions or exceptions would, I think, yield an amount largely in excess of that received under the present law this year from the same source. The net earnings of the railroads should be included along with the rest, and, if necessary, further adjustment of rates could be made to meet the change of circumstances. The uniform rate here advocated would form a basis for taxation of this subject and future changes could be affected by simply moving the rate up or down as experience might indicate the expediency of it. This plan eliminates all reference to the capital employed, thereby simplifying the process and removing a hiding place in which tax dodgers might operate with more or less safety to themselves and to the detriment of the Government.

In this connection, I recall having been in the Senate gallery a year or so ago and heard Senator Lewis, of Illinois, make the charge upon the floor, that the Treasury Department had the evidence of income-tax robbery amounting to a very large sum. I think it was three or four hundred million dollars. The thing impressed me, and not having heard of any prosecutions or convictions, I have been wondering ever since why there was not more effective cooperation between the Treasury Department and the Department of Justice. If the income-tax law is drawn or administered so as to affect only small taxpayers and the more honest larger ones, while tax thieves are permitted to shirk, it must fall short of giving the results the public have a right to expect.

The policy of secrecy in income-tax returns is indefensible. Whatever there is of income that amounts to much, separately considered, is derived from the public and of right it should have the opportunity to inform itself as to the extent of the tribute it pays whether it be levied by its own taxing power or imposed by the exercise of economic privilege. The public policy that employs "pitiless publicity" to prevent taxpayers and profiteers from going wrong will likely produce better results than that which only uses it to punish those who have been caught, since an ounce of prevention has always been worth a pound of cure. Democracy will not have been made entirely safe so long as secret methods in governmental matters are tolerated.

#### INCOME TAX SECTIONAL.

It has been charged that the income tax is sectional in effect. Let us hope in the interest of our great Democracy and its people who desire to develop its ideals, that the charge is true. It would fail of its purpose if it were not true. The tax is sectional in effect only because conditions are sectional. Under our economic organization with its essential tribute greatly augmented by discriminatory legislation, centralized financial and industrial interests have gathered a golden harvest from the whole country with the result that the

situs of income has become largely localized. There is satisfactory evidence that a relatively small section of the country through control of financial and industrial organization under a public policy of special favor has garnered profits in every field of American effort. The result is that a large part of the annual profits of the entire country is gathered into the tills of these beneficiaries of special privilege, and the income tax reaches them in a disturbing way. It may afford them comfort to reflect that the less favored who now escape income tax, having none to tax, would gladly relieve them of the burden provided the income came along with it. The psychological state of the public mind as well as the facts of the case indicate this as an inopportune time to arouse discussion of the merits or justice of the income tax as affecting those receiving large incomes. It would be safer for them to accept what comes to them with the best grace possible, solacing themselves with the thought that it is sometimes better to bear the ills we have rather than fly to those we know not of. As we get deeper into the war, and its sacrifices become greater, more and more of individual income will likely be taken.

#### PERSONAL INCOME.

The individual is the ultimate taxpayer. Taxes must come out of production and this is the property of the individual. Individuals may shift the burden from one to the other, but some individuals must pay it. If the tax is imposed upon the income from services it may be shifted temporarily by advance in wages, but it comes back in the form of higher prices for articles of consumption. The individual as a productive worker can not escape taxation.

I believe that it is not at all essential that the taxgatherer go to every man's house to get his taxes. In the refinements of social organization no guilty man escapes; we get him, and the poorer he is the more sure we are to get him. [Reading:]

If it does not reach him directly, it comes indirectly through the various tax-shifting instrumentalities incident to social organization. Individual income may be divided into the productions due to the efforts of the individual acting either alone or in collaboration with others and the return on invested capital, which is social tribute. Sound public policy would seem to require that in so far as practicable the tax should be as light as possible on the former, while the latter should be reached by a progressive scale rapidly increasing after a proper standard of living had been reached. Heavy exactions to be taken out of the labor income would have a deterrent effect upon productive effort while a heavy tax on income from investment would not seriously affect the productivity of labor but would strongly tend to reduce consumption of non-essential things. In the discussion of business income reference was made to this matter. It was suggested there that a uniform tax on business without regard to the character of the business was desirable, and now it is suggested that a proper graduation of the tax on individual income will effectually regulate the scope of business, since the reduction of personal income will at once restrict the demand for nonessential goods. The multiplicity of automobiles with numerous chauffeurs, luxurious living with its demand for service, the idleness of the seashore, and the costly arrangements for diversion are not the concomitants of a greatly reduced personal income. If frugality and conservation of resources are desirable, if waste is detrimental to the public welfare, then large personal incomes are productive of evil. As personal income increases, social parasites increase also.

This income, when excessive, superinduces idleness in the recipient and the employment of labor in useless service, thus increasing the burdens of those who are usefully employed. The rich idler with his wasteful entourage is far more detrimental to social progress than his counterpart, the tramp, who regales himself upon the scraps secured from some charitable kitchen. They both are parasites, the cost of keeping the one being many times greater than that of the other.

It is by no means contended that all large individual incomes are wastefully used. I am here referring to that part of the money that is luxuriantly and wastefully used. Much of it finds its way back into productive use. When such is the case it involves no economic loss, but tends to produce a state of monopoly of ownership of the machinery of production, distribution, and finance which still more centralizes income. The ultimate of this process is plutocracy.



The restriction of individual income under the method herein suggested would not affect unfavorably any necessary business, but would induce a general slowing down of all business that ministers to luxury and extravagance. It is but fair to point out that a continuous policy of limiting individual income to the extent here suggested would change materially the class of investors who furnish the reserve capital necessary to the promotion of new enterprise. Either the many smaller investors must take the place of the few larger ones, or new business development slow down, or public initiative be substituted for private. In our present situation the country does not need new enterprises so much as it does the efficient operation of those we now have engaged in necessary work. With ample provision for keeping the present business organization in a state of high efficiency, we can well afford to take time to devise plans designed to take care of new development.

#### TAX ON BUSINESS PROFITS.

I suggest a uniform tax of 33 $\frac{1}{3}$  per cent on the net profits of all business, whether conducted by an individual, a partnership, or a corporation; steamships and railroads controlled by the United States Government, and all public utilities privately owned, to be included. This tax is to be levied upon the net profits of each business without regard to the amount of capital employed or the amount or percentage of profit previously earned. This would be a tax upon the entire business-profit fund of the United States. All business is a privilege, and this tax would in effect be the confiscation by the Government of one-third of the benefits arising from the exercise of the privilege. I believe business could bear this tax without seriously impairing its efficiency. When the income tax returns are analyzed, I suspect that the yield at the rate suggested will show an increase of 30 to 50 per cent in amount above that received from the same source under the present law.

Since writing this I am rather inclined to think that the yield will be very much greater than that; but, of course, it is a guess. I would have to see the actual tabulated statistics in order to arrive at anything like a just and fair conclusion. [Reading:]

The method suggested greatly simplifies the process of ascertaining the tax and at the same time makes impossible many injustices and discriminations incident to the method employed in the present law. In computing business net income, reasonable salaries should be allowed individuals and partners actually conducting the business. In corporations this is already provided for in their salary expense. Two reports should be required from individuals and partners—the one to represent the business and the other the person—the latter should report the salary as income. Stringent provision should be made to compel every business, whether individual or corporate, to distribute to its owners all income in excess of that actively employed in conducting such business. If this were done, the business income would pay its tax, and the surplus not needed in the business itself would go into the hands of the individual, where it would again be taxed as individual income. This method would insure that excess profits would be adequately taxed but in a way that would not deprive business of that adequate support indispensable to its growth and efficiency. There should be no tax on stock dividends, since they do not represent any distribution but are only the issue of evidence of ownership. The profits represented by stock dividends remain in the business, and the stock issue in no wise alters the status either of the corporation or the stockholder. The corporation holds the money and the stockholder owns it in the first case, and the same is true after the stock dividend is issued.

#### TAX ON INDIVIDUAL INCOME.

I suggest that net income of the individual, with provision for the present exemptions, be taxed as follows:

- 5 per cent on net income in excess of exemptions and not in excess of \$10,000.
- 6 per cent on net income in excess of \$10,000 and not in excess of \$12,500.
- 8 per cent on net income in excess of \$12,500 and not in excess of \$15,000.
- 10 per cent on net income in excess of \$15,000 and not in excess of \$20,000.

14 per cent on net income in excess of \$20,000 and not in excess of \$40,000.  
 20 per cent on net income in excess of \$40,000 and not in excess of \$60,000.  
 28 per cent on net income in excess of \$60,000 and not in excess of \$80,000.  
 36 per cent on net income in excess of \$80,000 and not in excess of \$100,000.  
 44 per cent on net income in excess of \$100,000 and not in excess of \$150,000.  
 50 per cent on net income in excess of \$150,000 and not in excess of \$200,000.  
 60 per cent on net income in excess of \$200,000 and not in excess of \$250,000.  
 68 per cent on net income in excess of \$250,000 and not in excess of \$300,000.  
 74 per cent on net income in excess of \$300,000 and not in excess of \$500,000.  
 80 per cent on net income in excess of \$500,000 and not in excess of \$750,000.  
 90 per cent on all net income in excess of \$750,000.

The practical results of this scale would be as follows:

Tax on \$10,000 income, less \$2,000 exemption, would be \$400.  
 Tax on \$12,500 income, less \$2,000 exemption, would be \$550.  
 Tax on \$15,000 income, less \$2,000 exemption, would be \$750.  
 Tax on \$20,000 income, less \$2,000 exemption, would be \$1,250.  
 Tax on \$40,000 income, less \$2,000 exemption, would be \$4,050.  
 Tax on \$60,000 income, less \$2,000 exemption, would be \$8,050.  
 Tax on \$80,000 income, less \$2,000 exemption, would be \$13,050.  
 Tax on \$100,000 income, less \$2,000 exemption, would be \$20,850.  
 Tax on \$150,000 income, less \$2,000 exemption, would be \$42,850.  
 Tax on \$200,000 income, less \$2,000 exemption, would be \$67,850.  
 Tax on \$250,000 income, less \$2,000 exemption, would be \$97,850.  
 Tax on \$300,000 income, less \$2,000 exemption, would be \$131,850.  
 Tax on \$500,000 income, less \$2,000 exemption, would be \$279,850.  
 Tax on \$750,000 income, less \$2,000 exemption, would be \$479,850.  
 Tax on \$1,000,000 income, less \$2,000 exemption, would be \$704,850.

After the income reaches \$750,000 the Government takes 90 per cent of it. This scale practically doubles the present personal income tax. While the method here suggested for ascertaining the tax on individual income is practically the same used in the present law, the motive is reversed. The present law proceeded upon the assumption that business should bear the greater burden of taxation, and further that the parts of it deriving abnormal profits should pay the greater share, and that individual income should be taxed as an ancillary source of income thrown in to help out. The method of taxing business income defeated the object of imposing greater burdens upon war profits in that false capitalization afforded an avenue of escape for many and the limitation of exemption to 7 or 9 per cent practically destroyed any comparison between profits before and during the war. In many cases, too, the small capital with large earning capacity was heavily struck, while business not so well managed received a premium for its inefficiency. The methods here suggested are intended to conform to the principles that business being the economic organism should be supported to promote maximum efficiency, and that if sacrifice is to be made it should be made by the individual in order that waste and extravagance may be reduced to the minimum. The individual scale suggested practically doubles the present tax on individual incomes, but it will be observed that at the increased rates suggested the individual does not pay as much tax as is suggested for business until his income reaches approximately \$200,000 per annum. The rates suggested both for business and individual incomes are, of course, tentative. It would be impossible satisfactorily to arrive at definite figures until an analysis and thorough study of the income-tax returns for the past year had been made.

What I contend for is the recognition of the fact that sound public policy requires the preservation in its full efficiency of the economic machine, industrial, commercial, and financial, and that no greater tax should be imposed upon it than it can bear without impairing its power to serve, and further that the tax should be uniform upon all parts of this machine, and that a simple method of ascertaining the tax be adopted. I contend also for the principle of graduated taxes in individual income taking as much of it as may be necessary to meet the needs of the Government. The scale should be so arranged as to bear lightly on service income needed for reasonable consumptive use, and so that investment income above the amount necessary for reasonable consumption should be taxed heavily. This, in my opinion, is as far as Congress could safely go at the present time.

I am persuaded that legislation along the lines suggested would be helpful to the Government, largely increasing its revenues and highly beneficial in a broader sense in that it will help to clear the field for future action when the need for further remedial legislation shall arise. In conclusion, Mr. Chairman, permit me to thank you and your committee for the opportunity to present these views and to assure you that if I have been able to assist you even in a slight degree in the arduous task you have in hand I shall, indeed, feel gratified.

Mr. GREEN. I never exactly understood the argument that a tax upon capital is a tax upon efficiency. Is not that true in any case where we tax either the earnings or the accumulation of those earnings?

Mr. THOMAS. I think I can make that clear to you. If you tax a business, the more heavily you tax it the less profit it will make and the less risk it will take.

Mr. GREEN. I see I did not make my question clear. Your arguments addressed to the committee would indicate you are seeking to find revenue. We have to go after revenue wherever we find it, and the man who does not make anything would not be an object of taxation.

Mr. THOMAS. Upon what point do you want me to reply?

Mr. GREEN. How are we to escape taxing earnings of property accumulated by earnings?

Mr. THOMAS. That same argument would apply if you go out and attempt to tax maximum production and take it all. Do you think that productive of difficulties?

Mr. GREEN. You are asking me if we have a shower this afternoon whether it would be a good thing if it were a flood.

Mr. THOMAS. The point I have tried to make clear in there is that we recognize, at least I do, that everything must be taxed, and there is a point at which business will yield the largest revenue consistent with the highest efficiency, just as sometimes a man sells goods at lower prices because he makes more money by selling them at lower prices than he would by selling them at higher prices. If he charges too much his overturn is decreased to such an extent that he makes less at the higher price than he would at the lower price.

Besides, there is this element of business, which I have tried to make clear—that it is an organism, it is an instrument, and you can not put any more on it than it can shift. If you do you begin to dig under and destroy its efficiency and impair its usefulness. We can not afford in this stage of the game to do that. There is no argument on my part to the effect that we should take from business any burden that could be reasonably put on it. I think if you will take the schedule I have suggested there and test it by the income-tax returns and include the subjects that will come under those in the law, you will find that the income from it will be manifestly greater than we have already received under the tax law that run up to 60 per cent.

Mr. GREEN. Your plan of taxation is without regard to capital?

Mr. THOMAS. Yes, sir.

Mr. GREEN. I presumed that was so, but if you do that, wouldn't that in most cases amount to a consumption tax?

Mr. THOMAS. You take one-third of the income, and that is pretty heavy. Of course, business is eventually going to shift. If business has not already collected it you can not get it unless you confiscate the capital, and if you confiscate the capital you kill the business;

you go after the goose instead of the egg; and unless you take care of the goose—you may steal a feather, but if you undertake to kill the goose you have lost the egg and lost the goose that laid the egg, too.

Mr. GREEN. Have you reached any conclusion as to how much would be raised under your plan?

Mr. THOMAS. I have not done so, because I have not the facts. The principle is what I contend for, and I contend for the method to be arrived after a thorough examination of the statistical arrangement of the matters affecting the last year's income. I did not undertake to be exact, because it is a thing which the outsider can not be exact about with any degree of justice to the subject or himself.

Mr. STERLING. I understand you would tax all incomes the same ratio, without reference to capital?

Mr. THOMAS. Certainly; they have no relation.

Mr. STERLING. Suppose a business of \$100,000 was making 8 per cent. They would pay \$2,000, would they not?

Mr. THOMAS. A \$100,000 business making how much?

Mr. STERLING. Make \$8,000.

Mr. THOMAS. It depends upon how you would tax it, sir. A third of that would be \$8,000.

Mr. STERLING. After deducting the exemption?

Mr. THOMAS. There is no exemption in business.

Mr. STERLING. You said \$2,000 would be exempted.

Mr. THOMAS. No; \$2,000 would not be exempted.

Mr. STERLING. Let us take a \$100,000 investment that makes \$6,000.

Mr. THOMAS. Are you dealing with the individual or the business?

Mr. STERLING. Either one.

Mr. THOMAS. They do not apply.

Mr. STERLING. A \$100,000 investment that makes \$6,000, and you take one-third of it?

Mr. THOMAS. I would take a third of it; yes.

Mr. STERLING. Suppose there is an investment of \$25,000, making \$6,000?

Mr. THOMAS. That is all right; take the same amount.

Mr. STERLING. Do you not think that would destroy business?

Mr. THOMAS. Not at all; if your schedule of percentage is correct, if your imposition upon business is reasonable, it would not affect business because it comes out of earnings and of a reasonable imposition and therefore will not destroy business. I am assuming that you will be reasonable in your taxation.

Mr. STERLING. I am assuming we take out what you suggest, a third of it.

Mr. THOMAS. I think business could bear that. The man who was making \$6,000—in that \$6,000 is not included any expense, and no interest. All labor, all services—everything is written off, before that \$6,000 is ascertained. That is cash; and if he were getting \$4,000 cash after paying his taxes, if the business itself or work was bad, he might change his business just as we do oftentimes when the revenue is not satisfactory, and that would help to eliminate what we ought not to suggest.

Mr. STERLING. Ought we not to be just and equitable?

Mr. THOMAS. The principle I contend for is entirely fair, and it is the exemplification of a method that can be so exercised as to be fair.

Of course, if the Congress undertakes to exercise arbitrarily this method of any other method, it will destroy the thing it operates upon, because inherently in the power to tax is the power to destroy. What I am trying to do is put before you a simple method by which you can, by the exercise of good judgment, based upon such information as you can get, a regulation of this tax so that it will not stop business, but really prove a source of large income and leave business in the exercise of its functions and yield the most efficient results.

Mr. HAWLEY. Do you propose a graduated tax on incomes?

Mr. THOMAS. Yes, sir.

Mr. HAWLEY. You do not propose a graduated tax on business?

Mr. THOMAS. No, sir.

Mr. HAWLEY. I do not quite understand why you proceed on that basis.

Mr. THOMAS. I will explain that. There is absolutely no base on which you justify an income tax, unless the preexisting condition of injustice of return is admitted. If the returns are just, an income tax is an outrage, because you can not reach all property by an income tax, and if I have gotten what is mine and you have gotten what is yours and he has gotten what is his, there is absolutely no justice in making you and me pay his taxes. Therefore, if you want to go down to the bottom of it, the income tax exists because somebody got off with something that he had no equitable, just right to, and that income tax at its bottom is intended to equalize that injustice. That is the basic foundation for an income tax. My contention is that if you are going to exercise this instrumentality, if you are going to use it, you will have to use it true to its nature to get results. You will have to proceed on the assumption—if the assumption is wrong, then the income tax is wrong—but if the assumption is correct that the distribution has been unjust, then the income tax furnishes the instrument to undertake to restore to some extent the injustices that have resulted from the economic system.

Mr. HAWLEY. Why would not the injustice arise just as much out of business incomes as individual incomes?

Mr. THOMAS. For this reason: You have to be more than a horse. A horse is said to have one idea, but a Congressman has to have more than one idea, because there are a great many different phases to any question that comes up for legislation. You have an instrument. It matters not what the injustice may be, you must preserve that instrument. We are not going to sacrifice that instrument in the face of national danger, at any rate, and if we have to maintain it we must provide for that. Therefore, I would not undertake any distribution based on business for that reason. I would not interfere dangerously with that. That would slow the wheels down. I do not want to slow the wheels down. I want the Kaiser licked, and to lick the Kaiser you have to keep the wheels going, and we have to go with the wheels.

Another reason for not putting it on business is that you miss the objective when you put it on business. If a large corporation has made too much money and you undertake to correct that and the income tax is justified, the distribution is unfair and unjust, you can not reach that by a graduated income tax, because every corpo-

ration of any importance is composed not only of big rich people, but little poor people, and any graduated income tax that digs down to correct an injustice of distribution is correcting the injustice of distribution in the pockets of people that never got it. That is why you find a great many people who are largely interested in corporations are willing to submit to a graduated income tax, because it makes the little poor fellow pay his part of it, whereas, if you take it to the individual and apply a graduated tax, then you get it out of the last owner. If the fellow has gotten off with excess profits you would take it back, and then you do not go to the man who did not get it. In other words, you go to the ultimate source.

Mr. LONGWORTH. I have a question I would like to ask. You are evidently an economist and a philosopher.

Mr. THOMAS. I am not a philosopher, but merely a plain citizen.

Mr. LONGWORTH. I understood you to say that in your opinion a man who spent any portion of his income unproductively was a greater burden on the community than an idler.

Mr. THOMAS. I think I did not say it exactly that way. What I did say was, that the man who idled away his time, or the idler, was more expensive to society than the poor tramp, because he wasted more. That is the sum of what I said.

Mr. LONGWORTH. Here was one question I desired to ask on that subject: Do you think that a man who spends a portion of his income in buying works of art is a greater burden on the community than an idler?

Mr. THOMAS. You want to narrow the question down to what I think are the extremes of economic waste. I would not like to decide that question for you, nor would I like you particularly to decide it for me. The principle I lay down is that things which one man might call extravagant are things of high utility to somebody else, and in an economic discussion I am a little averse to going into any proposition as an aside and saying what is waste and what is not waste. But if there is waste—and I believe there is—I do not undertake to define it, because I think it is indefinable.

Mr. O'SHAUNESSY. Mr. Thomas, do you put business on the same basis where great profits have been made out of material used in the conduct of the war and ordinary business in which the war has made no difference?

Mr. THOMAS. That really has nothing whatever to do with it. It is absolutely a humbug. The profiteer is a dangerous man, no matter whether engaged in war profiteering or in any other kind of profiteering—profiteering is the thing that hurts. I think it is a colossal humbug. It is profiteering I care about; the different kinds of profiteering all look alike to me.

Mr. STERLING. Do you not think there is some difference between the man who takes advantage of the war situation to make big profits out of the Government and the man who does not take advantage of the war situation?

Mr. THOMAS. Did he take advantage? That is the next question. Are you correct about it? Here is the United States Steel Corporation. It has made outrageous profits. Everybody knows that. But did not the United States Government set the price for the steel? Should Mr. Gary get up an army and come down and put President Wilson out of business?

Mr. STERLING. I do not suppose the Government set a price any higher than it had to pay to get the stuff.

Mr. THOMAS. I am not arguing the righteousness of the thing, but I am showing you that the steel corporation has been acting in conformity with law.

Mr. STERLING. I am not referring to the steel corporation.

Mr. THOMAS. Of course, if you go back to the man who goes deliberately to restrict output or corners the supply or does anything else to compel his Government to pay unreasonable profits, I say that man ought to be met with the firing squad at sunup. He is disloyal; he is a traitor. But in the general trend of advancing prices, much of this profit you talk about as being profiteering came from this fact of tremendously increased values of inventories. The man who bought goods in 1913 at one price and sold them at another price that yielded a very large income presents only one side of the picture. The other side is coming on. The devil himself can not feel the decline that must follow in the natural evolution of that cycle, and therefore it does not affect me personally.

Mr. MOORE. Take your own illustration of the United States Steel Corporation. Under your scheme of raising income taxes would you release corporations like the United States Steel Corporation from taxation?

Mr. THOMAS. Not at all. I would require them to pay a third of their net earnings, if that were the percentage reached.

Mr. MOORE. You differentiate, then, between the person and the business?

Mr. THOMAS. That is right.

Mr. MOORE. And in devising a new scheme according to the present law under the graduated income tax you could collect from the individual?

Mr. THOMAS. That is right.

Mr. MOORE. I wanted to know whether under that system you would relieve the steel corporation or the business concern from making the return and rely solely upon the individual?

Mr. THOMAS. No; I do not. There are three parts of the income. All of the income in the hands of the business would be taxed, first, one-third. Then, I would subdivide the rest into two parts, one to be paid out as dividends, which will again be taxed.

Mr. MOORE. You are speaking of income now.

Mr. THOMAS. Here are two things [illustrating]. This [indicating] is business; here [indicating] is the stockholder. Business itself makes all of it. I take one-third. That leave two-thirds in the hands of business. This business may need a certain part of that two-thirds or all of it. If it keeps it in the business, there is no further tax on that particular profit fund.

Mr. MOORE. Is it all funds in the business or just income?

Mr. THOMAS. Income is what I am talking about, not confiscation of capital. Somebody raised the point about low-rate bonds—11 per cent in Germany.

Mr. MOORE. You are starting out in your taxicab with a charge of 50 cents against you before you begin, applying that to the business, and then the profits that result from the various trips, so far as the owner and driver is concerned, that is what we are going to tax.

Mr. THOMAS. I do not charge anything on the cab until he has earned it, and then I take away one-third, after he has done business all day, after he comes home at night; after he comes home at night is the time I catch him.

Mr. MORRE. And your idea is the whole system would be simplified if we adopt your general plan?

Mr. THOMAS. With the proper percentage. I do not undertake to say that; I tentatively suggest that.

Mr. MOORE. I understand you are a manufacturer of wagons?

Mr. THOMAS. Yes, sir.

Mr. MOORE. At Lynchburg, Va.?

Mr. THOMAS. Yes, sir.

Mr. MOORE. You are not a professor of economics?

Mr. THOMAS. No; I do not claim to be that.

Mr. MOORE. You have made a very good statement.

Mr. THOMAS. I thank you.

Mr. DICKINSON. I am highly in accord with your theory on taxing individual incomes, but it troubles me in the light of your statement that you do not want to destroy business. Take, for example, the \$100,000 business Mr. Sterling made reference to as earning 6 per cent. But supposing that \$100,000 corporation made 3 per cent. Do you mean to say you would take \$1,000—1 per cent—and destroy that business?

Mr. THOMAS. All the business is taken care of before that sum is reached at all. The business is taken care of in its expense account, and this only appears as a balance after the needs of the business are met, except for new capital.

Mr. DICKINSON. \$3,000 is the net income?

Mr. THOMAS. I know; but the business has been taken care of before that \$3,000 arises. That is stock dividend; that is earned for stock dividend.

Mr. DICKINSON. How long do you suppose the stockholders would be in that business?

Mr. THOMAS. I would care for him in this computation, because the thing is already established. The stockholder will have to continue; there is nothing else for him to do.

Mr. MOORE. Suppose the wagon business of the United States was pretty well in the control of the United States Wagon Co., as the United States Steel Corporation makes most of the steel, and the Government bought its wagons from the United States Wagon Co., and you were still running an individual concern down at Lynchburg, Va., and you would start out with your proposition to take one-third of the profits of the business before you began taxing, do you think your percentage would work out fairly to your small concern?

Mr. THOMAS. I have already expressed the opinion several times that I am not wedded to any percentage. This was a tentative suggestion; but the principle is the thing I contend for.

Mr. MOORE. You are arguing for a continuance of the business; you do not want the business destroyed?

Mr. THOMAS. Not at all.

Mr. MOORE. And I assume we do not want the business destroyed.

Mr. THOMAS. And the proper percentage of that business on a uniform tax basis will not be destroyed.



Mr. MOORE. And the Government, by levying embargoes and other forms of favoritism, due to the desires to hasten the war, is throwing all of its wagon business into the hands of the United States Wagon Co., and I am wondering what effect it is going to have on your individual company down in Lynchburg, where you may not be able to get your materials, or you may not be able to hold your labor, or you may not be able to meet the United States Government conditions in regard to payment.

Mr. THOMAS. I think that case will arise in a good many businesses, whether you have an income tax at all or not.

Mr. MOORE. We have to raise taxes from as wide a field as possible.

Mr. THOMAS. And mine is much wider than your present law. It reaches out and goes down to the very basis of business, segregates a part which is the unit of profit, all the profit earned in the United States subject to the uniform tax, and the little man pays less because he has got less and the big man pays more because he gets more.

Mr. MOORE. I contend they do not have a chance to proceed now under present conditions, because of concentration of business, and that the tax burden bears heavily on them as small men as compared with larger operators. I assume that in raising the two dollars for one next year as compared with last year we may have to bear now even more heavily upon the small man than before; and I would like to know whether, in your study of the situation, you have reached some running conclusion as to the effect the increased tax will have, especially upon such a plant as yours, if it should be levied upon the small operator.

Mr. THOMAS. My position is that under the present tax law it would greatly relieve the small tax payers, because under the present law war profits and things of that sort, which I do not understand and which is economical foolishness to me.

Mr. MOORE. Bear in mind you have to have as much proportionate machinery outlay for your outfit—for your factory in Lynchburg—as the great Government corporations, and its overhead would be more economical in the end by reason of its system than yours would be.

Mr. THOMAS. The corporate tax law, as a general proposition, ought not to be framed to build up a business or destroy it. We have much, too much, of that in this country already.

Mr. MOORE. You yourself have in your argument that which is potent to destroy business, and I assume that no one is at liberty to destroy business.

Mr. THOMAS. If you apply to little business the present tax it is more oppressive in many cases than my recommendation would be, because a man who has a little money conserves his resources and shows a larger percentage of profits because in economics there is a constant tendency to fall in profits. It has not applied in the last year or two, but if you give it time there is something always to pull profits down. The small man will always make more percentage than the larger man if he lives at all. My judgment is that as we go on into a higher state of corporation management that the little man in a larger degree will have to disappear.

Mr. MOORE. If that is so, the individual cobbler, making shoes, would naturally have to give away to the large manufacturer of shoes.

Mr. THOMAS. That is the point, and I think it would be better for society and the cobbler, both, that is should be so.

Mr. MOORE. This thought occurred to me, you believe in making the statistics in regard to income taxes public?

Mr. THOMAS. Absolutely. I do not see but one class of people who would be benefited by secrecy, except thieves, and I am opposed to thieves.

Mr. MOORE. Do you think that should proceed to the extent of publishing all of the details of a business and having it subject to inspection or published in the newspapers?

Mr. THOMAS. I do not think so. I do not believe in being unreasonable about it; but make it available for anyone who wanted information to be able to get it, not a public record that was open to inspection.

Mr. MOORE. Would it not serve the purpose you have in view, and many other people have in view, simply to make public the amounts of the net income and the amount received from dividends?

Mr. THOMAS. No, sir; the principle calls for the names of the man and the amount, both.

Mr. MOORE. I said, would it not answer all the purposes you have in view simply to give the name of the person—say, A—and the amount of his net income and the amount of dividend received?

Mr. THOMAS. That is all, I think, would be necessary to give the public a fair idea.

Mr. MOORE. Not giving away the details of the person's business?

Mr. THOMAS. I do not think that is necessary.

The CHAIRMAN. You have been very interesting in your philosophy and sound reasoning; but why do you desire to take 90 per cent of a man's income after, say, \$150,000?

Mr. THOMAS. In the first place, I would like very much to get out of the minds of the committee that I am committed to percentages; that is not the point I want to impress upon you.

The CHAIRMAN. In the present rate of graduates, why would not that be a little too high?

Mr. THOMAS. My opinion is that a personal income—certainly in our state of urgent need for conservation and efficiency—is that \$1,000,000 income is as much money as ought to put in the hands of anyone for reinvestment. The country is not interested in reinvestment, and that is what they must do with it or blow it in to the winds.

The CHAIRMAN. Your idea is, a stockholder in a corporation in a business of millions of dollars' extent, and he received, say, \$1,000,000 personal income from a business that has already made enough?

Mr. THOMAS. That is the idea.

The CHAIRMAN. And that Bill Jones should not have more than \$1,000,000 to reinvest in new enterprise?

Mr. THOMAS. That is the idea, Mr. Chairman. I would give him out of his earnings \$300,000, approximately, and I would take the rest for the Government.

Mr. LONGWORTH. You are aware our present taxes are higher than Great Britain's!

Mr. THOMAS. Yes. I am very glad, indeed, to have had the opportunity of being with you.

The CHAIRMAN. The committee will now recess until 2 o'clock this afternoon.

(Thereupon, at 12.50 o'clock p. m. the committee took a recess until 2 o'clock this afternoon.)

AFTER RECESS.

STATEMENT OF MR. A. F. THOMAS—Resumed.

The CHAIRMAN. Mr. Garner, I believe you wanted to ask Mr. Thomas a question.

Mr. GARNER. I do not know that I do, Mr. Chairman. I want to say to Mr. Thomas, as one member of the committee, that I desire to thank him for his very illuminating and interesting paper. It was my understanding we were going to quit at 12 o'clock, and I wanted to be on the floor of the House at that time, or else I would not have mentioned to the chairman that probably your time would go over and that I had some questions to ask you. One of the most difficult problems—to my mind, at least, if not to the entire committee—is the question of the collection from business of what is known as the excess-profits or war-profits tax. We have the greatest difficulty in determining upon what to base that tax. You seem to have solved the problem, except you do not meet the demand—apparently the universal demand—of the people for greater taxation upon these tremendous war profits. Your proposition to take one-third, for instance, in the case of a corporation of \$50,000 which has made a half a million dollars, would not meet that situation. Now, can there be a combination tax, based first upon your proposition where the profit did not exceed a certain percentage, and then another tax covering cases such as I have just mentioned—for instance, a corporation that had \$50,000 capital, and made in the year 1918 \$500,000. Could you not apply the tax that you propose of one-third and then put a clause in the bill that where the profit runs in excess of a certain per cent they take a larger percentage. Of course, that would resolve itself right back to the proposition of upon what you are going to base the tax, whether it is to be the capital stock or value or what.

Mr. THOMAS. The effect of my suggestions would be to do exactly what you say you want to do. It will do this: I have a knowledge of accounting and I understand accounting, and the result of these two methods, this combination of methods that you speak of, is involved in my proposition, first, a uniform tax upon the sum of business profits, that to apply to the different parts of that profit, wherever found. If there are excess profits, of course, that is a matter of name, you know. It is all the same to me. All yellow dogs look alike to me.

The CHAIRMAN. You mean exorbitant profits?

Mr. THOMAS. Yes; that is what I mean. A profit is a profit, and the difference is one of degree, and that is the point I am trying to make. Of course, every individual, perhaps, will have a different idea of what is an exorbitant profit.

Mr. DICKINSON. It is all income.

Mr. THOMAS. It is all income. It is the sum total of the economic result of operation of the economic machine of the entire country.

Now, in so far as that is derived from business I propose a uniform tax to bear equally on every business, regardless of the amount of income or the amount of capital invested.

Mr. GARNER. Let me interrupt you just there. Would you put a minimum amount on the business? For instance, here is a man who has a capital invested, we will say, of \$1,000, or has a little store out in the country, and some of them have a capital of \$100 or \$150 or \$200, and that is a very negligible quantity in the question of the transaction of business throughout the country. Would you have any minimum?

Mr. THOMAS. I would answer that question in this way: We can not sometimes in life—in fact, life itself is a matter of approximation, and we can not see everything or ought not to try to see everything—and if it is thought to be expedient it is not consistent with the principle because the principle I outlined applies from top to bottom, no matter whether the amount is large or small, and has no exceptions, but if in the judgment and wisdom of the Congress it was thought it would be better to lay aside a \$1,000 exemption to cover those cases, or \$1,500 or \$2,000 or whatever the Congress might decide, I can not see any insuperable objection to it. It would merely be a matter of expediency; a sort of sop thrown Cerberus. I hope I have made clear to you one side of the proposition, and that is the taxation of business income. We are now going to deal with what they call the excess-profit tax, which is nothing more or less than a large profit. It does not matter whether it comes out of the war or not, because I would not confine it to war prices. You could tax it wherever you found it. After having taxed this business income, what remained in the business would either be necessary to the business or would not; a part of it might be necessary and a part of it might not. If the residue after taking one-third was necessary to the economic efficiency of that business, it should remain in the business in the public interest.

If there is an excess over and above what is necessary to the highest economic efficiency of the business, that becomes consumptive or investive capital; that is to say, it is subject to be paid out in dividends, to be spent in the frivolities of life, or reinvested in some useful business or some other kind of business, whatever it may be. Now, the position I take there is that you want to reach the excess profits without materially damaging the efficiency of business, which we all would concede was necessary, because you have already passed a law to put your Government in the business of promoting the efficiency of business by lending them money and supporting them if it is necessary, and if it is necessary for them to keep that money, he has simply got the money that you would lend him, and if he has already got the money, why put the Government to the trouble of financing him when he has the money with which to finance himself? Why tax him to make money and put it in the same place? That is not wise.

Therefore, we will concede, or, rather, I assume, that it is necessary to leave in the business what is necessary to the operation of the business. That brings us, then, to the residue that is open to distribution; that is, that which will be paid out or should be paid out either to the stockholder or reinvested by the business itself. I take

the ground there that in our present circumstances the Government is not interested in permitting corporations and individuals and other business interests to reinvest. We are not interested in new developments. We are interested in conserving the efficiency of the present machine, and whatever is left for reinvestment should not be left in the hands of the business to reinvest, but transferred to the stockholder and let the stockholder become the investor instead of the business. Therefore, the minute you take it out of the hands of the business and put it into the hands of the stockholder, then you, with your graduated tax, shall say how much excess profit is confiscated to the Government and how much remains in the hands of the individual.

Mr. GARNER. Now, there comes in exactly the trouble that you do not seem to have anticipated. Who is going to determine what part of this 66 $\frac{2}{3}$  portion should be reinvested in the business wisely, and what portion should be declared as dividends to the stockholders?

Mr. THOMAS. While I did not undertake to outline the method, because I was not drawing a bill—

Mr. GARNER (interposing). But I am simply telling you just the difficulty we have here.

Mr. THOMAS. Let me finish my answer, please. You will find in my testimony this morning I urged stringent laws compelling a distribution of excess. Now, as to how that is done is a question of constructive ability in drafting a law to accomplish the desired purpose. Now, I do not pose as a constructive statesman, particularly—

Mr. DICKINSON (interposing). After the Government has taken one-third as a tax, if it is one-third, what has the Government got to do with what he does with the rest of it?

Mr. THOMAS. For this reason, whatever is necessary for the development of that business the Government should see is kept in the business; but whatever is in excess of the needs of that immediate business then becomes capital for reinvestment; and if you want to reach it as a surplus fund you have got to go out and tax it in the hands of the individual.

Mr. GARNER. That is what I am trying to get at. I can not conceive just at this moment how you would administer a law in which each individual business, as you say, from the lowest to the highest, was interested, and have some governmental official determine whether or not two-thirds of it shall be reinvested in the business or two-thirds declared as dividends to the stockholders, and therefore a tax placed upon it. It looks to me like you would enter into the field of impossibility, just as we are now confronted with the difficulty under the present system of ascertaining the capital stock and the value of things to levy the excess-profit tax. Now, there is the difficulty we have. We do not have so much difficulty in arriving at rates in this committee as we do the procedure upon which we will levy the tax.

Mr. THOMAS. Mr. Chairman, let me suggest that perhaps the difficulty of the gentleman is due to his lack of familiarity with accounting methods. I do not know whether he is an accountant or not.

Mr. GARNER. I am not; no, sir.

Mr. THOMAS. But it is perfectly feasible to draft a statute that will make it very easy and give certain definite tests of whether there

is more money in the business than necessary. I studied your present law very carefully, and also studied the forms gotten out by the Treasury Department. The man who drew the law was in the wilderness, but the man who made out that form was an expert. He knew his business from top to bottom, and if you will get that man—I do not know who he is—and put him to work on that test, he will come mighty near giving you some definite way of arriving at just what ought to be done and how to do it.

Mr. GARNER. You would leave then to the administration of the law the question of how much should be reinvested?

Mr. THOMAS. No, sir.

Mr. GARNER. Whom would you leave that to?

Mr. THOMAS. I would get this man or some other man to construct a statute that would lay down the method that would determine what should be kept in the business and what should be paid out. That is a matter of accounting.

Mr. GARNER. Well, it is mighty hard to draw a law that will tell just how much should return to the business and how much should be paid out.

Mr. THOMAS. It is not as difficult as it appears to be.

Mr. FAIRCHILD. Mr. Thomas, you understand that a good many corporations to-day are not making as much money as they made before the war?

Mr. THOMAS. And they will increase, in my judgment, sir.

Mr. FAIRCHILD. Under present labor conditions and under the increased cost of labor, a great many corporations throughout the country to-day are not making the profits they formerly made; that is, they are not profiting by the war or by any reflex from the war.

Mr. THOMAS. That would be a natural result.

Mr. FAIRCHILD. Do you think it would be fair to tax those corporations that are not profiting 33½ per cent and only tax the corporations that are making these enormous profits 33½ per cent?

Mr. THOMAS. We are proceeding upon two principles there. The first principle of taxing the different business of the country does not proceed upon the equalization theory. We segregate the volume of profits and call that a unit. We tax it and we tax it as a tax upon instrumentality. Now, the result of the operation of the income tax, affecting the individual, accomplishes exactly the purpose that you have in mind of equalization, but the point I make is that the equalization should be between individuals and not between different places of business.

Mr. FAIRCHILD. I understand a corporation is made up of a community of stockholders. Many of those stockholders are poor people. If you tax a corporation that is to-day doing an enormous business, but will, perhaps, do a subnormal business due to war conditions, and tax that corporation 33½ per cent, the chances are these dividends, which are barely earned, being paid to poor people will have to be eliminated. Therefore the stockholders of these corporations will naturally have to pay an excess tax because of the suffering of the loss of their dividends, which are necessary to their existence. A 100 per cent tax it would amount to, or more.

Mr. THOMAS. How is that?

Mr. FAIRCHILD. It would amount to a 100 per cent tax if it took from them their source of income, which, in many cases, would take

their entire source of income, which would be necessary under your plan to stop these corporations from paying dividends. I know a corporation that is made up largely of small stockholders, and many corporations are. For instance, a corporation that I have in mind has worked for years to get in a position to pay a small dividend. It has 700 stockholders. Many of those stockholders are dependent on their dividends for their daily bread. If you tax those corporations that are not prospering in the war 33½ per cent, you put them in a position where they have got to quit paying dividends, and those stockholders will suffer.

Mr. THOMAS. I would like to answer that by saying, first: I will repeat, I have not undertaken to define the percentages of profit that should be taken in any other than a very loose, tentative way.

Mr. FAIRCHILD. You made the broad statement that you should tax all corporations 33½ per cent?

Mr. THOMAS. No; I made the suggestion as a tentative proposition. But I would tax them all equally, with the same percentage. It doesn't matter what the amount is. I think the amount ought to be adjusted after a very careful examination of all of the data your committee can get before it. As for taking care of the stockholders, nobody has a proscriptive right as against the Government and as against an income.

Mr. FAIRCHILD. No; but the Government should have a proscriptive right against corporations making enormous dividends.

Mr. THOMAS. If you will follow my plan you can get to that.

Mr. FAIRCHILD. It would be manifestly inequitable.

Mr. THOMAS. I don't think so, in that the profit tax would be uniform and equal, and, second, having as its motive distribution against the benefits received, I think you couldn't get it more equitable unless you deny the equitability of the income tax.

Mr. DICKINSON. Take a per cent from the income by the tax—his net income. The balance of it is distributed and goes to the individual. You don't take it all.

Mr. THOMAS. There is absolutely no difference between my proposition and the present law, except the present law is a very difficult, inequitable, unfair, unjust measure and one I don't see how could be very well justified.

The CHAIRMAN. It looks like a pretty large difference?

Mr. THOMAS (laughing). Just a small difference.

Mr. DICKINSON. The net profits are distributed, and when you take a per cent for Government purposes you don't take all.

Mr. THOMAS. No; you simply levy a uniform tax just as it levies a uniform tax on coffee that is imported. The rich man that drinks coffee perhaps ought to be made to pay a tax 17 times greater than the poor devil has to pay. But that is not the method of levying taxation. It is levied uniformly. Whoever drinks coffee pays tax in proportion to the amount of coffee he drinks.

Mr. MOORE. Your statement has been very interesting to me, and I am curious to know more about you and your work, and I hope you will pardon me for asking you this question: How did you come to study this matter of taxation? I ask merely in a jocular way. You have a grasp of the subject, and it would indicate you have given special study to it. You have just said the present law is inequitable, unjust, and therefore I assume you are familiar with that law.

Therefore I would like to get a little bit more about your own study of that subject.

Mr. THOMAS. Well, I don't know that my history would be interesting to the committee, but I would in a general way be glad to give it.

Mr. MOORE. Have you made a close study of it in school?

Mr. THOMAS. Yes, sir. I have made a very close study of it in the university of hard knocks, from which I graduated a good many years ago, and have been going back for post graduate courses many times since. I studied it as a business proposition. The way I became interested in it first was about 20 or 25 years ago I was engaged in the domestic and export tobacco business, and I became very deeply interested in the trend of economic events. I thought I saw trouble ahead, and I knew that there would be a landing place or a wreck, and I wanted to land, and I took up the subject of economics when a great many people were saying that the trusts were top-heavy and couldn't pass, and it was an evanescent growth that would pass, and the deeper I got into the subject the more thoroughly I became convinced that underlying it all was a sound, safe, economic principle that meant a revolution of the world, and I studied that and applied it to my own business, and when the getting-off time came I got off instead of drowning. That led me first to the investigation of it. In connection with it, of course, I have always been interested in public matters. I have always tried as studiously and as earnestly as I could to divorce my interest from my vision. If I go to hell, I want to see that I am going there. I don't want to deceive myself.

Mr. MOORE. I hope nobody in Lynchburg has any such hopes or anticipations.

Mr. THOMAS. I don't know about that; but what I want to impress upon the committee is that in studying public questions I try to see just exactly how it is.

Mr. MOORE. Have you had any official connection with the Government, or the Revenue Department?

Mr. THOMAS. None whatever.

Mr. MOORE. Your studies have been outside?

Mr. THOMAS. Yes, sir.

Mr. MOORE. Since you have shown your familiarity with the existing law and done what very few men have attempted to do, and have presented to this committee a very concrete plan, with an improvement, will you state whether you have made any calculations or estimated as to what your proposal would produce in comparison with the present law?

Mr. THOMAS. I haven't figured on that.

Mr. MOORE. You can't say that if your suggestion was adopted, in whole or in part, we would raise more revenue than now?

Mr. THOMAS. That would depend on rates. But on the general principle I assume we would raise a good deal more revenue from the fact that we would touch a good many more subjects than we have now. I have had no data to study.

Mr. MOORE. As a practical business man you must realize that the problem for this committee is to find out where we can get \$8,000,000,000 in 1918 as against four billions we got last year.



Mr. THOMAS. I realize that. I am not telling you what to do except in the merest tentative way, but to offer a method that occurs to me that might accomplish the purpose desired to be accomplished without doing serious injury to anybody.

Mr. LONGWORTH. Now, Mr. Thomas, you say that you feel the present law does not cover—

Mr. THOMAS (interposing). You take the railroads earning 8 and 9 per cent.

Mr. LONGWORTH. We have now a corporation tax based on net earnings.

Mr. THOMAS. How much do you get out of it?

Mr. LONGWORTH. Six per cent. All that your proposition involves is raising that from 6 per cent to 33½ per cent and taking out the exemption and wiping out war and excess profits taxes as a resource.

Mr. THOMAS. Yes.

Mr. LONGWORTH. In other words, you are greatly diminishing revenue.

Mr. THOMAS. Not at all, because if I lose in one hand, I take in the other.

Mr. LONGWORTH. We tax every corporation in this country 6 per cent.

Mr. THOMAS. I suggest you tax a very much higher rate.

Mr. LONGWORTH. You are diminishing it.

Mr. THOMAS. No; I don't think so. You find a great many people that are tax free that will come in under this.

Mr. LONGWORTH. Not corporations.

Mr. THOMAS. Oh, certainly. You take a railroad that earns from 7 to 9 per cent—how much tax do they pay under the present bill?

Mr. LONGWORTH. They pay 6 per cent on their net earnings.

Mr. THOMAS. Under my proposition, if you put your tax 20 per cent on the net earnings regardless of capital, that is what they pay, one-fifth of it. Wouldn't that be an increase?

Mr. LONGWORTH. That would be an increase of tax but a diminution of resources, because you wipe out the whole field of excess-profits tax.

Mr. THOMAS. I don't wipe that out at all. My theory is if there is an excess greater than is needed in the operation of the business, with a proposition in the law for the disbursing of the excess, it depends on what percentage you charge, but you could with a properly graduated law, you can get any per cent. of that income you want. It is up to you whether you get it or don't get it. You have got the grounds.

The CHAIRMAN. The theory is a good one. The principle may be a good one, but the trouble is, how can the Government decide how much of this surplus over 33½ per cent should remain in the business? How can the Government compel its distribution?

Mr. THOMAS. I think that should be met.

The CHAIRMAN. We have a law now that is absolutely vain.

Mr. THOMAS. That is why I think it is too indefinite.

The CHAIRMAN. You couldn't say that. You say he could be taxed a little more. If it gets to the surplus, unless it is used and employed in the business, the weakness in a law of that kind is this, that it lacks a provision, doesn't define a method for ascertaining the result.

Mr. THOMAS. You left it off in the whole. A man may decide it is unnecessary or he may decide it is necessary.

The CHAIRMAN. You leave it to the stockholders or directors; they will keep it in the business, for the reason they don't want to distribute it to themselves, because they will catch this high surtax, and they will keep it piled up in the surplus, without any distribution to the stockholders, with the hope that in the future, before the stockholders really need that money for a living, the tax will all be over, and therefore they will keep it in the business and escape all tax for war purposes. There is the trouble.

Mr. THOMAS. I recognize that.

The CHAIRMAN. Wait a minute. If you leave it to the stockholders, they would keep it all, wouldn't they? I mean to the directors.

Mr. THOMAS. Yes, sir.

The CHAIRMAN. If you leave it to the Government, wouldn't there be so much play for favoritism and discrimination? Couldn't one set of fellows convince a clerk or administrator down here in the Treasury Department it is necessary to keep all this; and another fellow, one not being half so wise or shrewd or half as good a lawyer as you, to talk them into making them distribute it?

Mr. THOMAS. If you will hear me, I think I can make myself clear on that. The weakness in the whole situation is the lack of defining a definite method for ascertaining the amount of capital necessary to do business. There is your difficulty. If you will define a definite bookkeeping method of saying what shall be regarded as necessary and what not, which I hold can be done, then it becomes a matter of administration; and if you don't administer your law, put somebody in jail for not administering it.

Mr. GARNER. You have done the committee, and, I think, the country, a good service here. Will you undertake to draw that law and submit it to the committee? I don't believe there is a man living that can draw that law.

The CHAIRMAN. He could have added, being very courteous, if any man in the world could do it, you could. I am going to give you a concrete example, not with exactness, but substantially with exactness. It really happens right to-day. Here is a corporation of a million dollars capital. They made last year \$4,000,000, clear, net, and everything—400 per cent—absolutely on account of the war and the necessities of the people which the war brought about. Here is another company that has a million dollars capital making about 10 per cent before the war, but made 6 per cent, \$60,000. But just taking and having no graduation in this which you propose, saying that we are going to levy a 33½ per cent of the income, this corporation that is making this 400 per cent out of the war, and because of the war, would, after paying its third, have left \$2,266,000, or 266 per cent on its capital invested. While the corporation that is more unfortunate and in a very unfortunate sense, and very unfortunate since the war, after taking its one-third, would have only \$40,000 left—only 4 per cent—and we have several cases not as intense as that, but we have several cases that almost approach it.

Mr. THOMAS. There is no difference in the world between the chair, the committee, and myself on this thing, that where the man has

been getting too much he ought to be made to come across. There is no objection to my plan.

The CHAIRMAN. How are you going to do it is the question.

Mr. THOMAS. The question is the most fair, just way to make him come across without slowing down the economic machinery.

The CHAIRMAN. Haven't you got to have some kind of graduation for extreme cases like that?

Mr. THOMAS. Of course you have, but I hold if the graduation—

The CHAIRMAN (interposing). But you are going to have it after it strikes the individual when the dividends are paid, but these gentlemen who are shrewd enough to keep out with the eyes of the Treasury on them, the eyes of the Congress on them, the eyes of the people almost on them, are making 400 per cent profit. Don't you think they are about ready to convince the Treasury people or any department in any Government that it is necessary to have that \$4,000,000 when they come to expand their business for the productivity of the country?

Mr. THOMAS. If you made a law that those people had to compute two and two, that made four, you had an officer that ought to administer that and he didn't administer it, you ought to put him in jail.

The point is, coming back to the same proposition, if as Mr. Garner suggests, that no man can devise a method and put it into the law, what is needed in the business and what is not, then you ought to have a tax on corporations adjusted as clumsily as you naturally will do it, to get at it as best you can to meet a situation that ought to be met. There is no doubt about that. But I don't admit that.

Mr. LONGWORTH. Take this case. At the request of the Government practically the corporation will put all of its profit back in its business.

Mr. THOMAS. That would be needed in the business in my judgment.

Mr. LONGWORTH. You would take away one-third of it?

Mr. THOMAS. Oh, yes. I would tax him to one-third of it, and if he needed any more money, let your corporation you have established here lend it to him.

Mr. GREEN. Do you think that we would have any objection to making it higher if we didn't see certain objections to that in so doing?

Mr. THOMAS. The new proposition is to get away from the clumsy, cumbersome, unfair, unjust law that you passed at the last session.

Mr. GREEN. It is very easy to apply those epithets but it is a little harder to demonstrate it is true.

Mr. THOMAS. I think I could demonstrate it.

Mr. LONGWORTH. Of course, you don't claim that an increase of the corporation tax from 6 per cent to 33½ per cent would raise a billion and one-half dollars do you?

Mr. THOMAS. I don't claim anything for figures unless you can show me the facts. I am more exact in my conclusions than in my figures.

The CHAIRMAN. Let me state one thing. If you can devise any reasonable method of compelling the distribution of earnings by corporations, without suggesting any corporation tax at all, why not just raise the surtax?

Mr. THOMAS. For this reason. Business can distribute a certain amount of tax without serious embarrassment of business. That would be greatly helpful to the Government, I think, for that reason. You are not undertaking as I understand it to create an ideal tax law. You are trying to meet a practical situation.

The CHAIRMAN. That is our trouble, the practical part.

Mr. THOMAS. The practical situation. If you add to one, you first arouse an opposition in this country, if you undertook to reach it in a way that would be overwhelming.

The CHAIRMAN. If you could devise a reasonable way to meet your distribution, you wouldn't have to levy a corporation tax. For instance, you could say that a corporation should distribute to its stockholders two-thirds of its earning, three-fourths or one-fifth, but you don't know the practical thing to get at it. That is the reason the corporation tax to your theory has ever suggested itself to your mind because no Government official can ever tell what a corporation distributes and what not.

Mr. THOMAS. That is entirely true.

Mr. GARNER. Mr. Thomas, I don't know whether you would like to go into any other field of taxation or not. But you have such a comprehensive viewpoint of business profits and incomes, we will have to consider the question of luxuries and nonessentials. I don't know whether you have given that any consideration.

Mr. THOMAS. I dislike to do so. I will be forced to conclude that resources are dangerous things to do with. When the gentleman suggested that I can do all these things I am afraid he is unloading on me a job that is too much for me. Of course, there are other sources of income. When Congress get really radical and wants to put in operation some theories that would produce a great deal of revenue and correct a good many other evils, and some very great, I would be very glad to take up with them the tobacco tax in the United States.

Mr. MOORE. You are getting to specific instances of revenue. Have you any other specific instances?

Mr. THOMAS. I intended to narrow my representation to the income field.

Mr. MOORE. Is it your suggestion that we might raise some additional revenue by looking up the tobacco business?

Mr. THOMAS. I am very well acquainted with the tobacco business, and I know that Europe, Italy, Austria, France, Spain, Japan, and England have been largely living on the tobacco of America in the matter of tobacco. Most of it through trusts and monopolies. If the United States Government had a monopoly on tobacco they would find it a very fine field, and at the same time prevent European countries from taking out of America a great deal of money it takes away now.

The CHAIRMAN. The United States does take a lot of tobacco—commandeers it. Other nations operate things like sugar, before the war, and opium.

Mr. THOMAS. I take, for instance, the cotton situation, where they are objecting to the Government setting the price. I would favor very much the Government setting the price.

Mr. MOORE. Would you feel the same way about tobacco?

Mr. THOMAS. I would feel different. I would feel like the Government ought to take it over and operate it as a monopoly. I think after the Government set it at a high enough price it will go down lower if free.

The CHAIRMAN. Does any other gentleman wish to ask Mr. Thomas any questions?

Mr. CRISP. I would like to ask Mr. Thomas a question. Most of the complaints I have had going around my district have not been so much about the rate of taxing, but about the complication of making out the return.

Mr. THOMAS. That is the point I have been trying to cover.

Mr. CRISP. Could you suggest anything that would simplify the form?

Mr. THOMAS. If you will take my suggestions there, I would do away with all that. As I stated a while ago, I am an accountant. Under the present law, in a graduated tax, you would have some difficulty, but it is an interminable system to arrive at what you owe under the present tax law, as a business or corporation. But any graduated tax will be hard to compute. My suggestion would be to the Congressman to move out of his district where they are poorer and they wouldn't have any income-tax problems.

Mr. CRISP. I live in a country that is poor enough. I live in Georgia.

Mr. THOMAS. I should say you ought not to have any trouble there.

The CHAIRMAN. The committee really intends to confine itself to incomes and excess-profits taxes. But the form in which the income tax may be worked out must be worked out by the administrative branch.

Mr. THOMAS. The present form is a most excellent one, under the present law. The man who drew that is an expert.

The CHAIRMAN. If that could be put in one act instead of two or three acts.

Mr. THOMAS. One act; yes, sir. I would like to say in connection with that, Mr. Chairman, you mentioned before lunch there was some complication about the bond issue. If you thought a uniform tax was advisable, I think that difficulty could be met by making the income tax a nominal tax, or 1 per cent, say. I thank the committee. I want to assure you that I have had great pleasure in meeting your committee, and I trust you will be able to work out something that is valuable.

The CHAIRMAN. In spite of the press, we are going to do our best.

Mr. THOMAS. If I can work out anything that will be very helpful, I will send it to the committee.

#### STATEMENT OF PROF. O. M. W. SPRAGUE, PROFESSOR OF BANKING AND FINANCE, HARVARD UNIVERSITY.

Prof. SPRAGUE. A year ago last December, at the annual meeting of the American Economic Association, I read a rather radical paper advocating financing the war mainly by means of taxation. The reasons for that position I set forth at that time were mainly that in taxing we would avoid in a large measure the inflation which accompanies the loan policy.

About a year ago I wrote another paper on taxation, on the ground it would facilitate the mobilization of labor and capital for war uses. I brought along a copy of these articles, which any member of the committee can have if they like.

In the New York Tribune of yesterday there is a rather long article in which I have outlined a scheme of taxation, which is headed by the editor "Billions available without painful taxation." I wish to say that I do not mean to say the proposition I have to advocate would be painless.

As I understand it, something like \$25,000,000 have been appropriated for the next fiscal year for war purposes, and we all hope, I should suppose, that our Government will expend that twenty-five billions, for that would mean an enormous output of very much needed material of all kinds for military purposes. Assuming that the plans are carried out and that \$25,000,000,000 are expended, it necessarily follows that the current consumption of the people of the United States of necessities, comforts, and luxuries will be reduced something like \$25,000,000,000 during the next fiscal year; it doesn't matter how you raise the war money, whether it is by banking money, war bonds, or taxations. It simply means that the people must go without something like \$25,000,000,000 of goods. There might be a slight offset through speeding up production, people who were unemployed last year at work, but that increased production will be offset largely by the number of men withdrawn from work for the Army and the Navy.

The fundamental problem in war finance, as I see it, is not whether you shall tax or borrow. The only difference, real difference, there is whether you shall compensate the people who supply your funds as you do under the borrowing plan or whether you shall not compensate them, as is the case with taxation. The real fundamental question in financing the war is whether the saving which is inevitable in any case is made directly or is made indirectly. Generally speaking, all of the savings which is compelled by taxation is direct. A very large part of a considerable, up to a certain proportion, of that saving which is brought by borrowing is direct and a considerable proportion is indirect. Let me illustrate: Assuming a man has an income of \$10,000. If he is taxed \$4,000 he will presumably not spend more than \$6,000 on himself and family during the year. It is unlikely that he will borrow in order to maintain his accustomed volume of expenditure.

Our friend with the \$10,000 income may economize to the extent of \$4,000 and subscribe to liberty bonds. In that case the same result follows. He reduces his civilian demands for the current products of labor and capital by \$4,000. But suppose instead of reducing his consumption he buys \$4,000 of liberty bonds and provides the funds with which to make his payments by means of loans at his bank. In that case the demand for goods and labor is not directly reduced so far as the individual is concerned. He continues to enter into the market demanding \$10,000 worth of goods. He has, indeed, provided the Government with \$4,000 and the Government entered the market with that \$4,000 demanding goods and labor, and if we narrow the thing down to the Government and this one man, naturally the new demands of this one man and the Government for goods and labor sends the price for goods and labor up.

and consequently the gentleman does not get as much for his money as he did before, as the Government gets its proportion of labor.

We have financed our war during the last 12 months in part by direct saving, in part by indirect saving. It is impossible to say to what extent credit has been expanded during the last 12 months. My estimate is that it is expanded by about \$2,000,000,000. That means in the last analysis that purchasers of liberty bonds have borrowed about \$2,000,000,000 of that banks have bought themselves along with which borrowers purchased something like \$2,000,000,000 worth of bonds.

That simply means that the banks have credited either the Government or the individual buyers of these bonds with money, and it was turned over to the Government. The Government has bought goods with it. There is no increased amount of production of goods and consequently it increased the prices. It involves a saving on part of whom, mainly? Of people with stationary incomes. Take a woman of \$1,000 income on bonds. You would not think of taxing that woman 30 or 40 per cent, reducing her power to buy goods 30 or 40 per cent. But that is just what happens to her under the policy of war financing, which is in part carried through by means of expanding credits.

That is the woman's contribution to the war. Her power to command the products of labor and industry is reduced through the rise of prices and so, by a process of indirection, inflation will enforce economy, but it enforces it unequally—unjustly. Consequently, it seemed to me that in shaping a policy of war finance it is desirable not only to make certain that there shall be adequate revenue, but also to insure, in so far as may be, that the saving necessary in any case shall be direct rather than indirect through the product of credit expansion and rising prices. And it is from these two points of view that I wish to set forth a variety of measures relating to taxation, and incidentally to borrowing.

So far as the technical features of the income tax and excess-profits tax go, it seemed to me fruitless to undertake to say very much, owing to the fact that those charged with the administration of those laws, the Treasury Department, have not yet handed down their reports. If the experts at the Treasury Department come before you and say that they have been able to determine with a reasonable degree of exactness the invested capital of all the businesses in the United States, then no great modification in the excess-profits tax is needed.

It may be that they can indicate modifications in the law which make an excess-profits tax based upon invested capital feasible and equitable. I am quite unable to express an opinion about that. My own impression is that it is not feasible. If the rates are to be high, the moderate amount of inequality, of unevenness, and uncertainty, does not matter very much. If the rates of taxation are low—if we still had the 8 per cent excess-profits tax of two years ago—it would not so very much matter; in the course of time the whole thing would shake itself down. But when you do have rates running up to 60 per cent, and when it may be a question of increasing those rates, it becomes a matter of very great importance indeed whether the base is entirely or reasonably equitable. My impres-

sion is that it would be better to reduce the rates of the present excess-profits tax, and retain it on the statute book with such modifications as may be brought to your attention and seem wise, and to superimpose upon it a war-profit tax of the English type. The English are now taking war profits to the amount of 80 per cent, and there seem to be no seriously untoward consequences. Why should not we impose an 80 per cent war-profit tax of the English type?

After that has been deducted from profits, impose an excess-profits tax of our present description at somewhat lower rates, and then, in the course of time, perhaps, advance those rates on the American type excess-profits tax. The reason for retaining it is this: The English tax ceases with the war, and we shall need some corporation taxes after this war is over. Consequently, if we can perfect this tax—this system of taxing—it is altogether desirable to do so; but to attempt with this new instrument to get anything like the large percentage of war profits which are taken in Great Britain seems to me probably impossible, or undesirable, because of various inequities which are likely to occur.

The English war-profits tax has another advantage. It is likely to convince the masses of the people that no one is making much profit out of the war. Various instances have come to my attention in which workmen have asserted that it did not very much matter whether they exerted themselves or not, that the employers were making such huge profits out of the transaction.

That fact of the huge profits which the employers were or were supposed to be making was obscuring in the minds of these men the vital point of the moral efficiency of everyone for the purpose of winning the war.

As to the income tax, it would seem to me that the rates without any question should be sharply advanced on all classes of income up to \$500,000 or \$1,000,000. In Great Britain an earned income of \$10,000 pays at the rate of 25 per cent on the whole amount—\$2,500. An unearned income of \$12,500 pays at the rate of 33½ per cent. An income that is in excess of \$50,000 pays 52½ per cent. There seems to be nothing in the situation of people with comfortable incomes in the United States which lead one to the conclusion that they can not endure and should not endure the same rates of taxation which are being borne on the other side. Doubtless certain technical changes can be made in the requirements of the income-tax law. That action is a matter with which I will not take up your time.

There are two items, however, of income which I think deserve consideration. The first is the rental value of houses occupied by their owners. It seems to me highly inequitable that a man who happens to own a house should pay no tax upon the rental value of that house, whereas a man who rents must pay on his entire income, and then provide the rent out of that. Why a man with an income of \$10,000 with a \$10,000 house, should not be subject to a tax on that rental value just as much as a man with an income of \$11,000 who rents a house, is to me incomprehensible.

Mr. GREEN. Right in that connection, how about the man who owns two or three houses which he lives in during different parts of the year—a summer home and a home in town, and so on?



Mr. SPRAGUE. They also should be included, without any question.

Another matter of income-tax regulation—

Mr. GREEN. Of course, I am referring to those houses that a man occupies for his own use and does not rent out.

Mr. SPRAGUE. Oh, yes; I quite agree. The case is even stronger. Issues of municipal securities should, in my opinion, if by any means it is possible, be taxed, among other reasons because, since we are to have these income taxes for many years, there will be an artificial low price for municipal issues which will stimulate all sorts of unhealthy municipal undertakings. Now, I am not an opponent of municipal ownership of electric lights or street railroads or other utilities, but I do not think the ownership ought to be forced to occupy a situation under which perhaps a municipality can borrow at 4 or 4½ per cent because its securities are tax exempt, whereas the strongest of local utility companies might not be able to borrow at less than 6 per cent owing to the fact that the income of those securities is subject to taxation. It is doubtless true that the existing issues of municipals could not very well be taxed, at least in so far as present rates are concerned; but it seems to me highly equitable to tax new issues.

Of course, I know that there are constitutional uncertainties regarding the matter, but whether in a separate bill or otherwise, it seems to me a matter which ought properly, in the public interest, to be brought to an issue by being put into law.

Mr. CRISP. May I ask this question: Have you given that question any thought, as to whether it is constitutional for the Federal Government to tax securities issued by the various States and municipalities?

Mr. SPRAGUE. I doubt it very much with reference to the States, and I do not believe in it with reference to the States. The States, at least, seem to be quasi-independent sovereignties. But I can not think of that as true of governmental units which are here to-day and there to-morrow. I can not see any ground for saying that you really could undermine the sovereignty of a State by taxing municipal issues. I know that there are diverse views in regard to the constitutionality of it, but it would seem to me, as I said before, highly desirable to bring the matter to a test, for it is a serious matter of public policy.

Mr. MOORE. Waiving the constitutional question, would you not have to lay that on liberty bonds as well as municipal bonds?

Mr. SPRAGUE. No; because I said "the future issues" of municipal bonds.

Mr. MOORE. Would you not have to carry it to future issues of Government bonds?

Mr. SPRAGUE. Oh, without doubt. I shall come to that in a minute, whether it is desirable to place an income tax on Government bonds or not.

The equity, in the minds of the people who would be subject to the very much heavier income taxes—tax rates—the excess-profits tax, the war tax, which I have urged, would depend in a considerable degree upon whether we subject the great mass of the people of the United States to taxation in some form or other. I have not heard any man with an income of \$50,000 or more object to the amount

which he is paying in taxes, or to a probable increase in the amount, but I have heard numbers say—and although I have no such income I rather sympathize with the view—that it does not seem to them proper and equitable that the great mass of the people in the United States should not, during the course of this war, be subject to certain positive, well recognized taxation burdens; and no one, to my way of thinking, is doing a good service to the mass of the people in urging that they should not be taxed, for, however far you may carry the rates of income taxes and excess-profits tax, you can not possibly raise enough money from those sources to provide \$25,000,000,000.

The money which is raised from income taxes and excess-profits taxes largely comes from sources which would have provided funds for liberty bonds. That is not a reason for not taking it by taxation. That is much better for the community, as a whole, to get \$5,000,000,000 by means of taxes, than to get that much by additional issues of liberty bonds, but you do not tap sources of income which would not be available for war purposes to any great extent by the taxation of larger incomes, inasmuch as those large incomes would in large part go in liberty bonds.

Mr. LONGWORTH. How much do you propose to raise by taxes this year? How much do you advocate raising?

Mr. SPRAGUE. You are raising a billion dollars more than you anticipated, I believe. In this period of abnormal business and Government activity, I think it is quite impossible to determine how much can be raised, in any event, but the larger the amount that equitably can be raised the better for the community.

Mr. LONGWORTH. Let me ask you, further, do you think that the Secretary of the Treasury overestimates or underestimates the amount that should be raised by taxation for the payment of this \$24,000,000,000?

Mr. SPRAGUE. If public opinion can be brought to the point of realizing the advantage of taxation the amount is minimized. That seems to be the whole question. A year ago there were a large number of people who asserted that you could not levy more than a billion and a half in taxes without dampening the spirit of enterprise, drying up the sources of funds for liberty bonds, and various other bogies. You have raised something like four billions, and far from the spirit of enterprise being dampened and checked, it has been necessary to establish a capital issues department to pass upon applications for new uses of capital.

It seems to me clear, from our present experience, that we do not know how much taxation we can endure. The people are prepared to endure any sacrifice, whether it is in taxation or in any other direction, if they are convinced that it is serviceable in winning the war. They are not prepared to endure sacrifices just for the fun of sacrifice. My entire contention is that in the taxes which I am coming to now, if the proposition could be made clear to the mass of the people that this levy of taxation for the war tends to accelerate and mobilize the capital and labor for war purposes, and if you can convince people that that is a fact, they are ready to stand for the taxes, just as they were ready to stand for reduction in the consumption of sugar.

Mr. LONGWORTH. You have not quite given me the information I want. I want to know how much you think it is advisable to raise in taxes, as compared to the amount to be raised by loans?

Mr. SPRAGUE. I should say between twelve and fifteen billions.

Mr. LONGWORTH. No; the percentage—the relative percentage.

Mr. SPRAGUE. Oh, yes.

The CHAIRMAN. That is, if you had to expend \$24,000,000,000 next year, how much would you raise by taxes and how much would you raise by bonds; is that it?

Mr. LONGWORTH. Yes; that is what I wanted to know.

Mr. SPRAGUE. Well, my percentage would vary with the amount. When the total cost of the war was estimated at eight to ten billions of dollars, I believed in raising the entire amount of it by taxation. Now that the amount has gone up to twenty-five billions, I do not believe in that for this simple reason: The higher the rates, the more important it is to be quite certain that your base is entirely satisfactory. That was discussed here a little while ago in a proposition on the net profits, a most vicious proposition, it seemed to me; that you would tax a concern with \$10,000,000 of capital making \$50,000 just as much as you would tax a little concern of \$100,000 that happened to make \$50,000, earnings; an impossible situation! You would drive the larger concerns into bankruptcy. Unless I know that a satisfactory base has been worked out with reference to invested capital, I do not know what rate I would want to impose.

Mr. HAWLEY. Suppose a satisfactory base was worked out, what amount would you want to raise by taxation then?

Mr. SPRAGUE. If a satisfactory base was worked out I would say we could take something more than in the present excess-profits tax.

Mr. LONGWORTH. Perhaps I can make myself clearer. I would like to know your views on this: As a broad, abstract proposition, do you not think, in financing a war, particularly a serious war, that the major portion of the total cost should be paid by subsequent generations, and not by the generation that wages the war?

Mr. SPRAGUE. No, sir.

Mr. LONGWORTH. You do not?

Mr. SPRAGUE. Absolutely not, unless with this qualification: If you can insure that as large a percentage of the money you get in by means of bonds will be derived from direct savings as will be the case in taxation, I will agree; but the bond method, as it has been so far conducted, involves such an amount of inflation and rising prices and unequal burdens as between stationary incomes and those that are not stationary, that I would favor keeping down the bond proportion to a minimum; and before I get through I have an alternative proposition, if you prefer loans, which would require direct saving as definitely as in the case of taxation; and you can have your choice, or, as is more likely to happen, I suppose, take neither.

Mr. LONGWORTH. Is your proposition that as much as possible or all of the cost of the war ought to be paid by the present generation, applicable to this country alone, or do you believe in it as a general principle?

Mr. SPRAGUE. I believe in it as a general principle, for the reason that if your taxes are equitable and well distributed I see no reason why any man should be compensated in the future for income which

he turns over to the Government now in order to finance this war. That is all that the future generation bears.

Mr. LONGWORTH. Take the case of France, for instance.

Mr. SPRAGUE. Yes.

Mr. LONGWORTH. You realize, of course, that it would be really impossible for France to pay the entire cost of the war by taxation?

Mr. SPRAGUE. They have virtually taxation through the process of an excessive issue of the notes of the Bank of France, which has subjected the people with stationary incomes to huge reductions in their incomes. You do it, but you do not do it in a direct fashion. It is the same case as that I put of the woman with a \$1,000 income.

Mr. LONGWORTH. Have the taxes in France advanced anything like that—four or five times what they were before the war?

Mr. SPRAGUE. If you take into account everything there is an increase, and you do not have to have but an increase of 100 per cent to cut the amount in half. That is what you do when prices go up 100 per cent. If everybody's income went up in direct proportion to the advance in prices inflation would not work as a process of financing war.

Mr. LONGWORTH. Assuming that the total expense of France so far has been—my guess is—eighteen billions.

Mr. SPRAGUE. Yes.

Mr. LONGWORTH. Would it have been possible for France to have raised that money by taxation?

Mr. SPRAGUE. Yes. They could have, for example, established an increased tax at an earlier date in the war and imposed present rates—somewhat higher rates. They are certainly no better able to pay taxes now than they were two years ago; rather less able; and yet the taxes have advanced. There is a very common fallacy afloat that we are able to pay more taxes the longer we keep in the war, except so far as prices advance, so that we have a general conception that is by no means the case. The people, certainly with fixed incomes, are not as able to pay a fixed amount in taxation as they were a year ago or to subscribe for liberty bonds. You have to get it from the French people, and you have got to get it from the same source. This which has come from the French people has not come out of the air or out of the future. And they are going to be compensated, of course, in the future for some of the sacrifices they have made in sacrificing income.

Mr. LONGWORTH. Are not the future generations, 30 years from now, say, going themselves to pay a large proportion of the money that the people of France to-day owe?

Mr. SPRAGUE. Yes; but it will be very differently distributed. The result of the process of borrowing with large inflation will be that at the end of the war you will find a rather greater degree of concentration of ownership in the current income of France after the taxation has been collected and the interest paid, than was the situation before the war. There will be very large numbers of people who, because of their military service, were unable to acquire their quota of Government bonds. They will return to active life and work energetically and have incomes which will be heavily taxed in order to pay interest on the bonds which will be owned by a comparatively small number of people in the community.

Mr. GREEN. Who did not go to the war?

Mr. SPRAGUE. Who did not go, or who may be older; and it will come down through relationship, and so on; and it will be a very uneven and haphazard situation; and I think it is to the general interest of the public in France that they should be taxed more heavily than they were at an earlier stage. But public opinion was not prepared for it, because people at that time did not fully realize; they did not realize how long the war was going to last, how expensive it was going to be, and they did not realize the consequences of the extreme inflation which has taken place.

Mr. GREEN. There was another consideration there in the fact that the German invasion overran the country and dislocated a substantial portion of the French industries?

Mr. SPRAGUE. Yes; that is true. It is very much more difficult, having to establish a base for a concern, to know whether they might have made some profits where they have lost a great deal of profits; and that is why I say, if your rates are high you have to be very certain of your base, and that is why I say I believe in financing the war wholly by taxation. I am more convinced that it can be done when it costs ten billions, than when twenty-five billions are required. I can see no reason why, if we can raise eight millions next year, we could not have raised that much this year.

Mr. HULL. What do you estimate the net income of the country at, leaving out unearned increment, and leaving out, of course, increases of capital?

Mr. SPRAGUE. There are various estimates. With prices rising as rapidly as they are, it would be my opinion that the annual income of the people, estimated in money, would run somewhere between \$50,000,000 and \$60,000,000.

Mr. HULL. Do you mean the net or gross?

Mr. SPRAGUE. I mean the net; I mean, out of which they pay their living expenses, and all that sort of thing. I do not mean what they saved before the war. Aside from the depreciation of property owned, which you eliminated, it is my guess that it was five or six billions of dollars. The war has to be financed in some way or other by abnormal saving, and there has been a good deal of abnormal saving during the last year in order to subscribe to liberty bonds, and it is on the increase.

Mr. HULL. What proportion of the income of the country do you think comes through the corporations?

Mr. SPRAGUE. Comes through them?

Mr. HULL. Yes.

Mr. SPRAGUE. There, again, where you have a rapid advance in prices such as occurred last year, and so a large appreciation in inventories, you have a very large increase in income, which really would not count very much when you began to measure it in gallons and bushels and yards. There is an illustration. The British were pretty well pleased by the fact that last year they raised by means of taxation something like £800,000,000, as contrasted with £2,000,000,000 before the war. But calculations based upon prices show that after all they were only taking in about £475,000,000; that is to say, that their real transfer of goods to the State was only a little over two and a quarter times what it was before the outbreak of the war. These

figures with rising prices deceive us all, and you will probably find a year from now, if we finance the war heavily by inflation, that your appropriations will go up, for the same volume of goods, to a very much larger total.

Mr. LONGWORTH. In that connection, in connection with rising prices, do you favor price fixing by the Government?

Mr. SPRAGUE. Only here and there. There may be a few comparatively simple occupations, in which the costs are fairly uniform, in which you can determine costs. But if you have a general advance of prices going on with wages and prices of materials going up, you need to revise your prices every little while. It would greatly facilitate price fixing if you had a situation like this, of generally stationary prices, or certain things going up because of a huge Government demand which would enable the producers to get extraordinary profits, and if you had a simple situation of that sort, then the Government stepping in and controlling the prices would, I think, be entirely feasible. Take the copper companies, for example; it would be very much simpler for the Government, so far as an equitable copper price goes, if general prices had not advanced so much during the last nine months, because then the price originally determined, if equitable, would probably be equitable now.

Therefore, without saying that the original price was equitable, at least there are certain factors entering into the situation that raised the price, like the cost of labor, which leads one to say that this may not be equitable now. As to that I do not express an opinion, not having looked into the matter. I merely cite it as a case showing how the rising price of material and labor complicates the matter of price fixing, and would complicate other things: as, take, for instance, an excess-profits tax. Many companies can only say, "Of course we have apparently made very large earnings, but this bubble is going to collapse, and we are going to have very heavy losses when it does, and we ought to have very large reserves to face a situation of that sort." I believe that is true, that in some way or another the possibility of very heavy losses when we get down from a period of inflation ought to be taken into account, and that can be done in the law if you will allow a certain contingent claim for a rebate on excess-profits taxes, say in the event that within a certain number of years losses occur arising quite as definitely out of the war as the profits arose out of the war. That is the way they have handled the war-profits tax in Great Britain.

Mr. GREEN. In other words, you think that our excess-profits tax should be more or less?

Mr. SPRAGUE. Very much more; and then you can impose very high rates on particular industries or in particular cases. Most proposals for heavy taxes fall down on account of the 3 or 4 or 5 per cent of hard cases. Now, if you can eliminate those people or make provision for them in one way or another, then you can jack up the rest to a very high point indeed.

Mr. GREEN. Coming back to this matter of price fixing, where the product concerned is one of the necessities of life or one of the necessities of war, and the demand exceeds the supply, which may now be said, as I understand, of a great many such products, or at least of some considerable number—

Mr. SPRAGUE. Yes.

Mr. GREEN (continuing). Would it not be well to fix prices in such cases?

Mr. SPRAGUE. Why, if the price fixed does not work against increased production of the output.

Mr. LONGWORTH. In other words, it would be better not to fix prices that would prevent some people from making large profits, if thereby you would decrease the production of the article?

Mr. SPRAGUE. Yes; whereas, if you have your heavy war-profits tax of 30 per cent, you will not be so much concerned about price fixing, and the producer will not be quite so much concerned about taking advantage of every situation to increase the price. But it does not make so very much difference, perhaps, where you catch hold of the animal, but sometimes one part is better than another for the purpose in view.

Mr. LONGWORTH. And if you can take it away from him afterwards.

Mr. SPRAGUE. Yes.

Mr. GREEN. It sometimes seems to me that the ultimate consumers, or the laboring classes, or those who have small incomes, are certainly hurt.

Mr. SPRAGUE. Yes.

Mr. GREEN. Now, for instance, the demand for cotton print goods very much exceeds the supply, and no matter what the price was, it would exceed the supply.

Mr. SPRAGUE. Yes.

Mr. GREEN. So that they have what they sometimes term a run-away market, and can get almost any price they ask.

Mr. SPRAGUE. If your primary object is to relieve people with small incomes from an intolerable burden in such a product as you have mentioned, I see no other method except rationing, because if you reduce the price of this cotton cloth, it is by no means certain that there will be enough to go around at the lower price, and it is by no means certain that people of small incomes would even then get their share of the small supply.

Mr. HULL. If you are to levy an excess-profits tax, there will not be much inducement to make these big profits when they know that they have got to turn it all right back to the Government, will there?

Mr. SPRAGUE. The conditions in a case like this are the result of the economic situation, and are not due to any positive, concerted action on the part of anyone in particular. Let me illustrate: Last year I suppose everybody in the grain business in New England made large profits. They could not very well help making them, because they would order their grain several weeks or some months in advance, and by the time it arrived in New England the price was higher. There was no lack of competition. Business was being conducted just as before; but the whole situation was one in which there was an acute demand for grain, and the price went up. Now, in the case of cotton cloth, if there is an inadequate supply of cotton cloth at 50 cents a yard, no diminution of the inducements to make profits by shop keepers or other dealers will keep that price down to 50 cents. You must in some way or other curtail the demand.

And that leads me to the second class of taxes which I have in mind.

Mr. HULL. May I interrupt you before you take that up?

Mr. SPRAGUE. Yes.

Mr. HULL. I did not get through, a moment ago, on your estimate of the income of the country, amounting to fifty or sixty billions.

Mr. SPRAGUE. Yes.

Mr. HULL. Now, supposing the national wealth to be two hundred and fifty billions under inflated conditions, is it your judgment that the country realized a net profit of 20 per cent on that last year?

Mr. SPRAGUE. I would hardly say that, because this fifty or sixty billions includes all the wages of everybody, and all salaries. Now, you take a corporation in a particular kind of business, with a capital of a million dollars; its wage bill may be two or three million dollars; and all this goes to make up this fifty or sixty billions. I did not mean net income, I meant the actual money income, or gross income, in the case of farmers who grow crops which they consume, largely—all of that taken together, if we estimated it in money for all the individuals, it would run probably between fifty and sixty billions of dollars.

Mr. HULL. So far as deriving revenue from the income tax and the excess-profits tax are concerned, and they are the two largest items in the bill that might be framed—

Mr. SPRAGUE. Yes.

Mr. HULL (continuing). We are obliged to look to the net income that is returned by the individual or the corporation, and compute it under the income-tax law.

Mr. SPRAGUE. Yes.

Mr. HULL. The total income-tax return by corporations and individuals for 1916 did not exceed \$13,000,000,000.

Mr. SPRAGUE. No.

Mr. HULL. How would you extend the law so as to reach, so as to bring within the net, twenty-five or thirty or forty billions?

Mr. SPRAGUE. I would not expect to get it through income and excess-profits tax. When we are so heavily engaged in the war that it takes about half of the products of our industries to keep the war going, then the income of the people of the United States must be reduced by something like 50 per cent.

Now, you may reduce some persons' income by more than 50 per cent. Take a man with an income of \$1,000,000. You can reduce it more than 50 per cent by taxes and subscriptions to liberty bonds. A person with an income of \$1,000 a year, you can not probably reduce by legislation. You will do it by inflation. In that unconscious manner you will reduce the purchasing power of the incomes of a large number of people, whether you will or no, if you get one-half of the products of industry during the next 12 months. That is how the sacrifice must come; and the question as to how it should be distributed is another matter; but there is great danger, of course, that you will not spend \$25,000,000,000, but that it will be found impossible to gather the materials and the labor to produce the particular things in the quantities for which provision has been made, and one obstacle which will be encountered will be the continued



civilian demand for the things which the people have been accustomed to use.

Mr. MOORE. Let me interrupt you, will you, Professor?

Mr. SPRAGUE. Yes.

Mr. MOORE. Before you get on your second point, I want to direct your attention again to Mr. Hawley's question and ask you this: If we had sixty billions of income last year that was taxable, and we imposed a slight tax of 10 per cent upon the sixty billions of income we would derive \$6,000,000,000. If we had increased our percentage we could easily have raised the \$8,000,000,000. That seems so simple that I am going to ask you how you arrived at your conclusion that we had sixty billions of income last year or this year?

Mr. SPRAGUE. That is not, I may say, from any investigations which I have made. Two or three statisticians, at different times, have endeavored from a study of income-tax returns and wage scales of large corporations like the United States Steel Corporation, and so on, to make an estimate of what the probable income of the country was, and people began that some 10 or 12 years ago on the supposition that it might be about thirty billions.

Mr. MOORE. Some one, who was before us yesterday, quoted a Prof. Anderson, I think it was, of Harvard, as estimating the national income in 1917 as \$68,600,000,000, and I asked him how those figures were arrived at, and the answer was not altogether clear.

Mr. SPRAGUE. No.

Mr. MOORE. Whether it is academic or whether it is the result of careful investigation, I do not know; but I would like to know, because it is very material that we should have the facts to go upon to get things clear.

Mr. SPRAGUE. The professor your referred to is in Washington now.

Mr. MOORE. Those are his figures.

Mr. SPRAGUE. He is connected with the Carnegie Peace Foundation now, I believe. But I confess that these figures are vague and uncertain.

Mr. MOORE. But if this amount was taxable—the sixty billions that is not clear to us now, or this sixty-eight billions, if all of that was taxable—our problem would be comparatively simple.

Mr. SPRAGUE. It is very difficult to tax the millions of people with very small incomes, especially those engaged in agriculture. I should think the cost was prohibitive of collection, and I have my reasons for believing that we should have general consumption taxes which would take a positive, perceptible amount from virtually every member of the community.

Mr. MOORE. If you were willing to stand by \$60,000,000,000 as the estimated income for 1917, would you still be willing to say that with a 10 per cent tax we could raise \$6,000,000,000?

Mr. SPRAGUE. No; because I know that you would not get the income of a very large number of people. You would have to take into consideration, probably, the garden patch of an employee of the Steel Corporation and you would have to take into consideration so much of the produce of the farm as the farmer and his family consumed, and so on. That would be only fair to do.

Mr. MOORE. Then, taking sixty billions as estimated by you roughly here, or sixty-eight billions as estimated by Prof. Anderson,

that would be misleading so far as being used for a basis for taxes is concerned?

Mr. SPRAGUE. For income and excess-profits taxes, absolutely.

Mr. MOORE. Then we could not rely on those figures at all in estimating the taxes?

Mr. SPRAGUE. No, sir.

The CHAIRMAN. If I understand you, you meant to include this kind of income: Say that A, a laborer, makes \$1,000 a year and it takes \$1,000 a year to support his family, you would still take that as his income?

Mr. SPRAGUE. Yes. That would be his income.

The CHAIRMAN. And in the United States there are about 30,000,000 families?

Mr. SPRAGUE. Yes.

The CHAIRMAN. And although each of those families earned in that way—although it took every dollar of it to support them—by labor and otherwise, an average of \$2,000 each, which makes \$60,000,000,000—that is, counting all income—you would include that in the \$60,000,000,000 of income?

Mr. SPRAGUE. Yes.

Mr. HULL. If it takes every dollar of their income to live on, where would you get any revenue?

Mr. SPRAGUE. There are necessities, and pressing necessities. But take these people with an income of a thousand dollars who are spending it all, and say that their necessities are all pressing; they will nevertheless have to get along without some of those pressing necessities if we expend \$25,000,000,000 during the next fiscal year.

Mr. HULL. That is what I was getting at by the remark I made. I wanted to get your judgment as to the average amount that would be really necessary and unavoidably necessary to sustain an average family for one year.

Mr. SPRAGUE. Suppose that the average American family with one thousand dollars a year is consuming a certain amount of coffee, and they ought to have it; yet it is more important to win this war than that they should have the same number of pounds of coffee that they had last year or the year before, and if they consumed 10 pounds of coffee last year, let them consume 7 pounds or 6 pounds, if that is an essential factor in winning the war. They will have to reduce their consumption to 7 pounds or 6 pounds through the effect of rising prices and inflation, in any event.

Mr. GARNER. You mean, if I catch your meaning, that we produce in this country \$60,000,000,000 a year?

Mr. SPRAGUE. Yes; because that is the income.

Mr. GARNER. That is, on the farms, in the factories, and taking everything else?

Mr. SPRAGUE. Yes.

Mr. GARNER. In other words, if a man on the farm produces a thousand dollars' worth and only sells \$300 worth he produces a thousands dollars' worth, that included. Is that the idea?

Mr. SPRAGUE. That is the idea.

The CHAIRMAN. Now, Doctor, we are all interested in your second suggestion as to raising the revenue. I would suggest to the com-

mittee that the doctor develop that thoroughly before we ask him any questions.

Mr. O'SHAUNESSY. Can I ask just one question before he takes that up?

The CHAIRMAN. Yes.

Mr. O'SHAUNESSY. I was interested because he agreed with the previous speaker that there had been no profiteering, as I understood. Did you say, Professor, that there had been no intentional profiteering?

Mr. SPRAGUE. Not quite that. I should say that the general situation is such that profits in many instances are just naturally increased; but that when you have a situation of that sort you can by a little manipulation and twisting things about increase them a little more.

Mr. O'SHAUNESSY. But I inferred from your statement that these profits have come as an incident of the war, and that they have not gone out gunning for them and made occasion to get them.

Mr. SPRAGUE. I should say 90 per cent of them probably were of the class that had not been gunned for, and that the various cases where they have been somewhat increased by people taking advantage of the situation were comparatively few. Of course, that is a mere vague impression, and I do not know; but I am very certain that no very considerable amount of profiteering is possible unless you have the favorable circumstances, and I think, undoubtedly, given these favorable circumstances, profits are bound to come whether people profiteer or not.

Mr. O'SHAUNESSY. The reason I wanted to be sure about it is that I understood that some of this legislation was to be aimed at that particular kind of work.

Mr. SPRAGUE. Well, for instance, I should think that a war-profit tax of 80 per cent could be imposed, we will say, upon the United States Steel Corporation, without any animus whatever, without implying that they had been profiteering in the slightest degree, and without any real fear that the highly patriotic management of that corporation would be any less energetic and enterprising in using their organization to provide materials for use in the war.

Mr. O'SHAUNESSY. Then you mean to say that they have not been intentionally profiteering?

Mr. SPRAGUE. I should say that prices had simply gone up.

Mr. MOORE. How do you account for the address of the President to Congress in which he indicated very clearly that there had been profiteering and that there was evidence of it?

Mr. SPRAGUE. I have no doubt that there is evidence of it; but I think it is probably rather here and there taking advantage of the situation, anyhow; but I think a great many people were inclined to suppose, for instance, when the price of iron and steel went up a year ago, that it was due to some Machiavellian actions on the part of somebody or other. I should be rather inclined to say that it was due to forces extraneous to any particular organization engaged in that business; that the demand came, that a situation arose, and prices naturally went up. Doubtless there are particular cases where persons have been able, by taking special advantage of a situation in special products, to squeeze a little more than they should have done, or than the natural forces would have brought about.

Mr. MOORE. Before you go to point No. 2, with the permission of the chairman and of the committee I will ask you to answer this: You have indicated that we will spend twenty-five billions next year and that the public will have to save to that extent.

Mr. SPRAGUE. Yes; curtail consumption to that extent.

Mr. MOORE. I take that to mean that every man, woman, and child in the United States will have to spend \$250 less this year than they spent last year?

Mr. SPRAGUE. On the average; yes.

Mr. MOORE. That means that then on the average every family of four will have to spend \$1,000 less than last year. In other words, they will have to save \$1,000 this year more than they did last year.

Mr. SPRAGUE. That would be true if the income of a community was divided equally, yes; but of course that really means that some person with an income of \$5,000, in order to do his full duty in the premises, probably will reduce his consumption to \$3,000; but a man with an income of \$25,000 will probably reduce his consumption to \$6,000 or \$7,000, and so on.

Mr. MOORE. But carried out on the basis of 100,000,000 of population, which is very reasonable now?

Mr. SPRAGUE. Yes.

Mr. MOORE. The expenditure of \$25,000,000,000 this year will mean that consumers will have to save \$250 apiece, on the average, or \$1,000 for every family of four?

Mr. SPRAGUE. Yes. Expending \$25,000,000,000 in a year is a ruthless thing. War is ruthless, and we are providing for a certain thing which amounts to a certain amount of ruthlessness, if that is to be put through.

The CHAIRMAN. I did not intend to ask you a question, but this is suggested by the question asked by Mr. Moore: Are you exactly sure that you are sound on that proposition that if we spend \$25,000,000,000 on the war there will have to be \$25,000,000,000 less expended by individuals throughout the country? When you get right down to it will there be any less spent? For instance, I pay the Government \$1,000 for taxes or I buy the bonds of the Government and give the Government \$1,000 in money. Does not the Government take that same \$1,000 and pay it out for supplies, so that the finished-product man gets a part of it, the material man gets a part of it, the laborer of the material man gets a part of it, the laborer of the finished-product man gets a part of it, and there is \$1,000 less for me to spend, but is there not \$1,000 for the material man and the laborer of the material man and for the finished-product man and the laborer of the finished-product man to spend? Is it not simply a shifting?

Mr. SPRAGUE. Yes.

The CHAIRMAN. Is it not a shifting of the expenditure from one to the other?

Mr. SPRAGUE. Yes; if you do it.

The CHAIRMAN. Now, that is what the Government is going to do.

Mr. SPRAGUE. If it does it on a sufficient scale, well and good, but that process would involve just that saving. When it has got into the hands of these various people then it makes up for each of them one small part of their various incomes. Then they in turn must

save, the same as you have done, in order to contribute their quota to this twenty-five billions. If they do not do it, then there is pressure and difficulty about getting the funds; it does not flow to the Government, and then toward the end of a liberty-bond campaign everybody is told that they must come along and buy some more, borrow some more to do it, and they all do it in patriotic fashion, or a certain number of people do it, and the Government gets the money, and that has an analogous effect to the financing of the war by Government paper money.

The CHAIRMAN. Suppose I take out of my pocket and give to Mr. Moore here \$1,000, and Mr. Moore then takes that \$1,000 and goes around and divides it up among these 23 other members of the Ways and Means Committee. Mr. Moore and the Ways and Means Committee would have \$1,000 more to spend, and that \$1,000 they can save instead of spending.

Mr. SPRAGUE. That is what I call direct saving.

The CHAIRMAN. Yes.

Mr. SPRAGUE. But indirect saving is, if you go down to the bank and borrow \$1,000 in order to accommodate Mr. Moore, and give him that money.

The CHAIRMAN. That would be an expansion of credit. Now, we are very much interested in your second proposition, and we are going to try and hear you through without asking you questions. We will ask you a lot of questions afterwards, probably.

Mr. SPRAGUE. I will start again with the proposal for a few heavy general consumption taxes by repeating once more that owing to our enormously large appropriations, the income of the well-to-do is by no means sufficient to cover the entire amount, even if all over and above their living expenses is to be saved in taxes and subscriptions to liberty bonds. In some way or other the mass of the people must contribute a considerable amount of their incomes in helping to finance the war. They have responded already in some degree through the purchase of war savings stamps and liberty bonds, and if the cost of the war was not going to be very much greater next year than this year, I am confident that its cost for next year would be fully covered by the increase in saving, together with the revenue to be derived from taxes. But inasmuch as the expenditures of the Government will presumably double, it seems clear to me that we can not rely entirely upon voluntary saving on the part of the great mass of the people to provide anything like their quota, and if they do not provide their quota they will, individuals or large numbers of them, be subjected to the burdens which will come through making up their quota by reason of credit expansion and rise of prices. And this will not fall equally upon the mass of the people. It will fall heavily upon some who have stationary incomes, and lightly upon others, and not at all upon many more.

But I conceive that there is no appreciable number of people in the United States whose economic situation is such that they can not endure or take some share of the burdens in connection with the present war.

The demand for labor is such that the poorest portion of the population of the United States who are capable and willing to work is very much better off now than it was two years ago. Now, everyone would be glad if those people should be better off, but I do not

think that we can take the position that even that poor class in the community has any particular right to be better off on account of this war, even temporarily. There is a very large number of persons with exceptional incomes who are worse off, and will be still further affected unfavorably with a continuance of this inflation, and, consequently, I feel strongly that a few very heavy taxes on articles of general consumption should be imposed. I say a few heavy taxes, because it seems to me far better to impose a few heavy taxes than a large number of little taxes. Suppose, for example, you impose a tax of a cent or 2 cents a pound upon tea. It is by no means certain what the effect of such a tax will be. It is possible that it will be absorbed by producers and dealers. It is possible that they may simply add to the price. But it is also possible that it may be an occasion for the addition to the price of 3 cents to 5 cents rather than the 1 cent or 2 cents of the tax.

If, however, you put a tax of 25 cents a pound upon tea—and that is the British tax—it is certain that a tax so heavy as that will reduce consumption somewhat and consequently dealers and producers will not find it possible to add anything more than the amount of the tax. In addition to the tax of 25 cents a pound upon tea, I should urge a tax of 10 cents a pound upon coffee and cocoa, and correspondingly heavy taxes upon other temperance beverages, and a very considerable increase in the tax on tobacco. The present tax on tobacco is 13 cents a pound. In Great Britain it is 76 cents a pound. If the British can stand 76 cents a pound upon tobacco, I believe that the tobacco smokers of the United States can stand that and continue to smoke as much as they need—I am a smoker myself—at 50 cents a pound.

The tax upon beer could be raised. In England it is \$7.50 as compared with \$3 a barrel in the United States.

Another general consumption tax which occurs to me would be a tax upon flour entirely made of wheat. A tax of \$2 a barrel might be suggested. It seems to me that it is unscientific to be urging people to conserve wheat flour when the cost of all the substitutes is higher than the wheat flour, as has been the case throughout the winter. We could simplify the problem of wheat conservation materially by this tax of \$2 or \$3 a barrel upon flour.

Now, these are taxes on articles of universal consumption, hitting rich and poor alike, on articles which are in such general use that they may be called necessities of life, and not luxuries. But they are articles, a moderation of the consumption of which would not impose an intolerable burden upon anyone in the country.

I turn to a class of taxes which I think may properly be styled luxury taxes.

Mr. MOORE. Did you intend to stop there on the suggestions on general consumption?

Prof. SPRAGUE. Yes.

Mr. MOORE. I notice you did not touch one or two commodities.

Prof. SPRAGUE. I would like to add 2 or 3 cents a pound on sugar.

Mr. MOORE. Do you mean to say that you would make it 1 cent a pound on tea and 10 cents on coffee?

Prof. SPRAGUE. Twenty-five cents on tea.

The CHAIRMAN. May I suggest that you may add any other taxes that you wish when you come to correct your remarks.

Prof. SPRAGUE. I would, as I say, have a fairly small number of high taxes on articles of almost universal consumption.

Mr. MOORE. Have you thought of cotton in any form?

Prof. SPRAGUE. No, sir. That comes in under manufactures, and I would put it, in a measure, in the luxury taxes.

Mr. LONGWORTH. May I ask, are all these internal revenue taxes or customs taxes?

Prof. SPRAGUE. That would involve in the case of these articles an equivalent of customs duties. Of course, tea would be entirely customs.

Mr. LONGWORTH. And coffee?

Prof. SPRAGUE. And coffee. In the case of sugar it would be an excise and a customs tax, that is to say, leaving it as at present, leaving the sugar duties unchanged, and adding, say, three cents a pound to the imported article, and three cents to the article produced in the United States, so as to avoid the whole question of protection.

But I think these taxes ought to be stiff. I have done a certain amount of campaigning with reference to war savings stamps and preaching economy, and I have found quite universally a readiness to assist in financing the war as well as other ways on the part of the masses of the people whom I have addressed.

Now, we come to the luxury taxes.

The CHAIRMAN. As I understand you, you do not class beer and all these other things you have mentioned in the luxury class.

Prof. SPRAGUE. No; they are articles of very wide consumption. Beer is perhaps on the line, but I see no reason why Bevo should not be subjected to the same tax as beer for war purposes.

Mr. TREADWAY. What would be your judgment as to the best method of getting taxes from the soft drinks, coca-cola, for instance, under the present law?

Prof. SPRAGUE. I am not very familiar with the manufacture of those articles, but I suppose they might be taxed at the place of production very much as spirits are taxed, being produced, I suppose, in comparatively a small number of places.

Luxury taxes are based upon two principles: It is desirable to secure the revenue, but it is even more important to set free labor and capital employed in their production. We can not possibly produce the quantity of articles of luxurious consumption which were produced last year, and at the same time meet our war program in full. I dislike to take any one article for specific illustration. It may seem invidious, but the automobile provides so striking and conspicuous a case that I venture to single it out, but not on the ground that it is a more proper subject for repressive taxation than many other avenues of expense. A tax upon the mere manufacture of new cars, however desirable it may be, is not absolutely necessary, and does not meet the principal evil of expenditure in connection with automobiles. The Government can, by the commandeering of plants take over the various factories in which automobiles are produced. Perhaps a heavier tax on sales of new cars would contribute somewhat to that end. But I can not conceive that we can possibly forego the use of materials and all the men employed in making recreation cars, during the next 6 to 12 months. Take, for example, the situation in making ships. There is only one shift to-day in

making ships, even at the present time. We haven't the labor, haven't the housing for them, haven't the organization for two or three shifts to be used in the production of ships. If we had two or three shifts, it would involve a large amount of the men who are making pleasure cars.

But I am more concerned with the use of cars at the present time. There is little evidence of economy in the consumption of gasoline in running cars for merely recreation purposes. There is no form of expenditure by the well-to-do and the moderately comfortable classes that is so conspicuous. It is a little difficult to convince the ordinary man that he should scrimp and save and buy war stamps when he sees the pleasure motors going out into the country in swarms in apparently no diminution in number of what they were in peace times. These cars consume an enormous amount of gasoline; and although it has been stated that plenty of gasoline can be produced, yet it still is true that the production of that gasoline absorbs labor and adds to transportation, adds to congestion. Furthermore, it simply is not a fact that there is plenty of gasoline. A large amount of the gasoline now being used if saved would be suitable for fuel oil with a very slight modification in the process. The supplies of fuel oil are being, I will not say depleted, but what might they not be if the demand for gasoline were distinctly less? For this reason I urge a tax of 20 or 25 cents a gallon on gasoline, a sufficient tax to be really felt by the users of pleasure cars.

The CHAIRMAN. How much tax would you put on automobiles?

Prof. SPRAGUE. I would not tax automobiles. The sale is one matter, but I would not tax automobiles in the possession of the owner. I know a few men who have patriotically put their cars away for the duration of the war.

The CHAIRMAN. Tax the gas, giving the fellow the privilege of buying or not buying?

Prof. SPRAGUE. It is the use of cars, or the excessive use of them, which should be limited, and I think that that clearly can be done by a tax of 25 cents a gallon on gasoline for pleasure purposes. It was found perfectly feasible in Great Britain, before the use of gasoline for pleasure-car purposes was discontinued altogether, to distinguish—

The CHAIRMAN (interposing). What is the tax on gasoline in Great Britain?

Prof. SPRAGUE. Six pence a gallon, but now you can not get it for pleasure purposes at all, so that it has no further interest, but they found it was perfectly feasible to differentiate between the commercial use, the professional and business use of cars, and the use for pleasure and recreation, even if the same car was used for both purposes. The auto used for business purposes should not be subject, it seems to me, to special taxes; or if so taxed, the tax should be very low.

Mr. WHITE. What is your objection to taxing automobiles in the possession of the owner?

Prof. SPRAGUE. I haven't any particular objection to a light tax, but it is the use of the car in the consumption of gasoline and the added repairs necessary on the roads which I chiefly had in view. It is to bring about an economy in consumption as well as to secure



revenue. The luxury taxes are proper in a period like the present. And for the third reason that I do not know anything which would make so strong an impression upon the masses of the people who are, we will say, to be subject to these taxes on tea and coffee, which I hope you will recommend, as to have some big tax on gasoline.

And finally to conclude with the automobile user, I do not believe at the present time that people should be employing chauffeurs to run private cars for ordinary recreation and pleasure purposes. Nearly all chauffeurs have mechanical aptitudes and could be very serviceable in the shipping or allied industries. I would suggest, therefore, that you tax the employer of a chauffeur running a private car, beginning at the rate of \$10 a month and rising by stages of \$10 a month until you reach \$50 a month. That, I think, would probably reduce materially the number of young husky fellows who are still employed as chauffeurs, and it would produce a very desirable effect on the minds of the mass of the people.

Turning now to luxury taxes in general, most articles of luxury can be better taxed, I believe, by stamps which are paid at the time of purchase, rather than by means of a tax either upon the producer or upon the dealer. Both Great Britain and France have adopted luxury taxes this year. In Great Britain the tax was to be at the rate of 2 pence in the shilling on all articles classed as luxuries either from their nature or from their price. A few illustrations to show what can be done in this direction: Let us suppose, for example, that a tax of 20 per cent were imposed upon the bills for rooms at hotels above \$2.50 per night. Let us suppose also that a tax of 20 per cent were imposed on the full amount of the charge for a meal where the price was in excess of \$1. Those taxes would tend in some measure to curtail prices at hotels, perhaps, and would tend in some measure to curtail the consumption of food. Taxes of that sort could be conveniently made at the time the bill was rendered.

The CHAIRMAN. Doctor, I received a letter from a very thoughtful gentleman, a manufacturer in this country, suggesting a tax on the auto, as you suggest, and on retail sales of jewelry, diamonds, etc. Jewelers would sell, for instance, a demand and collect a tax from you. He also mentioned silk dresses over a certain price, and furs over a certain price. What do you think about that?

Prof. SPRAGUE. Here's a list of certain taxes imposed in France at the rate of 10 per cent, partly on articles irrespective of price which are regarded as luxuries, and partly on articles above certain prices. I will leave that with the clerk.

The CHAIRMAN. It may be included in the record.

(The statement is as follows:)

THE LUXURY TRADES—TAXES ALREADY LEVIED IN FRANCE.

[From the Times (London), Apr. 23, 1918.]

The tax on luxuries in France, the principle of which is now to be followed in this country, was instituted by the French finance law of December 31, 1917. It is levied at the rate of 10 per cent on the retail sale price of the scheduled articles. All payments of less than 1 franc are exempted, provided that they are not on account of a larger sum. The schedule of articles classed as "de luxe" was published in the Journal Officiel of March 24, and the tax took effect on April 1. The schedule consists of two lists, one comprising articles taxed irrespective of price, the other comprising articles which are taxed when

the retail prices exceed specified amounts. The following are some of the luxuries enumerated:

Taxed irrespective of price: Photographic appliances, gold or platinum jewelry, billiard tables, silk hosiery and underwear, artistic bronze and iron work, horses and ponies for pleasure purposes, curiosities and antiques, sporting guns, books, servants' liveries, gold watches, perfumeries, soaps and dentifrices, paintings and sculpture, pianos (other than cottage pianos), tapestry, truffles, pleasure boats, and yachts.

Taxed above special prices (approximately shown in English money): Pet dogs, £1 12s.; other pets, 8s.; smokers' requisites, 8s.; bicycles, £10; silver jewelry, 8s.; picture frames, 8s.; walking sticks, 8s.; chinaware table service, £8; single pieces, 1s. 7d. to 12s.; men's headware, 16s.; women's hats, £1 12s.; footwear, women's, £1 12s., men's £2; chocolates, 3s. per pound; corsets, £2; men's suits, £7; women's costumes or mantles, £10; scissors, 8s.; lace and embroidery, machine-made, 1s. 5d. per yard; handmade, 7s. 4d. per yard; artificial flowers, 8s.; furs, £4; gloves, 6s. 4d.; gramophones, £6; games, 16s.; tablecloths, £2 8s.; furniture, £60 per suite; mirrors, 16s.; motorcycles, £80; watches, £2; handkerchiefs, 14s. 3d. per dozen; umbrellas, £1; clocks, £4; photographs, £1 12s. per dozen; cottage pianos, £48; curtains, £4; carpets, 14s. 6d. per yard; pajamas and dressing gowns, £3 4s.; horse carriages, £40; bird cages, 8s.

Payments for goods bought before January 1, 1918, are exempt from the tax.

Prof. SPRAGUE. The English have not yet worked out the specific articles on which they are to impose tax of 16½ per cent, 2 pence in the pound. That is to be worked out by a special committee of the House of Commons. I suppose they are working on it now.

Mr. HULL. Pardon me; in that connection, Mr. Chairman, I think I have a full copy of the French law and regulation.

Prof. SPRAGUE. This is just a summary. I think it had not better go in the record.

The French, it seems to me, do not go nearly far enough. For example, take the case of pajamas. Pajamas do not come under the tax until they cost \$16. I suppose that it might be proper to add anything above \$2. But there certainly is a very large field for taxation. It would have a valuable social effect upon the great mass of people. But when they see the luxurious expenditure by the few they are certainly affected unfavorably.

I will not go into the details of luxury tax further. I am afraid I am taking up a great deal of your time.

Mr. TREADWAY. Would you, so far as you can call to mind, give us a list of what you deem luxuries?

Prof. SPRAGUE. I deem that anything is a luxury which costs very much more than the price which a man in very moderate circumstances would pay for the article. I think it can be illustrated very much better than—

Mr. TREADWAY (interposing). The price doesn't enter into luxuries so much?

Prof. SPRAGUE. In the case of any particular article it does. There are certain articles determined by their nature. Jewelry, for instance, seems to be a luxury at the present time.

Mr. TREADWAY. Regardless of price?

Prof. SPRAGUE. Regardless of price. I should be inclined to think that Victrolas were luxuries at the present time, although they are pretty moderate in price.

Mr. TREADWAY. And furs?

Prof. SPRAGUE. I should be inclined to think so, although there are certain exceptions, in the case of people who live in cold climates.

Mr. TREADWAY. Sporting goods and athletic goods?

Prof. SPRAGUE. Yes.

Mr. FAIRCHILD. Even if used by the troops?

Prof. SPRAGUE. We make all sorts of exemptions. In working out the principles it would not be possible to get in all the exceptions. Take the matter of negligee shirts. I should say that you would hardly call a shirt that was retailed at \$1.50 a luxury. I should be inclined to think that one that cost \$3 is a luxury; and if a man wants a \$3 shirt, if that is essential for his self-respect, very well; let him pay a tax of 20 per cent—that is, 60 cents.

Mr. FAIRCHILD. About these luxuries. These puttees that officers are wearing cost \$16. That is a requirement of the service. Would they come under your designation of a luxury?

Mr. MOORE. You would have to compare that with the cost of puttees formerly.

Prof. SPRAGUE. The morale of the officers is a special thing which I should not wish to characterize.

Mr. FAIRCHILD. Outside of the luxury feature of it, would it have a distinct bearing on the answer to Mr. O'Shaunnessy's question in regard to excess profits that the article was for sale a year ago at \$12 as good as the article selling to-day for \$16.50?

Prof. SPRAGUE. The demand has very largely exceeded the supply. That is a difficulty, I think, that would not be reduced if the officers think they ought to have them. The main thing I had in mind was to curtail in a wholesale fashion the expenditures on all sorts of articles produced within the country, but limited at the present time, so that the owners of plants and the employees in plants will be most eager to transfer themselves to war uses.

One evening, coming down here some months ago, across the aisle were sitting representatives of a certain watch factory, and all their conversation was with regard to advertising and remarks with reference to selling more watches. I confess that I felt very much in the frame of mind of being disposed to put a bomb under their seat. It doesn't seem to me that it is particularly important to produce more watches in this country at the present time, when the men who work in watch factories can certainly be made use of in a variety of undertakings in connection with the war.

Mr. HAWLEY. Would you put a tax on shoes?

Prof. SPRAGUE. I would put a tax on shoes that were above a certain price—\$8 certainly, perhaps \$6.

Mr. LONGWORTH. A bank check is not a luxury, is it? We could do without many that are used now. Would you be in favor of a graduated tax on bank checks, depending on their size?

Prof. SPRAGUE. I think that would be desirable. It would bring in a moderate revenue that could readily be borne. It would be purely for revenue.

Mr. LONGWORTH. A graduated tax would bring a very large revenue. A flat tax of 2 cents would bring in eight or ten million dollars.

Prof. SPRAGUE. Without doubt, that is a tax that ought to go in, and I think a good deal can be said for a graduation of the tax. I do not know of any experience anywhere with the working of such a tax, but I see no reason why.

Mr. HAWLEY. Did England have a tax on bank checks?

Prof. SPRAGUE. They have increased their tax to 4 cents, but I do not think there is any graduation.

Mr. LONGWORTH. I have seen the scheme worked out, on the graduated tax, beginning with \$10,2 cents, and then working up.

Prof. SPRAGUE. I knew that Prof. Plant, of California, had worked up a scheme of that sort.

Mr. LONGWORTH. This was estimated to raise nearly one hundred millions.

Prof. SPRAGUE. I have one more thing that is very dear to my heart, if you will let me have a little more time.

The CHAIRMAN. I was going to suggest that you might add to your list of luxuries.

Prof. SPRAGUE. I have merely indicated the nature of the luxury tax and the reason why I think it is desirable. The more effective it is the less revenue it will bring in, but that would enhance its value rather than diminish it because of the setting of capital and labor over to war purposes.

But when you have provided for all these various taxes that I have been talking about, with the increased rate of income taxes, with the excess-profits taxes, and general and luxury taxes, you still would not by any means have the \$25,000,000,000, and it would be necessary to borrow and to borrow extensively and to induce and to urge very much greater saving on the part of the people through a matter which is not taxed—subscription to bonds and the purchase of war-savings stamps. I very much fear, however, that voluntary effort alone would not accomplish the end in view and that it would become necessary in the successive liberty loan campaigns to fill up the desired total by means of large subscriptions made by means of bank loans and bank purchasers. I have, however, to propose one method of accomplishing the end in view which I think would be equitable. Suppose that in addition to whatever income tax rate you finally decide upon you were to impose a further tax, say, at the rate of 10 per cent on the entire income of the taxpayer, so that a man with an income of \$10,000, in addition to this tax—his regular tax—would have to pay a further thousand dollars; that then you further provide that exemption may be secured from this tax in the event that the taxpayer were to buy three or four times that amount of a new class of bonds, which I will term “economy bonds.”

These economy bonds would mature, say, one year after the close of the war. They would be registered and not transferable. They would be ineligible for rediscount at Federal reserve banks, and bankers throughout the country would be urged as a patriotic duty not to loan to any man to enable him to buy these economy bonds. Let every income taxpayer state in his income-tax return that he is in a position to purchase these bonds from savings which he has made from income; in other words, holdings of property, securities, and so on, or of the same or the equivalent in value of those which he held 12 months before. Bonds of this sort could be issued to the taxpayer at almost any rate of interest you please, but let us say at the present rate of 4½ per cent, and they could be issued for an indefinite period of time at that rate, and I think it is reasonably certain that everyone subject to that tax would consider it worth his while to resort to drastic economy in order to be able to purchase his quota of economy bonds.

On the other hand, the scheme would be more elastic than an additional 10 per cent income tax, for it might well happen that some few people with an income, say, of \$10,000, on account of special circumstances could not in the particular year save enough to buy their full quota. They might buy a part of it, say, \$2,000 in bonds and pay \$500 taxes, or \$3,000 in bonds and pay \$250 in taxes. The tax would be somewhat elastic in the way it would bear upon individuals belonging to a particular class, and that is one of the reasons that you can not always be fair in taxation. That is a scheme, it seems to me, which provides a sufficient amount of elasticity.

Now, if you do not resort to some such method as this, and if voluntary economy does not provide a sufficient amount of direct savings to buy all of the liberty bonds that have to be sold, each successive issue of liberty bonds would have to be offered at a higher rate of interest. The reason that the four-and-a-quarters have gone below par is that out of the three billion eight hundred million subscribed, a considerable portion of the subscription represents subscriptions made by people unable to make payments for them. They had to put those bonds on the market and offer them for sale, and the price necessarily sags. Then, another issue comes out and we raise the rate by perhaps another half per cent.

It has been suggested that perhaps the unpleasant necessity of raising the interest rate might be avoided by granting some special taxation exemptions in connection with the future issues of liberty bonds. I very much fear that the total amount of liberties which must be protected in the future is altogether too great to make taxation exemption an effective means of keeping up the price. The three-and-a-halves are kept at a relatively high price because they are limited in amount, and there are a sufficient number of people with very large incomes to make it worth while to absorb something like all of the first liberties that came on the market. But tax exemptions, when you come to issue ten, twenty, or thirty billions of bonds, will not serve that purpose, because then the quantity will be such that every class in the community will have to purchase them if they are going to find lodgment at all.

The tax exemption seems to me to be a mere palliative, doubtless effective for one, possibly two issues, but hardly, I should judge, for more than that.

Furthermore, it does not pay to diminish inflation, but positively to enhance it, inasmuch as if you grant exemption, then it becomes far more profitable for the man with a very large income to secure bank loans in order to buy liberty bonds than it does for the small buyer, very much more. Now, it will be therefore reasonable to expect that if you grant tax exemption you will have comparatively more inflations than you will if you leave things to take their own course as regards the rate; but if you really wish to meet the situation in a way which is really calculated to meet the requirements of the situation, I believe you can handle this through some such scheme as these economy bonds which I have indicated. Of course this is in a way a novel project—something which has never been adopted heretofore—but there are a large number of things in this war which are novel, and we can not reasonably state that we must not do anything in

financial matters simply because it was not ever done in the relatively small wars, from an economical point of view, which mark previous generations.

Mr. TREADWAY. Did you ever suggest that idea to the Secretary of the Treasury?

Prof. SPRAGUE. I have suggested that to the Secretary of the Treasury. I have also talked it very industriously with all sorts of people during the last three months—bankers, railroad people. I have talked it at the national convention of the Chamber of Commerce of the United States at Chicago, and I have been simply astonished at the number of people whom it strikes favorably, a large number of people who have been inclined to oppose rather violently such taxation. They said that this was a scheme which really seemed feasible and calculated to work.

Mr. TREADWAY. Now, do I understand you to say that you would require the taxpayer to make his return, to certify in his return that he had so much money to invest in these bonds? Would you limit him to savings that he had made during the year, or invest any capital he saw fit?

Prof. SPRAGUE. No; you see, any capital he had from previous years, that is invested, and he can only get it out to buy liberty bonds with by selling it to somebody else. You could not sell very much if everybody was saving for his quota of liberty bonds. It would be difficult to find a market for most existing capital. Moreover, I think you will probably find it desirable to issue certificates of indebtedness which nobody can buy. Then one could cash in the certificates of indebtedness and secure the economy bonds at the end of the year, making the necessary statement, of course, or affidavit regarding the fact as to whether it had secured or purchased them with savings. That is very essential. Then, if a person wants to borrow on his other bonds, let him buy some more liberty bonds.

Mr. GREEN. On the point that if you made that exemption from tax, it would have a tendency to make the very wealthy borrow on their purchases of liberty bonds, would you put that on the ground that if they borrowed the money to buy these bonds they would be able to set off the interest?

Prof. SPRAGUE. Very wisely you can not do that under the present law, but suppose you have an income of \$4,000,000, and that you happened to have a couple of million dollars to invest. Now, the question is whether you will invest in some tax-exempt securities or whether you will invest in some 6 or 7 per cent taxable securities. Now, to the man with the four-million income, if you get your income-tax rate high enough, it would be better to buy four and a quarter tax-exempt Government bonds than to buy 6 or 7 per cent taxable securities, and it will be worth while to do so even to the extent of borrowing in order to accumulate a stock of them.

Mr. GARNER. I want to ask you with reference to your list of necessities. Do you consider beer and tobacco necessities?

Prof. SPRAGUE. Beer, I should not think so. As to tobacco, I should consider that a necessity, for it is consumed by a very large number of the population, rich and poor. Now, I do not notice that a person with an income of six or seven hundred dollars does on that account use no tobacco.

Mr. GARNER. But you would not say that the people could not get along without these things?

Prof. SPRAGUE. No doubt, but the general effect would be to reduce consumption. There are some necessities which you need in a certain amount and no more. I suppose, for instance, the amount of coal or wood for fire that a poor family uses in the course of a year could hardly be reduced without suffering, but when you come to questions of coffee, tea, and tobacco, the amount could be appreciably reduced without real suffering.

Mr. GARNER. You call them necessities, then, they are so universally used?

Prof. SPRAGUE. Yes; and we find that some articles which are used by some, such as tobacco, are not used by everybody. If you include tobacco, coffee, and tea, why there would not be very many people who are not using one or the other of them. But I think you want to put good stiff taxes on them rather than a number of little taxes. A single stiff tax is impressive, but 40 small taxes are not.

Mr. GREEN. Coal is sometimes used as a luxury. For instance, a man may have 30 or 40 rooms to heat throughout the winter, with all the windows open. Is there any way of getting that in?

Prof. SPRAGUE. It is very hard, I think, to get at that. Of course, it would be more feasible, under the present coal distribution, since they have limited the amount. I think people who are doing that are few in number, and I think they would be hit more conveniently by other taxes. It is not necessary to hit hard every avenue of extravagance of a particular individual, if you only hit some of them hard enough. If a man's extravagances total \$15,000 in a year, and he is spending it on 25 different commodities, you can check it by taxing every one of those commodities a certain amount or by taxing some of them heavily and leaving the others free. You will accomplish about the same result.

The CHAIRMAN. Does any other gentleman wish to ask any questions?

Mr. LONGWORTH. Just one question on the matter he brought up with regard to war profits, taxes to be superimposed over our present tax. Did I understand you to say that before submitting that income to the present tax you would deduct the amount under the war-profits tax?

Prof. SPRAGUE. Yes.

Mr. LONGWORTH. Let me see just how that would work out. Suppose the prewar average were \$100,000, and the last year's average were \$500,000. You would take, say, 80 per cent of the difference—

Prof. SPRAGUE (interposing). Between the one and the five, yes, unless there was clear evidence that the hundred thousand dollars was abnormally low. The English war-profits taxes are by no means an absolutely simple matter. They have liberalized it to take into particular account particular circumstances, and are making fairly normal profits in the prewar years the basis, and they will also take into some account the capital investment. The burden of proof is on the protestant to show that the return before the war was not a fair return on the investment.

Mr. GREEN. Is it not really complicated matter with the boards they have?

Prof. SPRAGUE. Yes; but the results are regarded as, on the whole, fairly equitable, and when you consider that the rate is a flat 80

per cent rate, it must be that they have worked out the thing fairly equitably or there would be an immense and vociferous protest from all quarters.

Mr. GREEN. The statute is by no means perfect in its qualifications and exceptions.

Prof. SPRAGUE. They have allowed more freedom to administrative officials than we have been accustomed to allow in this country, but they have reached results.

Now, then, if you had, to take the case you mentioned, to take the difference between \$100,000 and \$500,000 and that you had \$400,000 to tax. You take \$320,000 on that, which leaves a total of a hundred and eighty thousand dollars which might be subject to existing excess-profits tax. Now, assuming that that tax were reduced some, of course the amount taken would depend on the invested capital of the concern; but assuming that the prewar profits were reasonably good and that \$100,000 was a fair return—say that it was about 14 per cent on the invested capital—then I should not think there would be any injustice in subjecting the \$180,000 to the American excess-profits tax, any more than there would be in the event that the concern had only made a hundred and eighty thousand dollars originally and continued to make it through the war.

Mr. GREEN. What would you do with corporations which, like some of the Standard Oil corporations, made 50 to 100 per cent before the war, and are perhaps making a 125 per cent now? Do you think it is sufficient to just impose a tax on the war profits only?

Prof. SPRAGUE. Well, you tax war profits, get a big, stiff tax there, and you get something in the case of excess profits, and most of the stock of those companies is rather closely held and consequently you get a rather heavy rate of income tax. Finally, I should do something more than is done in the present law regarding surplus. This is a matter that was discussed early in the afternoon. My own suggestion in relation to the excess-profits tax as corporate income would be this, that where the corporation exists and the money needs to be retained in the business, let it be retained. But that there be a Government lien on that which is retained. You know money for the business is very difficult to obtain. It means sometimes, if you are going to enlarge, that you must enlarge by means of bonds. For instance, a few corporations used to enlarge by means of small bond issues of its subsidiary corporations. Now, it is enlarging with profits, the profits being large, whenever those enlargements are needed. Whether it is to be financed from profits or not is, of course, a difficult question. But probably in the present difficulty in regard to new financing, it would be better to allow the steel corporation to use its profits in making necessary extensions, conditional on diverting the amount of the taxes to the Government at some later season. There would be elasticity to the operation of law and it would do away with the almost universal objection of business men that they must have profits to go back into the business in order to finance necessary enlargements. This would put the matter more or less to a test.

The CHAIRMAN. Are there any other questions to put? If not, we have other witnesses.

Doctor, you may add anything to the remarks, or revise them. We have been very glad to hear you.



Prof. SPRAGUE. Thank you.

The CHAIRMAN. The next witness was to be Prof. Lindsay, but he is not here. Mr. Hemingway and Mr. Cowles were also to be heard. Mr. Cowles, you live in Washington and you can come in anytime. We have a gentleman here from Massachusetts, who desires to get back on the next train, and if it will be all right, we will hear him. You are interested in these hearings, and if you will just let us put this gentleman on to accommodate him, I presume it will be all right with you.

Mr. COWLES. Yes, sir.

**STATEMENT OF MR. ANDREW P. DOYLE, MANUFACTURER OF SODA-WATER BOTTLES, NEW BEDFORD, MASS.**

Mr. DOYLE. Mr. Chairman, I thank you very much for this courtesy. My experience as a committeeman leads me to know that the only way that a man can express his gratitude is by being very brief, and I will be extremely brief.

I am prepared to discuss for but a moment the general conditions of the soda-water bottling business, and the troubles which we have gone through and the troubles which we will go through if the war tax is on us. My good friend, Congressman Treadway, has informed me that it is a rule of the committee that if there are two men representing an association, one has the right to talk.

Mr. TREADWAY. I think the chairman would be willing to give you both an opportunity.

The CHAIRMAN. Yes.

Mr. DOYLE. In the first place, the soda-water bottling business throughout the whole country is largely made up of a series of very small manufacturers. Men who have capital from \$1,000 up to \$50,000 will probably do seven-eighths of the soft-drink business of the country. In the last revenue bill we were supposed to be taxed to an amount to bring in revenue of \$20,000,000. I doubt very much if it does.

The CHAIRMAN. I agree with you. It would not raise anything like that amount.

Mr. DOYLE. You are right; particularly so, Mr. Chairman, because since the revenue bill has been passed the soda-water manufacturers have not, in the first place, been able to obtain a sufficient amount of carbonic-acid gas to do business; and then came the sugar situation. Our concern was closed down for four months because there was little sugar, and what little there was we thought it would be better to use in the homes of the working people than in soft drinks. I am assured by the committee—of course, I do not know—that it is a very simple matter in the aggregate to raise \$8,000,000,000 that you are going to raise by taxation. If any tax that this committee desires to impose on this business, or proposes to raise more than a million dollars, it at least might be the means of putting small dealers out of business. We are not here to make a holler or to say that our business ought not to be taxed. If it is taxed, we will accept it and do the best we can. But if there is much more tax placed upon us it will result in putting the small fellows out of business and creating a condition, as Senator Simmons very wisely said to us last night, that there will be so little soda water drunk that there will be

no revenue on which to pay a tax. We, of course, feel that there is not going to be any amount of soda water used anyway. In the first place, we were cut to 80 per cent on sugar last year, and we have just received notice that there is going to be further reductions in the amount of sugar, and sugar is the one essential feature of it. Further than that, a matter of 20,000,000 or 30,000,000 pounds of sugar were destroyed by the U boats, which is going to make a further reduction.

The CHAIRMAN. Why haven't you been able to get a sufficient amount of carbonic-acid gas?

Mr. DOYLE. In the first place there is a scarcity of drums. It is an utter impossibility for the manufacturer to have those drums made. Those are expensive articles, costing \$9, \$10, and \$12 each. Formerly, most of them were made in Austria, and I understand that one firm had a hundred thousand drums ready to be shipped when the war was declared. Another thing, the Government has commandeered large-size drums.

The CHAIRMAN. I got a letter a few days ago from a gentleman from some city saying, "You put a tax of one-fifth of a cent on soda water, and the dealers have increased the price 5 cents." That is about 250 per cent.

Mr. DOYLE. That is true to some extent, I think, Mr. Chairman, of the people, the retailers. It is not true of the men who are bottling it, and who are trying to carry part of the tax.

Mr. CHAIRMAN. If that be true of the retailer, that they have gone up from one-fifth of a cent to 5 cents, in order to cover the tax, would it be an unwise suggestion to put a limit on the percentage of the gross sales of the retailer?

Mr. DOYLE. I think that is true. I think such cases are infrequent. I know in my town, the only one I am familiar with, and I am not an expert on this business, that the price to the consumer has been raised 1 cent a bottle. Where it was 5 cents before, it is 6 cents now.

The CHAIRMAN. I think this gentleman referred to drinks over the counter.

Mr. DOYLE. I have not seen anything like that. You understand, Mr. Chairman, that there are a great many other things that are taxed under the law besides the tax placed on us.

Mr. GARNER. What do you say about putting a tax on gross receipt?

Mr. TREADWAY. You mean the retailer?

Mr. GARNER. Yes.

Mr. DOYLE. I do not think there would be any great fault to find with that, because there are some who have gone up outrageously, but in general they are trying to meet the situation placed upon them by this taxation. But there is the increase in everything else in the bottling industry. It is a seasonable industry; there are only six months in the year during which it is possible for us to do business, except possibly in some parts of the South. In Massachusetts six months is the extreme.

Mr. GARNER. But the tax on gross receipts would tend to do two things; tend to get the revenue where it would not put up the price and tend to make for economies in their business, which is quite an important factor.

Mr. DOYLE. Yes; but, of course, there is going to be some difficulty, Mr. Congressman, in making a tax on gross receipts. The soda

water is sold in connection with so many other things that it would make an added burden to separate these funds.

Mr. GREEN. They would have to have a separate cash register, and then it would be rather difficult.

Mr. DOYLE. The bulk of soft drinks that are sold, of the bottled soft drinks, are sold in small grocery stores. You, who perhaps are not familiar with the lower class of business as I am, do not know it, but it is a fact nevertheless. You may talk of the Coca-Cola Co. doing a great business throughout the United States, or the Cliquot Co. making ginger ale, but that is only a small part of the soda-water business of the country. The sweet soda-water is made by the small bottler. We have 600 or 700 in the New England States, and all are small industries, organized within 15 or 20 miles of their places of business. A tremendous amount is sold in candy stores and small grocery stores.

Mr. MOORE. What section are you addressing yourself to?

Mr. DOYLE. Section 315.

Mr. MOORE. Carbonic acid gas in drums?

Mr. DOYLE. That takes in the whole of the soda-water schedule. Sections 314 and 315.

Mr. MOORE. Do you propose changes in that law?

Mr. DOYLE. We have drawn up a schedule here, Mr. Chairman, that we though we might be able to stagger along under, but it is extremely problematical, because we do not know, in the first place, whether we will be declared a nonessential industry or not.

Mr. MOORE. I wanted to know how you thought you could help the committee; the committee has this task before them. Is it your suggestion to reduce any of these items?

Mr. DOYLE. No; we feel, Mr. Congressman, that if you are going to raise eight billions of revenue that we are going to get a part of it, and we do not kick.

Mr. MOORE. What I wanted to know is, if you propose to transfer the tax from the bottler to the consumer—that is, would you place a tax by the glass on the purchaser in the store?

Mr. DOYLE. It is extremely difficult to transfer it. For instance, all the direct tax we pay is a direct price to the wholesaler.

Mr. GREEN. You don't think it would be practicable, on account of the large number of small sales in many establishments, to levy it by the glass?

Mr. DOYLE. It would be difficult; in my town I think there are about 150 establishments selling soda water, to say nothing about what you are selling by the glass, and the way you would have to work that out.

Mr. TREADWAY. How is this in effect now? How is it worked out?

Mr. DOYLE. It has worked out in that it is easier to collect.

Mr. TREADWAY. How has it affected dealers like yourself, for instance?

Mr. DOYLE. Perhaps I can illustrate it better in this way: The last time I was here I was before the Senate Finance Committee, and then we were paying  $4\frac{1}{2}$  cents for carbonic acid gas. When the tax was placed we were paying 11 cents a pound; after we got back we were raised a half cent a pound, and when the tax was laid we were increased 6 cents a pound.

Mr. O'SHAUNESSY. What is tax on the drum; 5 cents a pound, you say you are paying?

Mr. DOYLE. Yes, sir.

Mr. O'SHAUNESSY. How much are you paying now altogether?

Mr. DOYLE. Eleven cents.

Mr. O'SHAUNESSY. You are paying 6 cents for the gas—6 cents a pound for the gas and 5 cents for the tax?

Mr. DOYLE. It is all charged up.

Mr. O'SHAUNESSY. It is very easily collected?

Mr. DOYLE. Yes, sir.

Mr. MOORE. You are a bottler and are speaking for the bottlers?

Mr. DOYLE. Yes, sir.

Mr. MOORE. And not for the manufacturers of carbonic acid gas?

Mr. DOYLE. Oh, no.

Mr. O'SHAUNESSY. You buy from the manufacturers of the carbonic acid gas?

Mr. DOYLE. Yes, sir.

Mr. O'SHAUNESSY. And they collect from you?

Mr. DOYLE. Yes, sir.

Mr. O'SHAUNESSY. And we collect from them?

Mr. DOYLE. Yes, sir.

Mr. O'SHAUNESSY. Your objection now is that it is too much?

Mr. DOYLE. No; it isn't that altogether. We are willing to stand up under this tax and a little more, if possible, but my experience up in the legislature and here is that there is very little information about the soda-water business, and all we heard last year was about the Coca-Cola Co., which was the one great big company.

Mr. O'SHAUNESSY. What I want to get is, what you are objecting to.

Mr. DOYLE. We are not objecting to anything, because we know nothing of what you gentlemen are going to do.

Mr. O'SHAUNESSY. I know; but what is your opinion of the law to-day, so far as you gentlemen are concerned?

Mr. DOYLE. It is no worse on us than on anybody else. We furnished this schedule, because we knew we were going to get something.

Mr. O'SHAUNESSY. It is all right, then?

Mr. DOYLE. Yes; it is all right. But what I wanted to convey to you gentlemen was that in the tremendous task that is before you, you will find that you will need to lay a tax on many of these industries, and we wanted to show you our idea—

Mr. O'SHAUNESSY. If we wanted a little more?

Mr. DOYLE. Yes.

Mr. GREEN. How about the Coca-Cola people at the present time?

Mr. DOYLE. They are being taxed, of course, and I hold no brief for them. God knows. They have a tremendous business. My associates and I would be glad if we could break even during these war times and not make a cent. Our purpose in coming here is to show you that there is one little industry, if you put too much on it it will crush it out, and the corporations like the Coca-Cola people will go on.

Mr. CRISP. You wouldn't object to a gross tax, if you can figure it out?

Mr. DOYLE. If you can figure it out.

Mr. CRISP. I mean the little fellow, if he can put his business in you wouldn't object to a gross tax?

Mr. DOYLE. How would you levy a gross tax?

Mr. CRISP. On gross receipts from the dealer.

Mr. DOYLE. If you can work it out. I don't know how you are going to do it.

Mr. TREADWAY. Let me ask you this: Is there a tax on all soft drinks, say, by having a tax levied on the drums?

Mr. DOYLE. No.

Mr. TREADWAY. Doesn't the carbonic acid gas enter into the manufacture of all the soft drinks you speak of?

Mr. DOYLE. No, sir; not all.

Mr. TREADWAY. As a dealer in your line of business, section 315 is acceptable to you in its present form, is it not?

Mr. DOYLE. Yes, sir.

Mr. TREADWAY. Now, would you make this suggestion: Leave it as it is, or, if more must be secured, add a little to it, a half cent a pound, making it 5½ cents instead of 5 cents. Would that meet your idea?

Mr. DOYLE. Exactly, because that would give us——

Mr. DIXON. The administration of the law has been satisfactory so far as it has gone?

Mr. DOYLE. Yes; if we live under it. But the tax you can raise under a law depends on whether the business taxed can live under it and if you can't get the tax levied, it must be adjusted, when you see you can't raise that tax.

Mr. TREADWAY. Has the secretary of your organization anything to add?

Mr. MOORE. I want to ask a question. Has the law had a fair test in view of the fact that it went into operation in the winter, when soft drinks are not much indulged in; and the business is now just starting?

Mr. DOYLE. It has had practically no test at all, because my own concern was shut down four months—nothing at all bottled.

Mr. MOORE. A great many soft drinks are being sold now?

Mr. DOYLE. Yes; it is having a fair test now, if we can get enough sugar to bottle now.

Mr. MOORE. Isn't prohibition helping some?

Mr. DOYLE. If we can get sugar to bottle——

Mr. MOORE. That is your point?

Mr. DOYLE. It is a seasonable business. In Massachusetts, for instance, it is a short season, sometimes only about three months; if you get six months it is a long season.

Mr. O'SHAUNESSY. The statement was made in the press that the sugar would be cut down on account of the large amount that went down on the boats recently.

Mr. DOYLE. We are here to see that we do not get stepped on, gentlemen. We do not talk about patriotism; everybody is patriotic. We do not want to be taxed to death. We prefer to be told that we can not do business, rather than to be taxed to death.

The CHAIRMAN. I want to ask you a question. Last year we had several men before us, and we couldn't find out from the chemists and the scientists on this line, how many gallons of ginger ale or pop would a pound of carbonic-acid gas produce?

Mr. DOYLE. That is a question.

The CHAIRMAN. If you will furnish that and put it in your statement. Think it over and put it in.

Mr. DOYLE. I was going to say that some bottlers charge less. We charge very high for ours. If you would allow the secretary of our organization to address you for a moment or two, I think he will tell you some things and will not be as long as I have been.

**STATEMENT OF HUGH J. McMACKIN, SECRETARY OF THE EASTERN SODA WATER BOTTLERS' ASSOCIATION, OF MASSACHUSETTS, MAINE, NEW HAMPSHIRE, VERMONT, AND RHODE ISLAND.**

Mr. McMACKIN. Mr. Chairman and gentlemen, I will be very brief.

The CHAIRMAN. Let me ask you if you know now how many gallons of soft drinks, like ginger ale, pop, etc., would 1 pound of carbonic acid gas produce?

Mr. McMACKIN. I can better answer that my saying that out of a 50-pound drum we will average about 111 or 112 cases of half-pint bottles.

Mr. CRISP. How much in a case?

Mr. McMACKIN. Twenty-four half-pint bottles.

The CHAIRMAN. In a case?

Mr. McMACKIN. Two dozen to a case.

The CHAIRMAN. How many cases would it make?

Mr. McMACKIN. About 112 cases.

The CHAIRMAN. One hundred and sixty-eight gallons?

Mr. McMACKIN. Approximately. The question has been asked, Mr. Chairman, as to whether the gas charge that was made and levied last year was a fair tax, and whether or not bottlers are satisfied. They are satisfied, and we have recommended, in order to assist the Government, that the tax be increased to 6 cents, but we do object to the gas manufacturers levying an assessment on the bottlers of 1 cent a pound to collect that tax. We think it is very unfair to levy a tax to collect that money to turn over to the Government. We feel they are getting profit enough out of the gas, without assessing us the extra half cent a pound to collect that.

Mr. TREADWAY. How do we regulate that?

Mr. McMACKIN. Simply by saying in your report, or recommending in your report, that there should be no charge on us for that.

Mr. CRISP. Suppose we enact a tax on gross receipts, then it makes no difference what they charge; a tax on gross receipts.

Mr. McMACKIN. That would be very unfair. We are taxed first on our carbonic acid gas; again, on the sirups which we purchase from the manufacturers; we are also taxed on the sugar and the numerous articles we have to purchase; indirectly, we are forced to pay taxes.

Mr. CRISP. I know; but suppose the carbonic acid gas tax is taken off, and then a gross receipts tax; what do you say to that?

Mr. McMACKIN. Providing sections 313, 314 and 315 were entirely eliminated.

Mr. CRISP. What are those taxes?

Mr. McMACKIN. The present section 313 provides, upon prepared sirups and extracts, intended for use in the manufacture or production of beverages, commonly known as soft drinks, by soda fountains, bottling establishments, and other similar places, sold by the manufacturer, producer or importer thereof, if sold for more than \$1.30 per gallon, a tax of 5 cents per gallon, and graduated, according to the price of the sirups, up to 20 cents per gallon.

Mr. CRISP. Suppose that tax, all specially required, were taken off, and a gross receipts tax, up to 11 cents, were put on; what do you say to that?

Mr. McMACKIN. I would heartily indorse it. It would eliminate this.

Mr. TREADWAY. You would indorse it so far as your organization is concerned. How about the organization represented by the soda fountain retailers? Would they indorse it?

Mr. McMACKIN. I see no reason why they should not be taxed. The soft drink dispensers are taxed for practically the same commodity. They are taxed at the fountain, and not obliged at present to pay a tax. If the present sections are to remain we have recommended in our petition an increase all the way through. And while I might throw a bouquet to my colleague here, ex-Senator Doyle, of Massachusetts, that was drawn up and we submitted it to the Senate Finance Committee almost word for word, and it was adopted and recommended by the Senate Finance Committee, and we have recommended that in our petition here; and we have recommended that soda water fountains be taxed; and we have also recommended that spring water houses, who are not now taxed, especially where it is sold in these 5-gallon carboys at 10 cents a gallon, they pay no tax whatever. In New England we have many spring water houses, and we believe that a tax of 1 cent per gallon on all waters sold for 5 cents a gallon, or more, should be levied.

Mr. Doyle has told you of the loss of sugar to us.

Mr. Hoover, the Food Administrator, has limited us to 80 per cent of our normal supply until July 1, and after that we understand we are to be more restricted. That is a hard thing. We were shut up last winter on account of the sugar shortage. And you gentlemen will appreciate that the bottles that we were buying for \$2.50 a gross we are now paying \$8 a gross for. For the tin caps we are paying much more. I think it was suggested that a gross tax be levied. In Massachusetts we are unable to supply the demand now. At Camp Devens and at the navy yard at Portsmouth and at the navy yard at Newport we can't supply the demand. In that case I should say we should make an exception. The demand to-day at Camp Devens is 50,000 bottles a day; it would be unfair to levy a tax on the goods going to these boys.

Prof. Sprague mentioned a moment ago that we levy a tax of 2 cents a pound on sugar. I trust that will not be done. That is one of our principal commodities.

I am advised by Mr. Bronker, of the War Industries Board, that he hoped later to be heard on the subject. I asked the clerk whether he has heard from him, and he has not as yet. He may be asked to be heard later.

Mr. MOORE. May I ask what that was—that suggestion from Mr. Bronker, of the War Industries Board?

Mr. McMACKIN. Mr. Bronker, he is chairman of the soft-drink men of the Southwest; we are of the Northeast.

Mr. MOORE. What did he indicate?

Mr. McMACKIN. He has advised me that he has requested that he be heard a little later by this committee.

Mr. MOORE. I thought he had suggested some limitation on your production?

Mr. McMACKIN. Not that I know of.

Mr. DIXON. He said that Mr. Hoover had limited them to 80 per cent of their normal amount of sugar.

Mr. McMACKIN. Yes; we are allotted only 80 per cent now, and it looks now as if it would be cut to 50 per cent of last year's output.

While I have the floor I want to thank you, Mr. Chairman and gentlemen, for hearing us this evening out of our order and for the time we have consumed. Kindly keep us in mind.

(The petition referred to by Mr. Doyle and Mr. McMackin is as follows:)

PETITION OF THE EASTERN SODA WATER BOTTLERS' ASSOCIATION (INC.), OF THE STATES OF MASSACHUSETTS, MAINE, RHODE ISLAND, NEW HAMPSHIRE, AND VERMONT.

MONDAY, JUNE 10, 1918.

THE WAYS AND MEANS COMMITTEE.

GENTLEMEN: The soft-drink bottlers of the above-mentioned States are united to assist the Government in the successful prosecution of the war to a victorious end, and we pledge ourselves to stand ready at all times to render all the assistance within our power to that, and it has been—

*Resolved*, That the soft-drink bottlers, whose business has been greatly reduced already in cooperating with the United States Food Administrator, stand ready to further assist when so needed and it is—

*Resolved*, That we recommend that section 814, part A, shall be changed to read as follows, viz, line 14, change "5 cents" to "6 cents" per gallon; change line 16 to read "9 cents" per gallon, change line 17 to read "12 cents" per gallon, change line 18 to read "18 cents" per gallon, change line 20 to read "22 cents" per gallon; also to recommend to your honorable committee that part B, of section 814, line 3, page 38, be changed to "2 cents" per gallon, and that part C, section 814, be rewritten to read as follows:

"(c) Upon all natural mineral, table, or spring waters sold by the producer, bottler, or importer thereof in bottles or other closed containers at over 5 cents per gallon a tax of 1 cent per gallon, and all such waters sold for and over 10 cents per gallon a tax of 2 cents per gallon."

That section 316, line 25, page 38, be amended by striking out the figure "5." and to substitute the figure "6" for the same.

And it is further recommended to your committee that in fairness to the soft-drink bottlers that a tax should be levied upon soda-fountain owners, when they manufacture their own sirup for their own use, and to that end we would suggest that "Upon all sirups manufactured or prepared to be used at soda fountains, and when sirups and extracts manufactured or prepared and sold for use by soda fountains, bottling establishments, and other similar places to be used in what are commonly known as soft drinks, sold by the manufacturer, producer, or importer thereof," and then followed by amended section 314, part A, as recommended above.

Respectfully submitted.

HON. ANDREW P. DOYLE,  
New Bedford, Mass.

HUGH J. McMACKIN,

Secretary Eastern Soda Water Bottlers' Association.

(And thereupon, at 5 o'clock and 20 minutes, the committee adjourned until Tuesday, June 11, 1918, at 10 o'clock a. m.)



# REVENUE BILL

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No. 4

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## HEARINGS

BEFORE THE

## COMMITTEE ON WAYS AND MEANS

HOUSE OF REPRESENTATIVES

WITH REFERENCE TO

## THE NEW REVENUE BILL

[THIS PRINT OF THE HEARINGS IS SUBJECT TO REVISION  
BEFORE THE FINAL PRINT]

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JUNE 11, 1918



WASHINGTON  
GOVERNMENT PRINTING OFFICE  
1918

COMMITTEE ON WAYS AND MEANS.

HOUSE OF REPRESENTATIVES.

SIXTY-FIFTH CONGRESS, SECOND SESSION.

CLAUDE KITCHIN, North Carolina. *Chairman.*

HENRY T. RAINEY, Illinois.

LINCOLN DIXON, Indiana.

CORDELL HULL, Tennessee.

JOHN N. GARNER, Texas.

JAMES W. COLLIER, Mississippi.

CLEMENT C. DICKINSON, Missouri.

WILLIAM A. OLDFIELD, Arkansas.

CHARLES R. CRISP, Georgia.

GUY T. HELVERING, Kansas.

GEORGE F. O'SHAUNESSY, Rhode Island.

JOHN F. CAREW, New York.

GEORGE WHITE, Ohio.

JOSEPH W. FORDNEY, Michigan.

J. HAMPTON MOORE, Pennsylvania.

WILLIAM R. GREEN, Iowa.

CHARLES H. SLOAN, Nebraska.

NICHOLAS LONGWORTH, Ohio.

GEORGE W. FAIRCHILD, New York.

JOHN A. STERLING, Illinois.

WHITMELL P. MARTIN, Louisiana.

WILLIS C. HAWLEY, Oregon.

ALLEN T. TREADWAY, Massachusetts.

JOHN B. WALKER, *Clerk.*

# REVENUE BILL.

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COMMITTEE ON WAYS AND MEANS,  
HOUSE OF REPRESENTATIVES,  
*Tuesday, June 11, 1918.*

The committee met at 10 o'clock a. m., Hon. Claude Kitchin (chairman) presiding.

There were also present Representatives Rainey, Dixon, Garner, Dickinson, Oldfield, Crisp, Helvering, O'Shaunessy, Carew, White, Moore, Longworth, Fairchild, Sterling, Martin, Hawley, and Treadway.

## STATEMENT OF MR. JOHN W. BATDORF, PRESIDENT AMERICAN CONSTITUTIONAL ALLIANCE, 117 WEST ONE HUNDRED AND THIRTY-SECOND STREET, NEW YORK, N. Y.

Mr. BATDORF. Mr. Chairman, I am going to make this statement just as short as it can be made, and after the little talk I give, if the members of the Ways and Means Committee will read those little books, they will understand just what I mean. They can not fail to understand, because I know they are intelligent men. I hope you will permit me, if the members are interested, and if they are not interested I will be very glad to retire to outline a plan, because in listening to the speakers of yesterday it seemed to me that what this committee wanted was a concrete, practical plan to raise \$8,000,000,000 by taxation, and in such manner that it might not hurt nor prove a reaction of too great liability upon the consumers. I think that is what you are after.

The CHAIRMAN. Yes, sir.

Mr. BATDORF. Now, I promise you that I will lay before you a plan. I do not say that you will be agreeable to that plan, but I will give you a positive plan to raise \$8,000,000,000 by taxation in a specific way; and I hope you will pardon me if I sometimes become a little dogmatic, because you demand a specific plan, and that will necessarily make some part of my speech a little dogmatic.

The CHAIRMAN. Doctor, whom do you represent in appearing before the committee? I notice you are president of the American Constitutional Alliance.

Mr. BATDORF. I represent an organization which has been studying for years, under my leadership, a principle and thought of Jefferson as he expressed it in France in 1783, to support a patriotic proposition, to support the Constitution and the Government created under it. In other words, we are an absolutely patriotic body of very intelligent men, who believe the time has arrived when we must get at the truth of things. Because of this Government being carried on by the Hamiltonian doctrine of concentration of power for 125 years.

some things have crept into our governmental rulings that have been a hard matter upon the consuming class. The matter with capitalism and the matter with labor is that they have made a sort of bargain to "get theirs" out of society. I would like to speak in strong words of what they think about the consumers, but I will refrain.

I think you understand that this Government, by taking over the control of the railroads, and, possibly, soon the shipping, will start the ball to roll toward Government ownership in time. Government ownership is somewhat deceptive. It is bound to lead further and go into what we call State socialism, the State socialism practiced by Germany especially, an autocracy, and beyond that we are bound to be confronted with the principle of Marxism socialism, and beyond that Bolshevism, and as we enter this path I think, as good American citizens, we should be careful just exactly what we should do. This alliance is ready for work. Its main work has been upon the streets of New York City. It has driven socialism from the streets there. Our organization is the only organization outside of the religious bodies that is permitted to speak on the streets of New York. We supported the Liberty Loan movement and helped the Red Cross movement by our speakers. We have many speakers for this cause, to effect a pure government in this Nation.

I now want to state a few facts in our history which will make a base for the argument that must come, if you want a plan to raise \$8,000,000,000 from taxation to support this Nation in war for the next year. In the eighties the Supreme Court in three cases made of the corporation a person and a citizen. Those cases are 164 United States, 636, in the case of the United States *v.* The Northwestern Express Company, in which it was held by the Supreme Court that the corporations are citizens and under section 1 of the fourteenth amendment to the Constitution the rights of corporations are made to stand on the same basis as the rights of natural persons; and in the case of Santa Clara County, California, *v.* The Southern Railroad Company (113 U. S., 396) the United States Supreme Court declined to hear argument to deny those rights; and, third, in the case of Fire Association *v.* State of New York (119 U. S., 110) the rule is laid down that a corporation of one State doing business in another is to be deemed a person within the meaning of the Constitution. The reasoning of the court was sound at the time. They said that the corporation was formed by a collective lot of citizens and persons, and for that reason that collective or cooperative lot of people should have the same rights as the natural citizen when bound under the corporate law.

They forgot one thing, and that is that they permitted a natural person to represent one little stick, but when you bind tens of thousands of sticks into one concrete bundle, animated by one thought, all of them, for the common good and upbuilding of that collective lot of sticks or citizens you have produced a tremendous power in that bundle of sticks to depress and destroy the opportunities of the natural person, as one little stick, in business affairs; and although we put the Sherman antitrust law in 1890 into effect, it has been very little influence to withstand the steady advance of the creation of corporations and the expulsion of the individual, the natural person, and the citizen from continuing a business in competition with the corporation.

Commencing in 1910, the Government gave to the people some idea of the strength of corporations, and for five years they continued, but they stopped it abruptly with the end of the fiscal year 1914, and we have only the statistics up to that time, as the work was stopped at that time. The statistics showed we had 316,909 corporations doing business upon that date, the end of the fiscal year 1914; that their share capital was \$64,071,000,000; that their bond and note indebtedness amounted to \$37,136,000,000, or a total of \$101,207,000,000.

Our organization thinks it is too bad that the Government deprived the citizens of this Nation of the right of knowledge of how these corporations were created and their affairs were published. We can only go by presumption as to what has grown since. We know, for instance, that in the year 1915 New York State granted more than 10,500 charters to corporations. We know that Maine, West Virginia, Delaware, South Dakota, and Arizona are the homes for creating large corporations to be paid up by the good will of the product of the corporation of the future. We conclude from what has been going on since the end of the fiscal year 1914 that the number of corporations has been largely increased; that its capital, including stocks, bonds, and notes, must amount to somewhere near \$120,000,000,000. We believe also that previous to the time when the war started that if the assets of the corporations were inventoried as the individual's cash capitalization must be when he goes before the credit department of the wholesale house, that its capitalization would not have inventoried more than \$50,000,000,000. We believe at the present time that if the capital assets of the corporations were so inventoried, under the rule which I have spoken of, that there might be a possible real value there, and we believe it is there, of about \$75,000,000,000, and it is on that basis that we plan.

We believe that to escape socialism and Bolshevism coming to this country, to satisfy labor absolutely in its demands, to settle this question of what capital is, the Government will be compelled—and it is only a question of time—to take over the corporations, simply because in the eight-hour law practically the court said, Chief Justice White making the statement, that they will have to be guided by the words the people have ratified in the Constitution, and if they are not there they have got to decide it upon their line of reason. This being the case, the absentee capitalist and the unionist working for corporations had less power to govern the corporation than the laws of the State in which the corporation was organized, or in interstate traffic than what the national law would demand; that practically the corporation to-day under that decision is a machinery of business and a public machinery of business, because in the last analysis the people as sovereigns meet at least one day in four years, a day in November, to indorse a past administration or to institute a new administration, and therefore the people, from that fact, become the sovereigns to rule. But not being as intelligent, all of them, as you wiser men are supposed to be, they simply vote as they have always voted, by parties, and they will have to learn by bitter experience that they must be a body to take care of the state, and not have it as it is in Germany, the state take care of the people.

Therefore, they will have to rectify this, and they will rectify it either by going, as I say, to Government ownership under the Hearst

plan or we are going to something else; and we wish to enunciate a plan whereby the Government shall issue a 4 per cent bond upon all of the prior lien security produced by the inventory which I have suggested, amounting to about \$75,000,000,000. I believe that the environment of the future, leaving the rich man to protect the wealth garnered from the past, the most precious part of our prosperity will be well satisfied, if he can keep that fortune so gained by himself and his forefathers, because it must be kept. It is the safest thing we can depend upon, the \$250,000,000,000 of supposed wealth which this Nation contains, but it must be reservoired not only to satisfy the pride of family, but held in its largeness for the public welfare and for all of the people and not a part of the people. I believe they would be willing to take this when the time comes, and probably soon, very soon. That releases the capitalism of the corporations absolutely and settles it once and for all. The Government becomes the only stockholder and is in the same position as the individual stockholder to-day. There is no change. There is no disruption of the corporations at all.

The people, to get beyond the present situation, which I do not need to tell you gentlemen about, will be glad to pay a profit on corporation products, which will absolutely return to the Government 10 per cent upon this stock valuation of \$75,000,000,000. You there have \$7,500,000,000 coming as an absolute certainty, because this will represent a Government monopoly, limited, of course, which therefore can not be rapacious. But the Government will have \$7,500,000,000 to pay 4 per cent, or \$3,000,000, to the owners of the issued bonds, and \$4,500,000,000 to turn into the Treasury for the people, and it answers the same as taxation. In other words, the individual, to hold a stock share of a corporation, would not be satisfied with less than 10 per cent, and the people would have to pay it anyway, under such a proposition, but if the people know that 6 per cent goes to relieve them of \$4,500,000,000 of taxation to support the National Government, it is my impression and belief, and the belief of my organization, that the people will be well contented to pay that \$4,500,000,000 into the Treasury of the United States.

The next proposition is the thought of Jefferson. Jefferson wrote a letter to the father of our fourth President in 1785 from France, in which he outlined the misery that existed in France six years before the revolution. It is an intense account of real misery. He advocated to the French, seeing so much vacant land owned by the wealthy, that that land should be given over to the landless, whereby through agriculture the people of France could live from the land. He advocated what he had done in the House of Burgesses on the 12th of October, 1776, when he introduced a bill in that house to repeal the law of primogeniture and entail, and destroyed aristocracy not only in Virginia, but in the entire Nation, and that date, the 12th of October, 1776, should never be forgotten by men who are to-day of equal sovereignty one day, at least, every four years. He advocated in France that the family fortune should be distributed to all of the heirs and not to the one heir alone; and then he advocated upon large fortunes that a geometric tax should be assessed in proportion as the fortune increased.

For the last 30 years or more it has been my lot to develop the mathematics of the thought of Jefferson, because we know but very

little about it. There are no books in existence except what Mr. Jefferson wrote, my own books, and the book *Fate and Folly*, by the Reverend Monseignor John S. Vaughn, bishop of London. You will find in the last pages of that I. W. W. book that he describes it very well in likening the distribution of wealth to all the people to the governor which James Watt invented almost 150 years ago to govern the steam entering a steam engine and which made steam possible for use as we know it to-day. I would like to have you read those three pages. I think you will enjoy it and understand the meaning of the geometric tax.

Now, the geometric tax, as I have developed it by mathematics, is simply the power of measurement of what each citizen owes to the Government because of the Government permitting each individual to go out into society to gather a profit and an income from society. That is all the geometric tax is. It is a yardstick, in a sense, and it affects every living citizen and person over 21 years of age.

I think you understand the history of the Federal Convention of 1787, when James Wilson added an amendment to the Madison draft that no State shall pass any law impairing the obligation of contracts. That represents the profit system in our Nation. You can not make profits unless you buy and sell, and there are no words except those in our laws, except they be inferior laws to the Constitution, which is a supreme law of the land.

If it is concluded by you gentlemen that the law of contracts absolutely forces every man to obey what those words mean, then every man must understand that the obligation of contracts in his affairs to gain an income or a profit becomes the center of gravity around which he must swing at least once a year. You people who have studied the tariff question will agree with me that we treat the public as average consumers, and if you do treat the public as average consumers, can you not see that to gain \$1,000 a year in income or profit, that man must encircle that center of gravity, the obligation of contracts, and swing as the law of nature demands around it, the same as all bodies in space or the earth around the sun. Nature demands that everything shall swing in circles.

The CHAIRMAN. Doctor, you have already had one-half an hour.

Mr. BATDORF. I ask the indulgence of the members of the committee to conclude. It will not take me very long.

The CHAIRMAN. All right; go ahead.

Mr. GARNER. Would you mind, Doctor, in the remaining part of your time, telling us just how we are to get this money?

Mr. BATDORF. I am trying to do it, but I am trying to reach your intelligence in an intelligent way.

Mr. GARNER. I realize it is pretty hard to do that with this committee.

Mr. BATDORF. It is the intelligence of your brain I am after and not your credulity.

Mr. GARNER. As I say, that is a pretty hard thing to do with this committee.

Mr. BATDORF. And I do not know of any other way, because there are no histories and no books upon this particular subject, and I am forced to educate you somewhat, if you will permit me, upon this subject. I hope I am not intrusive in the matter, but I feel it is—

Mr. MOORE (interposing). I hope you will continue to address yourself to the gentleman from Texas.

Mr. BARDORF. General protectionists? Well, I could have something to say upon that, but really, Congressmen, I think this is not a tariff proposition. I do not believe the tariff will be but a negligible thought in the future, and I do not see how in the world it can raise more than \$150,000,000 in the future, which is a negligible part of \$8,000,000,000. What you want is the big thing, and you want it quick, just as quick as you can get it. That is the obligation, as I see it, upon the backs of this committee and upon the minds of this committee.

Now, I must describe this geometric tax proposition in just as few words as possible, because you can understand it so much better. Can you not see that if that \$1,000 man has got to swing in a circle you have got to compare him with other men. I know you will permit me to mark on the blackboard a circle of 1-inch spread with the obligation of contracts in the center. The geometric tax has a tabulation in the arithmetical proposition as it rises, and we have thought for 30 years that that should go into the Constitution by amendment.

But Congress, by virtue of clauses 1 and 18 of section 8, Article I, supported by the relative clauses 10, 11, 12, 13, 14, 15, and 16, by the consent of the President can do exactly what Jefferson did in the purchase of the Louisiana territory and what Lincoln did in emancipating the slaves; and upon the conclusion of the Civil War, you will remember we added the Thirteenth Amendment, that neither slavery nor involuntary servitude should exist in the United States, so as to support what Lincoln did. If this man must swing on the outer rim of that representative circle in proportion to other circles, and he gains \$1,000 and the tabulation is in the Constitution, then this Government can go to that man and say to him, "To keep the average consumers within the circle from whom you have gained \$1,000, it having cost the Nation \$1 to give you that privilege, we want that dollar back at the end of the year as a tax."

In the same proportion, if a person should gain an environment which would give him a \$10,000 profit or income and in circling that obligation of contract as the center of gravity, he must go 10 times further out into society to collect the number of average consumers which will give him either for his work or by inheritance \$10,000, therefore he must take the spread of a 10-inch circle, and by mathematics we can prove that that 10-inch circle will hold exactly one hundred 1-inch circles, because you have squared the circle, and as the Government has paid them \$100 for the one hundred 1-inch circles to keep those people in harmony and free from anarchy, that \$10,000 man should pay a \$100 tax, if he is to be in the same proportion with another sovereign to make the law of the future who pays \$1 for the 1-inch circle, and the same thing would apply to one making \$100,000, the 100-inch circle having space within it to put ten thousand 1-inch circles, or 100 times the 100-inch circle of the \$10,000 man, and the Government can say to that person, "You have caused us an expense of \$10,000 and, therefore, your tax is \$10,000; and the \$500,000 man operating on the rim of a 500-inch spread circle having within it space to place two hundred and fifty thousand 1-inch circles will owe the Government \$250,000 at the end of the year.



Now, this tax, I will say briefly, will give to the Nation \$1,500,000,000, because all incomes above \$500,000 would operate under the Jefferson thought of decentralization to the heirs at law for the public welfare or must be placed in the Federal Treasury to pay the taxation for those who have produced that value, because the man owning \$10,000,000 or \$20,000,000 and receiving a dividend of half a million dollars naturally owes something to the community that produced that wealth by toil, and it can only be done by releasing the tax to those who toil in this Nation.

Now, there is just one more proposition, and that is the suggestion which I state there at the end of my amendments; and that is, if we conscript our young men and send them to the battle field not only to defend the integrity of this Nation but also to defend the wealth of the rich, especially if we are invaded, then it is perfectly just to anyone who gains a personal income above \$500,000 that the balance should go to the Federal Treasury for the defense of his property, the defense of his Nation, and for the support of the soldiers in the field.

That would give you two more billions of dollars, or \$8,000,000,000.

Now, Mr. Chairman, if you wish to limit me I will close and be ready to answer any questions you wish to put to me.

The CHAIRMAN. You have made a very interesting talk, and if you desire you can revise your remarks and elaborate your position; of course, as briefly as possible.

Mr. BATDORF. I thank you, sir, but I would rather give it in the concrete form I have.

Mr. MOORE. Mr. Batdorf, you do not agree with the gentleman who appeared here yesterday and to whom you listened very intently upon the proposition of destroying or confiscating all income beyond \$50,000?

Mr. BATDORF. I am absolutely opposed to that and have been fighting the gentleman in New York for more than 20 years.

Mr. MOORE. I gather from your remarks that you are also in favor of retention of inheritances; that you are not in favor of the destruction of inheritances?

Mr. BATDORF. I do not touch the inheritance tax, because the geometric tax will decentralize—

Mr. MOORE (interposing). I am not referring to the inheritance tax but to the general proposition of passing along estates from one generation to the other.

Mr. BATDORF. I believe this Nation was formed to give its citizens personal liberty to devise their property as they think wise and best. Although the law of primogeniture has been repealed, yet there is nothing in our laws that will not permit a parent to devise his whole wealth to the oldest son.

Mr. MOORE. Well, there is an agitation on now for the destruction of inheritances.

Mr. BATDORF. I am absolutely opposed to it.

Mr. MOORE. You are in favor of the passing of property from the father to the son?

Mr. BATDORF. I am in favor of leaving this Nation as the people of the past have created it, just where it exists to-day, and to put something in congressional statutory law, and after the war into the Con-

stitution, that will preserve the institutions of Americanism as they exist at this moment.

Mr. MOORE. I thought I understood you when you were making your address along that line. Now, you and Henry George do not quite agree as to the single tax?

Mr. BATDORF. Absolutely opposed. I belonged to the single-tax party until 1892, when I told Mr. George to his face that he was advocating socialism and that I was going to leave him, and I proved my case, and for that reason the gentleman here yesterday morning and myself are not very good friends.

Mr. MOORE. Is it your belief that the ultimate tendency of the single tax as advocated by Henry George and his followers is socialism?

Mr. BATDORF. Having studied socialism for 40 years, I know it is; that is, if you wish my personal opinion. Of course, that is a little dogmatic, I will admit.

Mr. HAWLEY. How much would an individual with a yearly income of \$1,500,000 pay yearly in taxes?

Mr. BATDORF. It would depend upon decentralization above \$500,000 to his heirs at law, but they in turn would pay taxation under the geometric tax, you understand; in other words, this proposition gives the right to the individual of earning incomes and profits. In other words, we respect the man with vision to create a better civilization. We respect the man that writes, you understand, the blue prints whereby labor can work from day to day.

Mr. RAINEY. Is your geometric tax based upon the proposition that the larger the income the larger the tax ought to be?

Mr. BATDORF. It is based on the exact proportion he should pay. We do not want to be unjust to any person, but we are all of equal sovereignty in this Nation, and we should force everybody to support this Nation in the same proportion. In other words, the population increases geometrically, wealth increases geometrically, expenses increase geometrically—everything increases geometrically except taxation. You have left it out because the wiser brain desires to be arithmetical for his own support.

Mr. RAINEY. Your proposition is exactly the method which is now in force, except you propose what you consider a regular manner of measuring taxes?

Mr. BATDORF. I advocate a scientific yardstick to measure people for the causes they create that concerns the Government in its expenses. If the Government pays out the expenses for any man, surely, if we can prove he has cost the Government so much, he ought to pay it—that is, the individual himself—and not throw it upon the backs of other persons indirectly.

Mr. RAINEY. Yes; I agree with you, and that is what we are doing in this bill, except we are not doing it exactly, perhaps, according to your method of measuring it.

Mr. BATDORF. I do not desire to tell this committee what they must do. I only say this: I can not conceive of any proportionate taxation upon all of the citizens of this Nation except by the thought of Jefferson. To my mind it would be impossible in any other form of taxation. You are bound to depress one class of society and raise

another class of society. It is just like two buckets of water, if they are connected together; if you depress one the other is bound to rise.

Mr. GARNER. Doctor, there is one portion of your statement that made me think probably you were a little partial. You spoke about the citizen being a sovereign who meets and expresses his will every four years. You know we have got to be elected every two years, and I do not believe you fully appreciate the fact that we are only here for two years.

Mr. BATDORF. Pardon me, you are subsidiary to the Government, simply because the execution of government is to elect a President as the prime and therefore you are the affinities to the prime.

Mr. GARNER. I knew we were not very high but I did not know that we were subsidiaries.

Mr. BATDORF. You are not full fledged now and you ought to rise higher than you are.

Mr. MOORE. Do you mean subsidiary to the Government or subsidiary to the administration?

Mr. BATDORF. To the administration. Nature demands that man shall go out and work so as to obtain the dollars from society for his production and he will hold it in conservation, and then by decentralization distribute it to his affinities, where he ought to. The affinities never being taken from the same society, will return to society what another man has taken from society, and then when they do that you are fertilizing society for reproduction. The present system is drawing all from society you possibly can and giving it to concentration, the concentration of business enterprises, the concentration of wealth, and therefore you are impoverishing society all the time and do not know it.

Mr. MOORE. You still adhere to your statement to Mr. Garner that he and others are subsidiary to the administration, do you?

Mr. BATDORF. Why, surely, sir. The President has the veto power. No matter what the gentleman does, if the President does not like it, he slaps his veto on it and his legislation is no good; and no matter what law he may propose, if it goes to the Supreme Court and the court says it is unconstitutional, your work is as if it had not been done at all.

Mr. MOORE. That is what I wanted to get at, because if all that is true why not present this plan for a geometric tax to the President?

Mr. BATDORF. I would prefer to present it, if you will pardon the word, to his servants, the committee of the Congress, because they will have to present it to him.

Mr. MOORE. I thought perhaps you would rather go to the principal than to the subsidiary.

Mr. BATDORF. No; I think his hands are full, and I think a patriotic gentleman who does not want to take up time unnecessarily of other patriotic men should not impose their personal likes or dislikes upon a man.

Mr. MOORE. You know you introduced these pleasantries yourself, Doctor.

Mr. BATDORF. Well, I could not help it. I had no other answer that would be applicable.

The CHAIRMAN. Well, you made him a good one, Doctor, and we are mighty glad to have heard you, sir.

STATEMENT OF MR. S. T. PIRIE, OF CARSON, PIRIE, SCOTT & CO.,  
CHICAGO, ILL.

The CHAIRMAN. Mr. Pirie, give your full name and address and the business you are in and whom you represent.

Mr. PIRIE. Samuel T. Pirie; member of the firm of Carson, Pirie, Scott & Co., Chicago.

The CHAIRMAN. In what business are they engaged?

Mr. PIRIE. General dry goods, wholesale and retail.

The CHAIRMAN. It is a copartnership, is it?

Mr. PIRIE. Yes, sir.

The CHAIRMAN. You are a member of the firm?

Mr. PIRIE. I am here to represent no one except my own firm, and I am a member of the firm. I am here for only one purpose, gentlemen, and that is to try to emphasize the inequality in the present law with regard to the taxation of partnerships compared with corporations. All partnerships seem to have to pay far more taxes than corporations when they are running a business of any size that is at all successful; a business that needs for its own uses the money that it makes; a business such as ours, where we want to leave the money in the business in order to make it successful and strong.

And, if you like, in a larger way the business of the whole country to be kept successful and strong must allow enough money left in it of its profits to insure its endurance. We make a habit, and it is a necessary habit, of drawing out only the amount of money we need to live on, leaving the rest of the money in the business for the purposes of the business, because it requires it. That is very easy to prove, and it is with regard to the income taxes and undistributed profits that I want to call your attention. The reason we have to pay so much taxes is because the profits are undistributed, not drawn out, and we pay on them just the same as if they were drawn out, whereas if we were a corporation we would pay only on what we drew out or only on what is paid out in dividends. Now, the undistributed profits are taxed the same as if they were drawn out. Do not misunderstand me, gentlemen. I am not here to complain for one moment about the amount we pay or the amount any firm pays. I am referring to the inequality between firms and corporations.

Mr. MOORE. Will you give the two cases in parallel columns?

Mr. PIRIE. I will.

Mr. MOORE. And state just exactly how it affects one concern and how it affects the other concern.

Mr. PIRIE. I am coming to that in just a moment. I just want to make it clear that I have no complaint to make about the amount. I wish we could pay more. I wish we could make more and pay more. There is no complaint about that. I know we have to pay it for the support of the war, and if it is going to be increased and has got to be increased, we are glad it is going to get attention just now.

The CHAIRMAN. Mr. Pirie, I believe I can save you time and the time of the committee, too. Your proposition is right. The committee has had that under consideration for several months, and we are going to work it out so as to eliminate that inequality.

Mr. PIRIE. That is all I ask, because I want to give you my reasons. I do not believe—

Mr. RAINEY. Will you furnish for confidential use of the committee these figures?

Mr. PIRIE. Yes. You have them, Mr. Rainey.

Mr. RAINEY. You brought that to my attention immediately after this law went into effect, and I am sure I sent the letter to the chairman of the committee, and the matter was figured out then, and undoubtedly there is an inequality as to partnership arrangements.

Mr. PIRIE. There is no doubt about it, sir.

Mr. RAINEY. And, speaking for myself, I know that I would be in favor of writing into the law what you have outlined in justice to partnerships.

The CHAIRMAN. If you will recall, I mentioned that I felt it was unjust as between partnerships and corporations when I presented the first bill. There is no doubt in the world but what the committee will agree on that.

Mr. PIRIE. It is very clear, and that is really all that anybody would ask. One reason I am here is because I do not believe you gentlemen ever intended any such inequality, but it merely worked out that way. And also I feel it necessary to appear here because I do not believe it is the intention of you gentlemen or the law-making power of this country to drive the business into corporate status.

The CHAIRMAN. The other gentlemen on the other end of the Capitol had something to do with this act.

Mr. PIRIE. Yes. I do not believe you want to drive all partnerships into corporate form. We have a remedy. We could incorporate, but we do not want to.

The CHAIRMAN. Let me suggest this to you: You have not time to think of it now, but you write us a letter about partnerships and corporations from the standpoint of excess-profits tax and income tax.

Mr. PIRIE. Just one moment. I have not a word to say about the excess-profits tax. It is a little bit different, but so little different—

The CHAIRMAN (interposing). But the only thing is that it has your opposition—that is, it makes the inequality by compelling partners to pay income taxes and surtaxes; in your case on undistributed surplus.

Mr. PIRIE. Undistributed surplus and profits.

The CHAIRMAN. And corporations are permitted to carry a surplus and not pay on that at all?

Mr. PIRIE. That is it.

The CHAIRMAN. And the stockholders do not pay?

Mr. PIRIE. Absolutely.

The CHAIRMAN. Another thing. There has been some doubt—I think the present party has held with you gentlemen that in a partnership the partners can not charge salaries, while corporations can. They have held that you can do it, but I doubt under the law if you could.

Mr. PIRIE. They have figured including salaries.

The CHAIRMAN. They are considering that. I do not want to take any more of your time. Don't take ours if the court is with you.

Mr. PIRIE. I am very glad not to take any more of your time.

Mr. MOORE. I would like to say here, merely for the purpose of the record, in view of what Mr. Kitchin, Mr. Garner, and Mr. Rainey have said about partnerships, that this subject has had the careful attention of Mr. Green and Mr. Longworth. I say this because many of these suggestions do not originate with the committee.

Mr. PIRIE. I have already seen that a member of the committee has these figures, and I do not think there is any more to write, unless you care to have me write it further.

Mr. RAINEY. I have already called the figures to the committee's attention.

Mr. PIRIE. It is not necessary to do any more.

Mr. RAINEY. It is not necessary for you to put it in the record at all.

Mr. FAIRCHILD. In New York State we have a large corporation tax. I know of some big corporations in New York State that were acting as corporations up to the imposition of this tax, when they went into partnerships. How could that be? Why would it be to their advantage to do that? Take the firm of Endicott, Johnson & Co., I think the largest shoe manufacturing concern in the world. They were a corporation. After New York State enacted that law providing for a heavy corporation tax, it became a copartnership.

Mr. PIRIE. I can not imagine what their reason was for going into the form of a copartnership, unless the conditions of their business were greatly different from ours. If they wanted to pay out a little more to the members of their firm it may be different. But if it was a successful business and needed more money all the time and the money should be left in, I can not see any reason why they should do that.

Mr. FAIRCHILD. You will find on investigation that quite a number of large concerns have done that—gave up their partnership arrangement for doing business and became a corporation for the purpose, as I understood, of evading or preventing the payment of such large taxes.

Mr. PIRIE. I can not imagine why it would be unless the nature of the business and the amount of money they had in the business and the requirements of it would necessarily be very much different from any business that would be increasing and going along successfully.

Mr. FAIRCHILD. You say your concern conserves your business by retaining all of your earnings except what is needed for the maintenance of the members of the firm?

Mr. PIRIE. Absolutely; that is the way to make the industries in the country strong.

Mr. FAIRCHILD. But suppose some firm pays out all of the profits, and does not conserve its interests or does not expand as your great concern has expanded, would not that make a difference in the application of this law?

Mr. PIRIE. It would not make any difference in the amount of taxes that they pay at all, because no man could find fault if the amount of money he made was paid out to him.

Mr. FAIRCHILD. Would not the question as to the taxes imposed by New York State upon corporations make a difference?

Mr. PIRIE. It would make just that difference—whatever difference there was between the States.

Mr. FAIRCHILD. Would it not make a deficient difference to equalize the situation that you present?

Mr. PIRIE. Oh, I think not; because the corporation tax is very much less than any surtax that is imposed on these undistributed profits. That is what runs into very large figures, you understand.

Mr. FAIRCHILD. I am asking purely out of curiosity, in view of the statements you have made to the committee.

Mr. PIRIE. Yes; but your questions are on corporations, and so vary according to the State in which incorporated, and I am not very familiar with these matters of the difference between the corporate existence in the different States, and it does not concern us at all, you see.

I would not for a moment attempt to say to you gentlemen what the proper remedy is. I would simply say that we would like in some way to be put on the same basis as the corporations.

Mr. STERLING. Mr. Pirie, I presume you understand we are not likely to be able to give corporations any relief; that is, in the way of reducing taxes. We will probably have to increase the tax on corporations.

Mr. PIRIE. We do not care how much; merely make it equal.

Mr. LONGWORTH. That is very fine. Would you suggest now what we shall do to corporations to bring them up so that they will be on the same plane with partnerships?

Mr. PIRIE. I could not right in a moment suggest that, but one thought does occur to me: If you would make it on the same basis as the copartnerships were now that would be easy; we would have no further fault to find. But you would have to decide yourselves whether or not the country could stand it.

Mr. LONGWORTH. Would not the simplest thing to do be to provide that that portion of the income which goes back into the business should be liable to the surtax?

Mr. PIRIE. I have not heard that before, but it strikes me as being very sensible.

Mr. LONGWORTH. And then they would be exactly on the same basis as the corporations.

Mr. STERLING. It would reduce the revenues by doing that. We can not reduce the revenues; we have to increase them.

Mr. PIRIE. I do not want the revenues reduced; I want them increased.

Mr. STERLING. Would not the suggestion Mr. Longworth made reduce the amount of money the Treasury would get?

Mr. PIRIE. Make everybody pay more and do that at the same time.

Mr. STERLING. That was my idea and that is what made me ask the question.

Mr. WHITE. Were you in the room yesterday when a business man appeared here?

Mr. PIRIE. No, sir.

Mr. WHITE. He suggested a flat 40 per cent or 30 per cent on the net income of all business.

Mr. PIRIE. Putting corporations and copartnerships on the same basis?

Mr. WHITE. Yes.

Mr. PIRIE. If that is the concensus of opinion, we would have not the slightest bit of fault to find. All we want is equality with corporations.

Mr. GARNER. You are not suggesting any rates?

Mr. PIRIE. I do not find any fault with rates.

Mr. GARNER. You merely want to be put on an equality with every other taxpayer?

Mr. PIRIE. That is all; and we want to give you all the money we make, because we know we have to pay for the war.

The CHAIRMAN. Say a corporation has got \$1,000,000 capital, and a partnership right across the street has got \$1,000,000 capital, and has got the same number of partners as the corporation has got stockholders, has the same profits, they compete with each other. You want to be on terms of equality?

Mr. PIRIE. That is everything I ask.

The CHAIRMAN. You do not want to be favored over them and you do not want them to be favored over you?

Mr. PIRIE. We have not got a bit of fault to find, and would just as lief, if you gentlemen think it would not break the income of the country, have the corporations brought up to our basis as to have ourselves brought down to the basis of the corporation, every bit.

The CHAIRMAN. The committee will now be pleased to hear Mr. Gadsden.

**STATEMENT OF MR. PHILIP H. GADSDEN, CHAIRMAN NATIONAL COMMITTEE ON PUBLIC UTILITY CONDITIONS, WASHINGTON, D. C.**

The CHAIRMAN. Please give your name and address.

Mr. GADSDEN. Philip H. Gadsden, Charleston, S. C.

The CHAIRMAN. And whom do you represent.

Mr. GADSDEN. I am chairman of the National Committee on Public Utility Conditions, representing all of the electric railway, electric light and power companies and gas companies in the United States. This committee has been formally and officially organized by the three national public utility associations—the American Electric Railway Association, the National Electric Light Association, and the American Gas Association.

Mr. MOORE. Pardon me. Your home is where?

Mr. GADSDEN. Charleston, S. C.

The CHAIRMAN. Your headquarters are in Washington since the organization of the committee you speak of?

Mr. GADSDEN. The committee have an office in the Munsey Building, here in Washington. The other two members of the committee are Mr. E. K. Hall, of New York, and Mr. H. H. Crowell, of Grand Rapids, Mich.

We are here, Mr. Chairman and gentlemen, to bring to your attention in the time that is given to us, the picture of the public utility conditions in this country, with a view of urging upon your serious consideration the putting of public utilities in a special class for the purpose of Federal taxation. In other words, to segregate them so that their peculiar problems, the serious conditions under which they are now operating, brought about by conditions over which they have



no control, may have a proper bearing when you come to consider the burdens that should be placed upon them by way of taxation.

As a matter of fact, as we all know, railway, gas, and electric companies are now segregated into a special class for every purpose, except that of taxation. They are kept apart in a class for regulation of their revenue, unlike any other class of business in this country. They have no control over the price of their products. The street railway fare is fixed automatically at 5 cents; the price per kilowatt, the price per thousand feet is regulated by commissions or municipal council. So that so far as their revenues, so far as their earning capacity is concerned, they have been, almost since their origin, segregated into a special class.

So far as their operating expenses are concerned they are also segregated. The ordinary business man has within his control, to a very large extent, the scope of his operations and his functions. In times of depression, times like these, he has the option of reducing his activities, cutting off here and there, cutting down his expenses of operation to meet increased taxes. So, likewise, the individual, to a certain extent, has it within his power to cut down to some extent, at least, his household, personal, and domestic expenses to meet the demands of the war. On the contrary, the companies that we represent, the class of industry which we represent, not only can not fix their selling price, not only can not adjust their revenues to meet increased operating expenses or increased taxation, but they can not curtail the facilities which they are called upon to render to the public. As a matter of fact, on the contrary, in times like these, when the expenses of their operations have increased enormously, when the cost of coal which they are consuming has gone up from \$1 a ton to \$3, \$4, and \$5 a ton, there comes a demand on the part of the public for greatly increased facilities on their part; there comes a demand for additional car facilities; there comes a demand for extraordinary increases of output on our central electric stations and gas plants.

No better illustration can be had of the fact that I am now referring to than exists in the gas business. Owing to the shortage and high price of domestic coal and the extreme rigor of the winter, extraordinary demands were made upon the gas companies all through the United States for heating purposes. People who had never used gas before in their lives in the winter for heating resorted to the gas companies to be kept warm, thereby developing upon the gas companies demands for excessive outputs and extraordinary increases in the consumption of coal, yet the gas companies were expected to and did sell their product at a price fixed when the price of coal was normal.

Mr. LONGWORTH. Mr. Gadsden, are you familiar with the recent holding of the War Finance Corporation that public utilities are not included in section 1?

Mr. GADSDEN. I am painfully familiar with it.

Mr. LONGWORTH. I have not been able to find out just what that holding was or what the reasons given for it were. Will you state briefly as to that?

Mr. GADSDEN. Mr. Longworth, I know what the holding is, but, as I understand the statements of the War Finance Corporation, it

was predicated upon the construction of the act placed upon it by their counsel.

Mr. LONGWORTH. I will state that it was the intention to include the public utilities—

Mr. GADSDEN. So I understood.

Mr. LONGWORTH (continuing). And it was specifically stated by high authority that they were specifically included in the bill as it passed the House. Just how did they come to reverse that?

Mr. GADSDEN. I do not know. It was a very great disappointment to us. I want to come to that a little later when I take up that phase of this question.

Mr. LONGWORTH. When you do that let me recall that Secretary McAdoo stated emphatically before the Ways and Means Committee that public utilities were included within the scope of the War Finance Corporation. For instance, I asked him specifically the question whether the street railway hauling a man to a munition factory was not doing war work and therefore specifically included.

Mr. GADSDEN. I remember hearing you ask that question during the hearing.

Mr. STERLING. I think the committee did put it expressly in the bill and the Secretary of the Treasury, as I remember it, gave his assurance that his construction would be that it included them without expressly stating it.

The CHAIRMAN. The Senate committee put it in.

Mr. LONGWORTH. The Senate committee put the words in.

The CHAIRMAN. With the understanding that it included electric light and any other industry that was necessarily contributory to prosecuting the war.

Mr. GADSDEN. There are two phases of this public-utility question which always should be carried in your minds—the one I have just been addressing myself to, and that is the question of decreased net revenue; the other is the necessity for some method of financing existing obligations. Without the revenue the second can not be complied with. Therefore, we feel constrained to come before the committee to-day to urge that careful and serious consideration be given by this committee to putting us in a class by ourselves for the purpose of taxation. We are not attempting to suggest any particular rates, but put us where we may be segregated for taxation just as we have been segregated for everything else. So that when you come to that paragraph of your bill you can consider the burdens to be imposed upon this industry in the light of existing conditions.

Gentlemen, let me give you in a very succinct way, if I can, just what the situation is: I have here tabulated statements showing the gross revenues of a large number of public utilities—railway, gas, and electric—for the first three months of 1917, as compared with the first three months of 1918. I have another statement giving the same figures for the electric industries alone, and I wish to call your attention to these and include them in my remarks.

Here is a statement of the income account of 103 electric railways for the three months ended March 31, 1918, compared with the three months ended March 31, 1917: The total operating revenues in 1917 were \$60,456,000—I will only read the round numbers, Mr. Chairman.

In 1918 they were \$61,734,000, or an increase in gross revenue of \$1,278,000, or 2.1 per cent increase in gross.

The total operating expenses for three months in 1917 were \$39,619,000; for 1918, \$43,799,000, an increase in operating expenses of \$4,180,000, an increase in percentage of 10.6 per cent.

The net operating revenue showed a decrease of \$2,900,000, or 13.9 per cent.

The taxes showed an increase of 8.7 per cent during this same period.

The nonoperating income—that is, revenue derived from other sources than street car fares—showed a falling off of 18.9.

The net income for 1917 was \$5,527,000; the net income for the same period in 1918 was \$2,228,000.

Mr. GARNER. Is that all the street railways of the United States?

Mr. GADSDEN. No, sir; it is 103.

Mr. GARNER. You have selected 103 on which to base these figures?

Mr. GADSDEN. We sent them all out, and these are all we got in. I want permission to file a complete statement.

Mr. GARNER. That includes all that have been returned?

Mr. GADSDEN. That includes all that have been returned indiscriminately.

Mr. STERLING. For the first three months?

Mr. GADSDEN. For the first three months.

The CHAIRMAN. You will furnish a statement covering all the roads?

Mr. GADSDEN. We will furnish a complete list. The net income showed the falling off in 1917 was \$5,500,000, which in 1918 was \$2,228,000, a falling off of \$3,298,000, or 59.7 per cent.

The CHAIRMAN. In addition to that?

Mr. O'SHAUNESSY. That was mostly passenger fares, of course?

Mr. GADSDEN. Street railway fares; yes.

Mr. O'SHAUNESSY. Would not there be the same number of people carried?

Mr. GADSDEN. There were a great many more people carried.

Mr. O'SHAUNESSY. And less money?

Mr. GADSDEN. The gross income increased \$1,278,000. We did more business, the net result was 59 per cent less.

Mr. MOORE. Would not a great deal of that depend upon the location of the companies? If they were in the interior they may not have done the increased business, but if they were located on the seacoast, around the cities where war munitions are being manufactured, they may have done more business?

Mr. GADSDEN. They may have done more business and showed the same result in net. We will furnish you that, if you will just for the moment, for the purpose of this hearing, accept my statement subject to verification. The more business we are doing the more money we are losing, for the reason that we are selling our product at a unit of cost less than cost of production; and therefore the more business you do—

Mr. MOORE. In what items have there been increases?

Mr. GADSDEN. Increased wages, increase in cost of coal, car material—that is, electric railways.

Our committee sent out a questionnaire in November—

Mr. STERLING (interposing). In your preparation of those statements, did you compute the taxes paid the year before and the taxes you paid this year?

Mr. GADSDEN. Yes; I have the figures.

Mr. STERLING. You did not pay the taxes the first three months of this year?

Mr. GADSDEN. No; but they are charged up on our books.

Mr. STERLING. What is the difference in the amount of taxes?

Mr. GADSDEN. The taxes for 1917 were \$4,200,000, and for 1918, \$4,600,000, an increase of \$370,000.

Mr. STERLING. That does not account for the increase occasioned by the law passed last year.

Mr. GADSDEN. These are all taxes, not only Federal, but increases of all taxes, local, State—all kinds of taxes.

(The statement above referred to by Mr. Gadsden is here printed in full as follows:)

*Income account of 103 electric railways for the three months ended Mar. 31, 1918, compared with the three months ended Mar. 31, 1917.*

Item.	Three months ended March 31—		Increase or decrease 1918 over 1917.	
	1918	1917	Amount.	Per cent.
Total operating revenues.....	\$61,734,670	\$60,456,333	\$1,278,337	2.1
Total operating expenses.....	43,799,663	39,619,302	4,180,361	10.6
Net operating revenue.....	17,935,007	20,837,031	12,902,024	113.9
Net revenue from auxiliary operations.....	2,508,086	2,271,199	236,887	10.4
Taxes.....	4,637,648	4,267,641	370,007	8.7
Nonoperating income.....	1,136,499	956,071	180,428	18.9
Gross income.....	16,941,947	19,796,660	12,854,713	114.4
Deductions from gross income.....	14,713,512	14,269,320	444,192	3.1
Net income.....	2,228,435	5,527,340	13,298,905	159.7

<sup>1</sup> Decrease.

In the latter part of 1917 our committee sent out a questionnaire to some 300 companies—railway, gas, and electric—all through the United States, to get their operating expenses for 1917 as compared with 1916. Those results were filed by us in the shape of a brief with the Treasury Department during the negotiations leading up to the introduction of the War Finance Corporation bill. They were included in a hearing that we had before the Senate Finance Committee and were available at the time for this committee.

Since that time we have sent out another questionnaire covering the first three months of 1917 and 1918, for all companies—gas, electric, and street railways.

Those answers are coming in, and we have gotten up to this time results from 252 of those companies. We sent out some 350 and these are the results. Now, gentlemen, this is the composite picture. I gave you heretofore only the electric railways; this is gas, railway, and electric. The gross revenue increased \$7,320,000; the operating expenses increased \$11,226,000; the gross operating income decreased \$3,577,000; the operating ratio increased practically 7 per cent. The operating ratios for these public utilities is continually increasing. Reports from 316 companies with an annual gross revenue in excess of \$300,000,000 show operating ratios as follows: In 1915, 61.26 per

cent; in 1916, 62.58 per cent; in 1917, 68.34 per cent; the last three months of 1917, 69.61 per cent; and for the 252 companies which have reported, the operating ratio for the first three months was 73.17 per cent. You can see by the progressive tendency that the cost of operation is simply eating up these profits.

We started in 1917 with an operating ratio of 61.2 per cent. An operating ratio of 60 per cent is considered good operating. So that that was very nearly to normal. It has now gotten for the first three months of this year to 73.17 per cent, and is still increasing. The next three months' statement we bring in will probably show 75 or 76 per cent cost of operating.

(The statement referred to above is here printed in full, as follows:)

Comparing the operating results of 252 companies for the first quarter of 1917 with the first quarter of 1918, we find:

Gross revenues increased.....	\$7, 320, 295
Operating expenses increased.....	11, 228, 508
Gross operating income decreased.....	3, 577, 696
Operating ratio increased practically 7 per cent.	

The operating ratios for these public utilities is continually increasing. Reports from 316 companies, with an annual gross revenue in excess of \$300,000,000, show operating ratios as follows:

	Per cent.
1915.....	61. 26
1916.....	62. 58
1917.....	68. 34
Last 3 months of 1917.....	69. 61
And for 252 companies: First 3 months of 1918.....	73. 17

The foregoing figures show conclusively the trend of operations of gas, electric, and street and interurban public utilities.

Bearing those figures in mind, here is the financial situation in detail: They have maturing in 1918 something over \$225,000,000 of securities. They have in the banks of this country in short-time paper, representing extensions and betterments to their plants which they contemplated would be funded into long-term securities, over \$300,000,000. They have maturing in 1918 something like \$260,000,000 of securities. There has already matured or will mature by the 1st of July approximately \$100,000,000 of these securities, unfunded and unprovided for securities, gentlemen, which were paying regularly the interest charges up to this time. That revenue which was paid out by us to bondholders or to stockholders, and found its way into the hands of the individual and responded to this tax, has gone. Of about 11 billions of securities of these industries, we estimated that at least 6 billions were interest and dividend paying securities. The situation which we present here shows very clearly that if this tendency can not be stopped, these securities will have no value so far as revenue producers is concerned. In other words, that the holders of them will not receive these returns, and therefore will not be in a position to that extent to respond to any tax that may be levied.

Mr. LONGWORTH. Have you any estimate of the falling off of the market value of those securities?

Mr. GARDEN. In that same brief I have referred to we filed a statement showing the shrinkage in values of 17 standard companies, which were listed on the New York Stock Exchange "questionable pay," and the shrinkage was 53 per cent at that time.

Mr. LONGWORTH. Covering how long a period?

Mr. GADSDEN. In a five-year period, and the steam railroad shrinkage at the same time was 52 on exactly the same parity. We have not brought that statement up to date, but we know, of course, that the shrinkage has been very much greater. One of our committee connected with one of the largest companies in this country out in the Middle West, which had been regularly paying dividends on its preferred stock every year since 1910 and dividends on its common stock has passed them both.

Mr. FAIRCHILD. Would it not be well for you to discriminate as between the electric light companies and gas companies and the street railways? Do you think they are all in the same class?

Mr. GADSDEN. They are practically all in the same class. On the question of decrease the railways are the worst, and the gas companies come next.

Mr. FAIRCHILD. The gas companies and electric light companies can, however, vary sometimes their prices to consumers, and the street railway companies as a rule have a fixed price of 5 cents a passenger. My information is, and I have made a study of the situation, that many street railway corporations of the United States are on the threshold of bankruptcy.

Mr. GADSDEN. There is no question about that.

Mr. FAIRCHILD. And the question is a very serious one. The question, however, is whether the same principle applies with equal force to the gas companies and to the electric lighting companies.

Mr. GADSDEN. I can answer you that—that it is merely a matter of degree, that the lowest in the scale is admittedly the electric railway industry. That industry, gentlemen, unless something is done to protect it, as you say, is on the brink of bankruptcy.

Mr. RAINEY. In its last analysis the situation is this: You are confronted with this situation, you have got to pay more for everything you buy and use in your achievements, that the State will not permit you to increase the price of what you have to sell; that you have 200 millions or 300 millions of indebtedness accruing right now which must be met this summer; that the sale of United States bonds has so affected the money market that you can not borrow in the ordinary way in order to meet those maturing obligations, and the War Finance Corporation has said that they can not furnish you under the act any relief. In view of that situation is not the only remedy you have this: A moratorium as to maturing indebtedness and permission on the part of the States to increase your charges?

Mr. GADSDEN. Mr. Rainey, we do not think so. And I ask you gentlemen to give careful consideration to our views on this question of a moratorium. We believe, gentlemen, that that would be the last straw to destroy the industry.

We have given this thing, naturally, the most serious consideration. A general moratorium for all securities in the market is one thing, and a special moratorium involves discriminating and causes people to think that public utility securities are worthless; that the gas, electric, and railway companies cannot meet their obligations; in our mind that would mean death, not only now but hereafter. It would permanently impress upon the securities of public utilities the fact that when a great crisis of national emergency had arisen they had broken down.

Mr. RAINNEY. Would not that be better than receivers, since receivers seem to be inevitable?

Mr. GADSDEN. We do not think so, because all of us will not go into the hands of receivers. Some of them, and a great many of them, will. But there would be that impression left upon the public mind and the minds of investment bankers for 10 years that "You'd better not touch that class of securities."

Mr. O'SHAUNESSY. To what extent have these public-service corporations, principally electric lines, endeavored to increase fares?

Mr. GADSDEN. I would like to tell the committee what we are doing about that. Our committee has divided up the United States into regions. We have eight districts, comprising States in which there are public-service commissions. We have a regional committee composed not of lawyers but of operating men, the executives responsible for the financial results of these properties. In addition to that, in all noncommission States we have a committee of three. The duty of those committees is to bring to the attention of the public-service commissions, of State councils of national defense, and chambers of commerce this picture as I am trying to disclose to your committee.

Mr. O'SHAUNESSY. You are here very likely because of the slowness of that method?

Mr. GADSDEN. Undoubtedly.

Mr. O'SHAUNESSY. And it was news to me what Mr. Longworth said about the War Finance Corporation. I did not know they had excluded you.

Mr. LONGWORTH. I wish you would explain just what happened. You made a formal application to the War Finance Corporation for a loan to help finance these securities. What was the result?

Mr. O'SHAUNESSY. When was that?

Mr. GADSDEN. Within the last 10 days or 2 weeks. Quite a number of applications were made. As a matter of fact, our information is that something in the neighborhood of 200 applications have been filed by public utilities.

Mr. LONGWORTH. I have been unable to find that ruling. Did they make a formal ruling?

Mr. GADSDEN. They issued a public statement.

Mr. LONGWORTH. I have only seen part of it in the newspapers.

Mr. GADSDEN. I will insert it in my statement at this point.

(The statement of the War Finance Corporation referred to is here printed in full, as follows:)

The War Finance Corporation to-day authorized the following statement:

In view of the applications for direct advances which have been filed with the War Finance Corporation, the directors wish to point out that an erroneous impression seems to exist in certain quarters that the corporation is intended primarily to make direct advances to borrowers under the "exceptional cases" clause of the act. This, however, is not the purpose of the act, which was designed primarily to enable credit to be extended by the War Finance Corporation through the banks of the country to "war industries"—that is, to those industries whose operations are necessary or contributory to the war. In other words, the resources of the War Finance Corporation are not intended to be loaned directly to war industries unless in an exceptional case, but only indirectly through the banks. As the Secretary of the Treasury stated before the committees of Congress when the bill was under consideration, "the provisions of the bill permitting direct loans by the corporation, in exceptional cases, is intended to provide for those rare instances where it may be made to appear to the corporation that a meritorious borrower is being unwisely discriminated against by the banks." In the progress of the bill through

Congress advances under the exceptional cases clause were further restricted both as to security and as to the amount which could be advanced—thus indicating the intention of Congress that in order to obtain an advance under this clause the borrower must show some exceptional circumstances clearly entitling him to relief.

In no circumstances was it the intention that the War Finance Corporation should make loans except upon adequate security.

It is expected that the greatest usefulness of the War Finance Corporation will be found in its operations through the banks. As the Secretary of the Treasury stated before the Senate Finance Committee, the organization of the War Finance Corporation should be regarded "primarily as a measure to enable the banks \* \* \* to continue to furnish essential credits for war industries and enterprises which are necessary or contributory to the prosecution of the war. In Europe central banks, which correspond to our Federal reserve banks in a sense, are permitted to grant to banks and bankers loans upon stocks and bonds upon certain well-defined terms; but here the Federal reserve banks are not permitted to do that, the Federal reserve act having specifically contemplated advances of that character only upon what we call liquid or commercial paper, and therefore the Federal reserve banks are not permitted to rediscount any paper for their banks which is secured by fixed investments. The Federal reserve act does not provide for this, and the War Finance Corporation is designed as a war emergency to fill this gap."

The corporation was organized to provide an instrumentality to which the banks of the country could resort to obtain accommodation on advances made by them to war industries upon a character of security not available for rediscount at a Federal reserve bank. It is hoped that as need arises the banks of the country will avail themselves of the facilities thus afforded so that they may be amply able to extend credit to those industries of the country which are necessary or contributory to the prosecution of the war.

From the applications received by the War Finance Corporation there seems to be an impression in certain quarters that the corporation was specially designed to provide funds for meeting maturing obligations, particularly those of public-utility companies. The law expressly provides that the corporation shall not make direct advances to provide funds to meet such maturing obligations, except possibly in some rare cases which could clearly be brought within the "exceptional cases" clause. Of course, the corporation will stand ready to lend its assistance to banks and bankers in proper cases where they have themselves made advances to war industries, whether for the purpose of meeting maturing obligations or otherwise, and direct advances in deserving cases that come clearly within the provisions of the law.

Holders of maturing obligations, whether of public utilities or of other concerns which may find themselves unable because of temporary conditions to meet their commitments punctually, should consider whether in the public interest as well as their own they should not cooperate by consenting to reasonable renewals. Public-utility companies particularly, in cooperation with the communities in which they operate, should have the opportunity of adjusting themselves to the changed conditions brought about by the war.

No machinery has been specially provided for direct purchases of obligations of the public utilities, whether to meet maturities or otherwise, either through the War Finance Corporation or through any other governmental agency. The situation of those public-utility companies is therefore quite different from that of the railroads, where Congress has made specific provision for the purchase of their securities by the Government in certain exigencies; yet even the railroads are expected, wherever possible, to meet their own maturities and to pay what the money is worth to accomplish that end. It must be remembered that the railroads are under Federal operation, and their rates are subject to Federal control, and that the Government is therefore in a position to see to it that their charges shall be sufficient to meet the cost of the service rendered. In the case, however, of the public utilities, neither their operations nor their rates are subject to Federal control. Wherever the charges do not amount to adequate compensation for the services rendered, relief can be had only through the appropriate local authorities, and time is essential to enable the companies and the communities in which they operate to reach a satisfactory solution of this important problem. It is not a problem which can be disposed of by having the Federal Government, through the War Finance Corporation, assume the burden of financing the operations of these local companies, except in exceptional circumstances which make it a matter of national importance that advances should



be made. The local authorities will no doubt respond as promptly as possible in cases where relief is needed because of changed conditions, as it is clear that the soundness and efficiency of public utilities is intimately connected with a vigorous and successful prosecution of the war.

Mr. O'SHAUNESSY. At the same time, Mr. Gadsden, if you had been successful you would have been afforded temporary relief and you would have been borrowing money?

Mr. GADSDEN. We would have been borrowing money.

Mr. LONGWORTH. You can not borrow money at all at the banks?

Mr. GADSDEN. We can not borrow money at all at the banks.

Mr. LONGWORTH. And that was the form of relief?

Mr. GADSDEN. That is only temporary; that is not fundamental. We have got to get the earning capacity; we have got to show the equity before anybody is justified in making a loan.

Mr. LONGWORTH. Were you given any information as to applications made?

Mr. GADSDEN. Our committee was not given any information of that kind by the War Finance Corporation.

Mr. LONGWORTH. Your relations with them were such as one would expect that?

Mr. GADSDEN. Our relations are very cordial and very pleasant, but they have not thought it was advisable, perhaps, to tell us of our applications. We have seen a great many of the applications that men have filed.

Mr. LONGWORTH. I thought you represented the companies that made the applications.

Mr. GADSDEN. We are representing those industries. We are representing those industries generally. The individual companies, which would make applications, would come to our office and tell us what they proposed to do. Our information is that one hundred and ninety and add companies filed applications aggregating something like \$200,000,000.

Mr. LONGWORTH. Do you know whether or not they have made any loans at all?

Mr. GADSDEN. So far as I know the only loan was to the St. Louis Railway.

Mr. WHITE. I saw that in the paper—that they made a loan to the St. Louis Railway Corporation.

Mr. GADSDEN. They did.

Mr. MARTIN. Is that the St. Louis Electric Railway?

Mr. GADSDEN. Yes, sir.

Mr. WHITE. What relief can this committee give you? We recognize you are only subject to the normal corporation tax.

Mr. GADSDEN. The relief which you can give us, in my judgment, to put as in a special class so far as income tax is concerned. We are not interested in excess profits; we are not interested in surplus. But the net that you see here, gentlemen, is approaching the vanishing point. The point we wish to suggest for your consideration is that here is something you can do to help us: Is it not better to leave what little net there is there as a basis to help us get a credit for loans than to impose a heavy income tax upon us? For instance, the income tax now is 6 per cent. Doubtless it would probably be, for the sake of argument, 8 or 10 per cent. This time next year it may be 15 or 20 per cent. Here is something constructive. We are

going to every department and every branch of this Government to bring before them a great national problem. Next to the steam railroads, this is the greatest industry in this country. It represents over \$10,000,000,000 investment; its gross revenue is \$1,500,000,000, and it is going to ruin, gentlemen. Is it not worth while for the United States Government, for the people, to do what they can in the way of tax and say it is more to the real interest of the United States to preserve what little net is left to these companies as a basis for financing than to take it into the Treasury of the Government?

Mr. GARNER. How much investment did you say it represented?

Mr. GADSDEN. Over 10 billion dollars.

Mr. GARNER. What portion of that is money investment and what percentage is watered stock?

Mr. GADSDEN. I am speaking of money; I am not speaking of water.

Mr. GARNER. Do you mean to say all the stock issued for those railway companies was money actually invested?

Mr. GADSDEN. No, sir.

Mr. GARNER. Is that what you undertake to tell the committee?

Mr. GADSDEN. Not a bit; of course I would not.

Mr. GARNER. Are there not some of these corporations unable to pay dividends for the reason that they have watered their stock?

Mr. GADSDEN. Unquestionably.

Mr. GARNER. How are we going to reach that kind of companies? Are we going to exempt them from taxation also and are we going to put them on the same plane and level with the corporations that have issued honest stock for honest dollars and that are not making a living?

Mr. GADSDEN. Mr. Garner, I am not talking about paying dividends on stock or interest on bonds; I am talking about leaving some equity over operating expenses; that is all I am asking for. I say that the company with the watered stock is something that is all gone and is down to where we all are now, trying to keep their heads above operating expenses. And I submit to this committee if there is a few millions of dollars net left in this industry whether it is not wiser, whether it is not better for the United States Government to leave it there for us than to take it by way of taxation, because it is going to be all gone, gentlemen, before I come back here at your next sitting.

Mr. O'SHAUNESSY. Would it not cover the situation better if this proposition had come under the jurisdiction of the Director of Railroads and if they had been included in the railroad bill?

Mr. GADSDEN. We are very much inclined to think so now.

Mr. O'SHAUNESSY. Did you make any effort to be included at that time?

Mr. GADSDEN. No; we did not. I do not think we would have had a sympathetic reception, to be perfectly frank with you. We were not proposed to be considered at that time. We believed we could get these rates increased and our own salvation out and that it was better to try to help ourselves than to lie down. The situation is getting worse.

Mr. O'SHAUNESSY. Do you think now that would be the only effective way to meet this situation, for the Government to take you over?

Mr. GADSDEN. Certainly it would be the most effective way. Of course, there are a great many companies not in need of any such assistance. The electric-railway industry undoubtedly is.

Mr. O'SHAUNESSY. That is what I mean.

Mr. GADSDEN. There will have to be some drastic treatment.

Mr. FAIRCHILD. The railroads were drifting toward bankruptcy, and possibly would have gone further into bankruptcy, because there were a great many under receivers, if the Government had not come to their rescue?

Mr. GADSDEN. We are trailing the history of the steam railroads.

Mr. O'SHAUNESSY. If that is so, should not this situation be presented to Mr. McAdoo, the Director of Railroads, or the Committee on Interstate and Foreign Commerce, which could frame an amendment which would place electric railroad properties within the purview of that legislation?

Mr. GADSDEN. We doubt the propriety of our making such representations. It is well enough for us to come before a committee like this and discuss the subject, but we question whether it would put us in the proper light before the people of the country. We are attacking each phase of the problem as it comes up. Each committee has a problem for consideration, and we are appearing before some committee or tribunal and spending our days and months trying to bring this problem home to the people of the United States, because it has got to be handled, and handled in a serious, statesmanlike way. Otherwise this great industry is going by the board.

Mr. TREADWAY. Would you care to go into the detail of your statement that the street railway lines were not meeting operating expenses at the present time?

Mr. GADSDEN. That is unquestionably true.

Mr. TREADWAY. Is that true in the aggregate of all the organizations you represent, or is it true of each individual organization?

Mr. GADSDEN. In the electric railway industry, I am almost within bounds in saying it is true of every case. There may be one or two exceptional cases of electric railways, but, gentlemen, I do not know them at this moment.

Mr. STERLING. Your statement shows they had net earnings of \$2,000,000. So, some of them must be earning money.

Mr. GADSDEN. They are earning something. I do not understand the question, perhaps. They are earning something over operating expenses.

Mr. TREADWAY. I understood you to say they were not meeting operating expenses now.

Mr. GADSDEN. My statement shows they are. I evidently mis-guided you.

Mr. TREADWAY. I perhaps misunderstood you.

Mr. GADSDEN. I do not want to leave that impression with the committee. They are earning now for the first three months of 1918, a net income of \$2,200,000 as against \$5,000,000 last year, which indicates that by the end of this year they will earn nothing at all.

Mr. O'SHAUNESSY. Your point is that they are reaching the vanishing point?

Mr. GADSDEN. Yes; this thing is progressing.

Mr. TREADWAY. The claim you are making is that it would be no more than fair that this little surplus above operating expenses

you have been able to secure ought to be allowed for general upkeep of the industry rather than to go into general taxation?

Mr. GADSDEN. Not only that, but at the same time this condition is going on we are having demands made upon us by the Government, by the public at large for greatly increased facilities.

Mr. GARNER. What percentage is the two and a half million dollars of the capital stock?

Mr. GADSDEN. I do not have that here. It would be a very small percentage.

Mr. OLDFIELD. What proportion of your companies are making money and what proportion are not making money?

Mr. GADSDEN. What do you mean by "making money"? Do you mean a fair return on the investment?

Mr. OLDFIELD. Yes.

Mr. GADSDEN. There are very few electric railways in this country that are making a fair return on a fair investment.

Mr. OLDFIELD. What about the city of Washington?

Mr. GADSDEN. I will undertake to say the same general condition applies.

Mr. OLDFIELD. Why is it that the street railways of Washington can not make any money when, as a matter of fact, one is not able to see a street car that is not absolutely full of passengers?

Mr. GADSDEN. Will you let me tell you a story?

Mr. OLDFIELD. I would like to have you explain that. If they can not make any money with the traffic they have now, they had better go out of business.

Mr. GADSDEN. If you sell your product at a price below cost, the more business you do the more you run behind.

Mr. GARNER. Does not that come back to the proposition of increasing fares?

Mr. GADSDEN. Yes, sir; undoubtedly.

Mr. GARNER. This committee has nothing to do with increasing fares.

Mr. GADSDEN. You can at least refrain from taking the little net which is left and give us a chance to buy some more cars to carry more people.

Mr. OLDFIELD. You want to be relieved of taxation?

Mr. GADSDEN. We want to be put in position just to bear our burden.

Mr. OLDFIELD. What is your object in being segregated unless you can be relieved of taxation?

Mr. GADSDEN. Not entirely, but to a degree.

Mr. OLDFIELD. You want to be put in a segregated class on the basis of reduced taxation?

Mr. GADSDEN. That is it.

Mr. GARNER. If we should put you in a class by yourself, then other corporations will come in here and say, "We want to be treated like everybody else."

Mr. GADSDEN. Unquestionably. But we believe that the equities of this situation are so strong that we are justified in asking to be put in a special class for consideration.

Mr. WHITE. What is there peculiar in that St. Louis situation that they did get relief from the War Finance Corporation?

Mr. GADSDEN. They got an increase of rate from the commission.

Mr. WHITE. And also got relief from the War Finance Board?

Mr. GADSDEN. They got both.

Mr. WHITE. It seems to me remarkable that when the other railroad companies were refused relief they got a raise of rates and got also national aid.

Mr. GADSDEN. They got both. Without a net increase, we would not be justified in going before the War Finance Corporation and getting the money.

Mr. RAINEY. The St. Louis company that got that increase are connected with the Keokuk Dam and enjoy that monopoly, and they get their power for nothing from the Government. We permitted them to build a dam across the Mississippi River and dam up the Mississippi River, and we do not charge the company a cent for that, and they have a perpetual franchise, and from that dam they get this power and carry it down to St. Louis, and they are all tied up with the dam and are a part of the water-power trust, and, therefore, they get their power for nothing, and they immediately entered into a contract there by which the city of St. Louis will never have anything better than 5-cent fares for a hundred years to come. The fact that they have got that sort of a monopoly, that company, least of all, should be relieved under that law, and yet it is the only one that has been relieved.

Mr. GADSDEN. Mr. Chairman, I would like, in concluding my remarks, to try to state our position, in reference to applications, to this committee. In appearances of this kind, in the matter of war taxation, there is always danger of misconstruction and misunderstanding of the attitude of an industry, and, of course, the last thing we would care to be suspected of is a disposition or a desire to escape whatever is the proper burden-of Federal taxation on this industry. The thought in our minds is that it is for you gentlemen to decide, representing the people of this United States Government, whether it is, in the best interests of the United States.

Mr. STERLING. What is the amount of tax the electric lines would have to pay under the law we passed last year?

Mr. GADSDEN. I tried to get that, but it is not tabulated yet. I wanted to produce that before the committee. But the point I want to make here is this: Is it wiser to impose 6, 7, 8, or 10 per cent tax or leave the money in the hands of these companies so as to create some basis of credit in order to keep the breath of solvency in them; and, second, help them to provide the additional facilities which the increased business is demanding at their hands and for which they can not secure money from either the banks or the War Finance Corporation?

Mr. MOORE. There is a condition which confronts the committee. The President has told the Congress that he needs more money, and the Secretary of the Treasury has indicated the amount needed will be \$24,000,000,000 in 1919, or twice as much as in 1918. You have made no suggestion as to how we might increase the taxes that were raised last year, but have rather indicated that we should reduce them by relieving the public utilities of their portion of the taxes which they now have to pay. Do you not think it would be fair to the committee to make some suggestion as to how we might meet this situation which the President and Secretary of the Treasury have presented to us?

Mr. GADSDEN. Mr. Moore, what we are in hopes of is that by advertising this situation, the desperate condition of it, that Congress and the people of the country will realize that the rates generally have got to go up; and if the rates go up, automatically the revenue derived under the income tax on that industry will be greatly increased.

Mr. MOORE. I have no objection to that advertisement going through this committee or being accomplished by any other method that you can devise. But I think it is fair to say to you that, so far as this committee is concerned, when it passed the war appropriation bill, which became a law, it had in mind fully that the public-utility companies for which you speak would receive some assistance from that corporation, so that there can be no fault attached to this committee for the failure of the department to interpret the law as the committee understood it and as Congress understood it. In spite of the fact that the public-utilities corporations find themselves in the position you describe, in spite of the fact that this particular Ways and Means Committee did what it could to relieve that situation through the passage of the War Corporation bill, the fact still remains that the President comes to us again, backed up by the Secretary of the Treasury, who has the figures, and tells us we've got to get two dollars next year for every one we got last year, and therefore practically closes to us the opportunity to give relief to anybody who was taxed last year.

Mr. RAINEY. I want to say, as a member of the committee, that we intended by this act to give the public-utilities corporations relief. So far as I am concerned I think they need it more than the railroads, and as one of the conferees putting the bill into its final shape, and all of the other conferees on the part of the House I am sure will agree with me, we discussed this question and tried to phrase this bill so that the War Finance Corporation would furnish you with the relief, and we were thoroughly advised as to what it was. We understand now that the War Finance Corporation did not abide by that, but that its legal adviser says that you are not entitled under that bill to relief. The committee did not so understand it. The conferees understood that you were entitled to relief; the House understood that you were entitled to relief when we passed the bill, and so did the Senate; the only agency in this country that does not understand that you are entitled to relief is the War Finance Corporation that was created by that bill.

Mr. DIXON. Reference has been made to the St. Louis Railway Co., where the utilities commission of Missouri has granted them an increase to 6 cents. In Kansas City an effort is being made before the utilities commission for an increase?

Mr. GADSDEN. Yes, sir.

Mr. DIXON. The same as was done at St. Louis. The St. Louis company has, through the War Finance Corporation, gotten aid. I wish you would tell the committee whether the companies that are owned by the municipalities, for instance, the Cleveland company, that charges only 4 cents—that class of companies—are coming or would come to the War Finance Corporation for any relief.

Mr. GADSDEN. So far as I know the Cleveland company has not come yet. You see, Judge, all of the companies have not matured.

Mr. DIXON. Would any companies come except those that are not owned by the municipalities?

Mr. GADSDEN. I think it quite likely that the municipally owned will come, too, when the proper time comes. I have in mind the municipally owned water companies up here.

Mr. O'SHAUNESSY. How far will the remission of the corporation tax go to curing this situation and for how long a time will it keep it cured?

Mr. GADSDEN. I will answer the second question first—a very short time.

The CHAIRMAN. We will have to go over to the House now.

Mr. GADSDEN. I have finished.

Mr. MOORE. Are you going to submit any amendments with your statement?

Mr. GADSDEN. No; except just the thought that we think justice would be subserved by segregating us into a class and imposing whatever tax—

Mr. O'SHAUNESSY. May I ask that Mr. Gadsden be permitted to answer that question? You say "a very short time."

Mr. GADSDEN. I think so, because we have numerous cases where applications have been made for increased rates, and pending increases operating expenses, I am told, have increased to offset what we might expect to get out of 6 cents.

Mr. O'SHAUNESSY. Then any relief that we might grant you would not help the situation?

Mr. GADSDEN. It would help some.

Mr. O'SHAUNESSY. It would help but would not cure?

Mr. GADSDEN. I think atmospherically it will have a tremendous effect on the country at large in enabling us to get increased rates.

Mr. O'SHAUNESSY. It will merely help you in other quarters?

Mr. GADSDEN. Yes; it will show Congress sympathizes with our position and is going to do what it can to help us.

Mr. STERLING. Has the Capital Issues Committee refused to permit you to sell bonds?

Mr. GADSDEN. Not to us.

Mr. STERLING. Have you tried?

Mr. GADSDEN. Oh, yes. We have no difficulty in getting favorable consideration from the Capital Issues Committee, but we have made very few, because the bonds are unsalable and unmarketable.

Mr. LONGWORTH. There is no use in getting that permission?

Mr. GADSDEN. No; that is a nugatory act.

Mr. CRISP. I want to make a statement in conjunction with the sentiment of condemnation that has been voiced here in the committee.

The CHAIRMAN. Can we not take that up after recess?

Mr. CRISP. I think it is very unfair and that the statement I desire to make should go into the record.

The CHAIRMAN. We would like to get over to the House. Could you hold your statement until we get back?

Mr. CRISP. It will only take a minute.

The CHAIRMAN. Go ahead and make the statement. I may say that Mr. Gadsden is mistaken as to the corporation's holding. The corporation holds practically according to the statute there.

Mr. CRISP. In the first place, the War Finance Corporation was not created as an eleemosynary institution. The Secretary of the Treasury stated, and it has been held by the War Finance Corporation, that if it is positively shown that they can not get relief from other sources, then there is a case for adjustment and help. I do not think it is fair for the members of the committee to charge the War Finance Corporation with derelictions, when they do not know the circumstances any more than what has been presented here as to the War Finance Corporation.

Mr. STERLING. I asked whether the public utilities could not get money under this law.

Mr. CRISP. Have they done that?

Mr. STERLING. They have ruled that they could not as a class.

The CHAIRMAN. I will say they have not ruled that. I have just read very carefully the decision. The decision is contrary to what I expected and what other members of the committee understood and members have stated. I think, if Mr. Gadsden will read it carefully, he will find that they have not held according to his construction.

Mr. GADSDEN. In justice to myself and my committee, I have not said anything about the War Finance Corporation. The last thing we would want to do in a meeting before this committee would be to criticise the War Finance Corporation.

The CHAIRMAN. Will you come back at half past one?

Mr. GADSDEN. I will be glad to.

The CHAIRMAN. The committee will take a recess until half past one this afternoon.

(Thereupon, at 12.05 p. m. the committee took a recess until 1.30 o'clock this afternoon.)

#### AFTER RECESS.

The hearing was resumed at 1.30 p. m., at the expiration of the recess.

The CHAIRMAN. Suppose we hear you, Mr. Cowles, briefly now, since you were on the program yesterday and gave way to two gentlemen from Boston.

#### STATEMENT OF MR. JAMES L. COWLES.

The CHAIRMAN. Give your full name, so the committee can hear it, and your occupation, what business you are engaged in, and what parties you represent.

Mr. COWLES. I am a writer and student, preeminently on public transportation. That has been my business for the last thirty years, ever since, if you please, I found myself on the ruins of two New England paper mills destroyed by enormous and discriminating taxation. I was under those mills to the extent of \$20,000 apiece.

The CHAIRMAN. In whose interest do you appear, or whom do you represent?

Mr. COWLES. I think I represent some at least of the publishers. I am deeply interested in that particular service.

The CHAIRMAN. I understand; the second class postage.

Mr. COWLES. Yes, sir.



The CHAIRMAN. And what publishers' association do you represent?

Mr. COWLES. I suppose I am here representing—

The CHAIRMAN (interposing). The National Publishers Association?

Mr. COWLES. I am not, in a sense, employed by them. I am working really for them, for that interest, but not more for that interest than for the entire interest of this country.

The CHAIRMAN. I understand. And your expenses, or your employment, rather, is paid by nobody?

Mr. COWLES. I could not live at all if I did not have some support.

The CHAIRMAN. Do the publishers or any publishers contribute?

Mr. COWLES. There are publishers contributing to my support.

The CHAIRMAN. And you are representing those?

Mr. COWLES. I represent those, of course.

The CHAIRMAN. That is all right. I just wanted to know.

Mr. COWLES. I am the president of the World Postal League, an organization that I established in the city of Boston in, I think, 1913, and my object was and is and has been for many years the extension of the post office over the entire machinery of public transportation and transmission with absolute freedom of intercourse throughout the entire world; for the establishment of cooperation, if you please, in place of competition.

The CHAIRMAN. You have talked with me about this matter very entertainingly and very interestingly several times, and I know the committee would be glad to hear from you on the second-class postage matter.

Mr. COWLES. I want to say for a moment how I came to take that up.

The CHAIRMAN. All right.

Mr. COWLES. I went to the New York and New Haven road and asked for relief. The reply that came to me was practically this: "We own this plant. While you are here you will obey our orders and pay just such transport rates as we see fit to levy." That, to me, was a challenge, a challenge for life, not for myself alone, but for all humanity, because if that was to be the course, then certainly there was a railroad despotism growing up here under which all of us would be slaves, and for one I was not built in that fashion. I had lost a great deal by them, but I determined I would lose every cent that was left before I would yield, and I spent all the money I had in it and spent throughout the life of my daughters, because they were all with me, Mr. Chairman, in this splendid work, and shall I ever forget when my daughter Maud threw her arms around my neck as I came down here in 1906 and said me: "Papa, we will stand by you." When I went back from here on that occasion her life had just gone and she had felt the trouble coming. She rushed to the bathroom and in a moment her life was gone out, and she fell dead in her sister's arms.

I have paid, friends, for the work that I have done and whatever success that has come about. When that happened to me my hope was to look about and see if there was not some place where I had got as much power as anybody else had in determining my transport taxes, and I quickly found in our flat rate letter postage the idea.

First, the gift to us by that great school-teacher, Roland Hill, who gave to the world this wonderful truth, that in public transportation the cost of the service of the transport machinery was absolutely regardless of the distance traversed by any unit of travel upon the moving machinery; that that was also regardless of the character of the matter transported. It was simply a matter of weight and of space, and that was all. Those were the two points he presented before the English Parliament. At that time they had a system of rates—government rates, if you please, at the time—determined by zones, rates so high that the ordinary man could not write a letter. If a workman was seeking work he had to go on his own feet to find it, because he could not meet that system of rates, varying from about 6 cents for a single sheet of paper 15 miles, up to 30 cents or more up to 300 miles. Those rates, said the leading men of that time, were founded on injustice to the poor. Roland Hill proved that it actually cost the English Government fifty times as much to send a parcel a short distance where only a single parcel might be carried than in the great through mail from London to Edinburgh, 400 miles—50 times as much for the short haul as for the long haul—and that was the common law. He presented that to the English Parliament in 1837. It was discussed in England for three years and at the end of that time his idea became law, and then, for the first time in the world's history, did it become possible for the ordinary man and for the ordinary people of the country to combine together for their common welfare, and democracy for the first time became possible, and under it what happened? Under it business grew like the wild wind, with the rates cut from 18 cents for a single sheet of paper down to 2 cents for a half ounce.

The idea came over to this country and immediately caught hold of the leaders of this country, and in 1844 this thought was presented. I want to read it to you because it shows what Congress thought of the post office at that time:

To content the man dwelling more remotely from the town by giving him regular and frequent means of intercommunication, to assume the immigrant who plans his home in the wilderness that he is not forever separated from the kindred and society that still shares his life, to prevent those whom the swelling tide of population is constantly pressing to the verge of the wilderness from sinking into the hunter or savage state, to diffuse throughout all parts of the land enlightenment and social improvement, lifting our people in the scale of civilization and binding them together in patriotic affection.

This, said the House Postal Committee of 1844, is the end of the post office.

Mr. Chairman, the wonderful results that followed the adoption of the flat-rate service of England were so wonderful that the idea spread over the land like lightning. In 1845 a bill was passed in the Senate cutting down our six-zone service, which varied all the way from—I have forgotten now the first, but it ran up to for 400 miles 25 cents, and the lowest, I think, was six cents for 15 miles. This proposition was brought before them, and one of the leading men of New England—who, by the way, once made a trip to Iceland and came back and said that one thing he found there differing from anywhere else was that their post office was absolutely free and supported by the ordinary forms of taxation, and he said that perhaps from that service you might account for the extraordinary intelligence of the Iceland people.

In 1845 the zones were cut down to two zones, 5 cents to 300 miles and 10 cents for greater distances. Other changes were made in the succeeding years, until in 1863 Abraham Lincoln, backed by Montgomery Blair and by Mr. Casson, the Assistant Postmaster General, Congress gave a flat rate here to all the different classes of postal matter.

During the war period things were checked up in Europe, but right in the midst of the war our Postmaster General suggested a flat rate on international service, and just as soon as the war drums in Europe had ceased to beat they adopted in England a flat rate international service, and up until 1914 we had that service, and we had a 2-cent letter service covering all this country and practically all of England and Canada, and running out a little bit later to New Zealand. This continued here until, I think it was under the leadership of Uncle Joe Cannon, in 1885, the 1-cent-a-pound service on magazines and newspapers was adopted. Then a growth came to this country that was beyond the dreams of anyone. Then was carried out just what the Congress in 1844 said should be the aim of the post office, binding the nation and the whole world together in one grand unit.

This great service, carrying to every part of the country the news from the great centers, educating, increasing business enormously, its advertising telling the people in the far-off countries where they might best satisfy their wants and dispose of their wares, at the same time carried comfort and joy and hope to all the people, and especially to the women of the world. One of my friends, who is over here in the library building, said at that time that the news was that the service had largely decreased insanity among the women in the rural parts of the country. At any rate, it grew and grew and grew, like the wild wind, and to such an extent did it grow that finally a certain gentleman named Lowden, of California, representing the railroads of the country, and seeing in that service a great big object lesson to all the rest of the country, attacked it on the ground that it was a great expense to the Post Office, causing the great deficit to the Post Office.

I met him, Mr. Chairman, and met him with what? I met him with truths given to me—by whom? By no less a man than Hon. Joseph H. Choate, our late ambassador to England. The railways were at that time carrying milk distances up to 330 miles at a rate of one-sixth of a cent a pound in cans and one-third of a cent a pound in crated bottles. Those cars ran at least 400 miles a day. There were not any idle cars. They were not sitting still three-quarters of the time and blocking the tracks. They moved and they were continually on the move, and it was discovered that at those rates the Delaware & Lackawana road was paying their agent, Westcott, a clear income of \$50,000 a year to manage the business, and I heard Mr. Choate remark that it looked to him as if that was an arrangement between the president of the road and Westcott to rob the stockholders. If I had been allowed to speak I should have said it looked very much like a scheme to rob the public.

I presented those truths to Congress in 1897. Mr. Lowden made his attack precisely like the attacks you have heard presented to you time and time again. In 1896, almost the 1st of January of that

year. I received a letter from Henry B. Loyd, who was then connected with the Chicago Tribune:

There is a bill now pending in the Senate, and it has passed the House, which to my mind is the most insidious attack ever made on the liberties of the American press. I think you can defeat it.

I did defeat it. I showed the close analogy between the milk question and the mail bag, and it was perfectly clear to anybody and to everybody that if they could make such enormous profits on milk carried 330 miles down to Hoboken over the Catskills, and the empty cans carried back, the loading and the unloading all done by the railroads, then certainly there was small reason for our Government losing anything on that business.

I put those facts in the Outlook. That came under the eye of Houghton-Mifflin, of Boston, and he sent that thing to Senator Marion Butler, of North Carolina, and he made it a part of the minority report against the bill, and the bill died in the Senate.

A little bit later these things happened. A short time after that a man named Patterson came from Chicago with a petition signed by the great leaders and business men of Chicago, supporting his proposition that this second-class matter ought to be cut out. He came to Golden Rule Jones, of Toledo, and asked him for \$10 to enable him to carry on his work, and for his signature. Mr. Jones replied to him, "I am not accustomed to sign petitions until I know something about them. Give this to me and let me have a chance to look it over, and if it is all right I will sign the petition." But the man said, "I am going away to-morrow." "To whom shall I address you?" Mr. Chairman, care of Adams Express Co., of New York City. It was very evident, gentlemen, who was at the basis of the attack on the second-class service at that time.

This happened a little bit later: There was a meeting of the Mississippi Valley Medical Association, held at Louisville, Ky.; and the very man who attacked this second-class service—because there were other things creating a demand for it throughout the whole realm of public transportation—sent requests to the publishers of medical publications, saying to them that they would be glad to carry their mail, their magazines, to this meeting. Wasn't it a funny thing, Mr. Chairman, that our express companies could do this business at 1 cent a pound and the United States Government, our great express company, could not do it? It seemed to me a very curious proposition.

A short time after that, Mr. Jones—Golden Rule Jones, I call him—sent word to the Outlook of what had happened. The Outlook sent it to me, and from that time until his death he and I were in close contact.

Well, gentlemen, a new Congress had to be elected then and Mr. Lowden had to try his game again. By that time I had secured some of these other facts, and when the discussion on this question came up again in the House John Bell, of Colorado, had my book. It was full of material of the same character, and Mr. Simpson, of Kansas, got into his hands this very article of the Outlook, in which I set forth these other facts, and he read that as his sole argument against that bill; and, Mr. Chairman, that Congress by a large majority voted against that proposition, voted that these statements were misstatements and were not true.

A little bit later an arrangement was made for the hearing on railway mail, and one of the officers of the Chicago, Burlington & Quincy Railroad did me the courtesy to say that the arsenage from which the weapons were taken that caused that change were my book and my articles in the Outlook. I had simply proposed a truth that could not be controverted.

In each of the things that have been done since then I have done my level best to present the same truths, and so far as expenses are concerned, I want to tell you of the character of the machinery that we had in New York City for handling our postal matters. They were Noah's arks, dragged by half-dead horses, and walking postmen burdened like pack horses. It is not any wonder that under such conditions there was a loss in the Postal Service.

When the Hughes Commission came along I made my argument at that time. Another thing, I called on Mr. McAdoo, who had just finished his work in tunneling across the Hudson, and he had some very valuable information to give to the commission, and he said he would be very glad to appear before them if they would give him an invitation. They did not give him an invitation. I do not know why, but they did not do it, and the testimony that came out there was just about the same as had been presented before.

Now, I want to say to you that there is a law of transportation, as there is a law of gravity, and this is the law: When a public transporting machine is in operation the cost of its use is regardless of the distance traversed by any unit of traffic upon the moving machinery. It is regardless also of the character of the matter transported. It is simply a matter of space and of weight. That proposition was upheld here in this city some years afterwards by the vice president of the Great Northern Railway, who stated precisely the same thing.

I do not know any use of my going any further. I think I have proved my statements and proved conclusively that that is the rule and the law, and I want to say to you that what we want to do in all our transportation machinery is this: All that machinery should be yoked together, and we should bring everything from starting point to destination over the lines of lowest grades and least obstructive curves and shortest distance.

Mr. TREADWAY. You mean to pay a flat rate for everything?

Mr. COWLES. Yes, sir; and I will present to you here what I have drawn up as a possible system of rates. I would cut down all of these tens and millions of rates, and I would write the whole scheme of rates on a postal card.

Mr. TREADWAY. Charge the same for a passenger from here to Chicago as from here to Philadelphia?

Mr. COWLES. I say when a train is running from Boston to San Francisco there is not a man living, nor will he ever be born, who can tell a particle of difference in the cost of the operation of that train. Whether I as a passenger getting on at Boston and leaving the train at Worcester or go through to the Pacific coast makes no difference. The cost of every passenger depends upon the number of passengers that get on and off the train, and with the fastest trains that run I will get the most money out of those trains with dollar fares than they are getting to-day than my friend Mr. McAdoo will get out of the maximum system of rates that he has already proposed.

If you want to serve these people, take the railways, the steamship lines of the country, and if there is any government business in the world that is the business. Whoever owns them will own the world.

Mr. TREADWAY. Do you charge the same fare from Boston to San Francisco that you do for the man from Boston to Worcester and the same fare for the man who rides from Boston to Worcester that you do for the man who rides from Boston to San Francisco?

Mr. COWLES. My proposition is to do exactly what Roland Hill did. He took the very lowest rate and made it uniform, the standard rate for all classes of business.

Mr. TREADWAY. In other words, you would charge one going from Boston to San Francisco exactly the same as if he were going to Worcester?

Mr. COWLES. Yes, sir; but there are three classes of fares. The local fares in this country are 5 cents a mile. I would make that the uniform fare for all travel of that kind of business, for trains that stop continuously, as they do.

Mr. TREADWAY. It is 50 miles from Boston to Worcester.

Mr. COWLES. I will give it all to you in about two minutes.

The CHAIRMAN. We will give you some other time. We have given you half an hour now. Are you about through?

Mr. COWLES. I only want about two minutes more.

The CHAIRMAN. You can have all the time you want, but I believe the publishers ought to be represented here and have their say-so before the committee and before the public, as well as any other industry, and you will have all the time you want. You know that, don't you?

Mr. COWLES. I do know it, and I thank you very much, indeed. I think we are here to get out of this trouble. There are three kinds of travel—the local travel at 5 cents the wide world over, practically. There is express travel; that means travel where they make stops every 15 miles, say. Then there is the other kind of travel for limited trains, which run from 40 miles and beyond without stopping. My proposition for the dollar fares is where men get on these limited trains and stopping less often, they carry less people than the other, and therefore the rate must be higher. With the express trains they will take more than the other trains, and therefore they must pay more, but the other 5-cent fares pay their way. We have proved it is possible.

The CHAIRMAN. You believe this, don't you? You believe that passengers from a mile upward—all of them ought to pay the total cost of all of the transportation, but it ought to be adjusted so that all should pay the same?

Mr. COWLES. I say that the business of this machinery is to prevent congestion here or starvation there. It is to bind the whole Nation together. It is to develop the country through which it passes, and the business of the railways is to eliminate distances. The moment you make the zone proposition you come right up against the very purpose for which the railways were built.

The CHAIRMAN. Suppose you knock out the zone rates on postage and the zone rates on passengers—that is, the distance rates—you would have one rate?

Mr. COWLES. Absolutely.

The CHAIRMAN. But you would make the rate high enough or low enough to cover the cost of the service, would you not?

Mr. COWLES. Yes; and I would prove it to you.

The CHAIRMAN. But that is what you would do?

Mr. COWLES. Yes.

The CHAIRMAN. And the only difference between you and the committee on this proposition is about the zone rate. You think that it ought to pay the cost of the service, but the zone rate is not the right and fair rate.

Mr. COWLES. I challenge anybody, wherever he may be, to controvert the statements I have made.

The CHAIRMAN. Your challenge will be noted in the record.

Mr. GADSDEN. I want to impress upon the committee that nothing that I stated this morning could possibly, I think, be construed as in any sense a criticism of our committee on the actions of the War Finance Corporation. We are here on this matter of taxation, and so far from even suggesting any criticism of their action we bow to it. Of course, we are disappointed in it, but our committee has been trying to work out our salvation under section 7 of that act, and I want to remove any possible impression in the minds of the committee that we were attempting to criticize.

The CHAIRMAN. I suggest that the secretary will give you a copy of the stenographic report of your remarks, and you may correct it if you wish. I understand what you mean.

Mr. GADSDEN. If the committee will allow a few minutes more to Mr. Hall.

Mr. MOORE. Mr. Gadsden, before you leave, it has been suggested to me since you testified this morning that some of you gentlemen representing the public-utilities corporations had in mind to make the suggestion that an increase of fares might be so devised as to aid the Government in the matter of revenue. We imposed a tax on moving-picture shows in the existing law, and it was generally conceded that that tax has been passed on to the consumer, and since you are here it has been suggested that some of you gentlemen have had it in mind, if the fare is raised from 5 cents to 6 cents, that it might be passed on to the Government and thus create a large fund.

Mr. GADSDEN. I could answer very clearly that we had no such idea as that, Mr. Moore. Of course, it would do the industry no good to get the 6-cent rate which we need now and have the Government take it as a tax. What I wanted to say was that if through the efforts of the public-utility commission we would get another scale of rates, so as to put the property back where they would produce a substantial revenue, it would also produce a substantial revenue for the Government. If you were to increase the rate to 6 cents and the Government takes the extra cent, the only effect would be to deter the traveling public to the extent of that 20 per cent increase. The increase would deter the traveling public and we would then not get any benefit.

Mr. MOORE. I am not passing it on as a suggestion of mine, but as a suggestion made to me as having been in the minds of some of the public-utilities men. I can not see, if the Government got the extra cent, that the company would be benefited.

Mr. GADSDEN. The only effect would be the falling off of the travel due to the increase of fare. Experience has shown that that extra cent deters a certain amount of travel so that we do not realize more than 12 or 15 per cent gross.

The CHAIRMAN. Are the trolley companies in the District of Columbia represented in the combination that you speak for now? Are the District of Columbia traction companies represented here?

Mr. GADSDEN. They are members of the association, and we are members of the association.

The CHAIRMAN. They are in the peculiar position, which is rather unique now, of giving six tickets for a quarter, a system that does not prevail in any other city hereabouts now. That suggestion might or might not apply to them.

Mr. FAIRCHILD. Mr. Gadsden, may I insert one question? Do we understand now that the Finance Corporation has decided that the public utilities do not come within the scope of the law, and are not entitled as war industries to be recognized by the corporation?

Mr. GADSDEN. As I understand the ruling of the Finance Corporation, they have decided that we do not come within what they call the exception class of section 9. There may be individual companies, which on the merits of their claim would be entitled to relief. But as an industry we do not come within the provisions of section 9 of the exceptional class, and we must seek relief primarily and in the first instance through the banking machinery.

Mr. MARTIN. How does the St. Louis Co. do it?

Mr. GADSDEN. They construe that as an exceptional case.

Mr. FAIRCHILD. I suppose where a company carried to a company engaged in the manufacture of munitions, we might say that that was under the general clause, and then they would be entitled to relief.

Mr. GADSDEN. All of the companies engaged directly or indirectly in war work; but, as we understand it, the board construes the language of section 9 as requiring something in addition to that to bring the specific company within the terms of a special case.

Mr. RAINY. Your explanation leaves some hope for public-service companies, which I did not understand before you mentioned it. I do not desire to criticize this corporation that we have created, but I understand that they made a loan to the United Railways Co. of St. Louis.

Mr. GADSDEN. It is so reported.

Mr. RAINY. Here are the facts in relation to the United Railways of St. Louis: They operate over 100 miles of street railways in St. Louis. In 1905 we gave a corporation composed of individuals in Keokuk and Hamilton the right to dam the Mississippi River. We gave them a franchise for which they were never to pay anything. They at once transferred that franchise for \$20,000 to the Mississippi Power Co., which made a dam there in 1913. That company completed its dam and undertakes to deliver power in St. Louis. They carry their current over their own wires to a point 6 miles from St. Louis, then they turn it over to the Mississippi Power Distributing Co., which they own. This company in turn sells their power to the Union Electric Co. and the United Railways of St. Louis. Both these companies are controlled by the North American Co., and the North American Co. owns a large block of stock in the



original Mississippi Power Co. Immediately after perfecting this arrangement the Mississippi Power Co., through its subsidiary company, the Mississippi Power Distributing Co., made a contract with the United Railways of St. Louis for 99 years, by which the price of power in St. Louis could be regulated only by the price of power generated by coal, to wit, the Union Electric Power Co., which company it also controlled, and so the charges for power, lights, and everything else in St. Louis is regulated only by the price of coal in St. Louis. The same company controls absolutely all these companies, and this makes impossible any hope for cheaper power in St. Louis or for cheaper railway fares in St. Louis. In other words, this particular company has a complete monopoly in everything in the city of St. Louis, on account of the fact that Congress gave them a franchise on the Mississippi River.

Now, I take it that this company to which the Government has already given so much aid, is the only company which has been relieved from this corporation which we have created in the matter of its operations in the city of St. Louis, and if this kind of a company, with all its Government aid and with all its monopoly, can not get local assistance from local banks, I am afraid none of you are going to be able to get it. At any rate this demonstrates the fact that too much Government aid is a bad thing, and we ought not to give away these rivers to these companies.

The CHAIRMAN. Isn't it a fact that that is the only company?

Mr. GADSDEN. Information of the actions of the war finance corporation is confined entirely to the public prints, and we have no other information. The information that we have is that the St. Louis Co. is the only one that has received relief. Personally, our committee has no knowledge of the fact.

Mr. Hall would like to say a few words.

The CHAIRMAN. We have a program. If he can wait until we get through with some gentlemen from out of the city, we will hear him.

Mr. TREADWAY. I understand that Massachusetts has taken over the Boston Railway.

Mr. GADSDEN. They have created a board of trustees and those directors are authorized to take over the railway under a cost-plus plan, and the same plan has been offered to all of the railways of Massachusetts—if they desire it.

Mr. TREADWAY. I understand that the fare in the McAdoo Tunnel has been increased from 7 to 10 cents.

Mr. GADSDEN. No; I think it is 6 cents.

Mr. MOORE. It was so reported, and the Secretary issued a denial.

Mr. GARNER. You live in the District of Columbia?

Mr. GADSDEN. My home is in Charleston, S. C.

Mr. GARNER. Do you deal in politics?

Mr. GADSDEN. Down South we always do.

Mr. GARNER. What would the people of South Carolina think about their Congressmen—the farmers and merchants down there—if they went back down there for reelection and had to meet the charge that they had exempted all of the street railways and all of the public utilities corporations in the country from taxation? What answer would you make to that?

Mr. GADSDEN. I would tell the facts, and I think it would be admitted in the extraordinary increase in the cost of everything that

the rate of public utilities should be advanced at least 10 per cent. We have the Director General increasing passenger rates 20 cents and freight rates 25 cents. I think we would be well within bounds if the public-utility rates were advanced at least 10 per cent. If this advance should be made, inasmuch as our gross receipts were \$1,600,000,000, we would contribute an involuntary tax of about \$160,000,000.

Mr. GARNER. You think you would be able to tell them that merely because the operating expenses had gone up, the cost of operating their farms has also gone up, you should be exempt?

Mr. GADSDEN. I think so. For instance, we are selling our cotton at 30 cents which used to sell for 12, 13, 14, and 15. Everybody has been able to pass it on except ourselves.

Mr. GARNER. That is a question for each community, to give you a right to charge more for your transportation.

Mr. GADSDEN. That is entirely, unfortunately, our predicament.

Mr. GARNER. That is not the affair of Congress. It seems to me that that is the affair of your community in which you are doing business. If you can convince the community in which you do business that you are not getting just compensation for the work that you are doing, then it seems to me that they will grant you an increase.

Mr. DICKINSON. Do you know if the street-railway system that is operated by the city of Cleveland, which charges a 4-cent rate, is making any move for an increase in the rates? Has it taken any steps to ask for Government aid under this section of the War Finance Corporation?

Mr. GADSDEN. Not officially; no.

Mr. DICKINSON. Have you any information about it?

Mr. GADSDEN. I have heard that they are appreciating the extraordinary effect of the falling off in their revenue, and that they have got to increase, but I have no official information.

Mr. MOORE. I want to be fair to the public utility companies for general reasons. I want to ask you whether the Director General of Railroads, by virtue of law enacted by this Congress, has not already provided that railroads shall recoup past losses in effect by an increase in the fares and rates?

Mr. GADSDEN. Mr. Moore, I do not so understand the order.

Mr. MOORE. Isn't it a fact that he has issued orders which permit the railroads to increase the passenger fares, which went into effect yesterday, and that he has authorized an increase in freight rates, thus enabling the railroad companies, if they had lost prior to this, to recoup those losses?

Mr. GADSDEN. I think the main purpose was to pay the present operating expenses.

Mr. MOORE. Isn't it a fact that he has given assistance to railways?

Mr. GADSDEN. Undoubtedly.

Mr. MOORE. And wasn't it the expectation of the War Finance Corporation bill, also passed by this Congress, that he should have the power to loan money to the railroads, so that they might rebuild their tracks and their equipment, etc.—rehabilitate themselves?

Mr. GADSDEN. I think the bill so proposes.

Mr. MOORE. Was there any reason to believe that that kind of treatment and increase of rates, both passenger and freight, and the

rehabilitation of the equipment and roadbeds, etc., would be accorded also to public-utility companies?

Mr. GADSDEN. Was there any anticipation of that?

Mr. MOORE. Yes. You are an active man in business. I wish to say to Mr. Garner that I have seen you and heard of you in Charleston, and I know your standing, and that you speak in a representative capacity. Had you any reason to believe, when we were passing the War Finance Corporation bill, that public-utilities companies would receive such assistance as the railroads have since received?

Mr. GADSDEN. We certainly hoped that we would be financially aided by direct loans under section 10, undoubtedly.

Mr. MOORE. You thought that the public-utilities companies would have the same rights to go to the War Finance Corporation and obtain assistance as the railroads do?

Mr. GADSDEN. Unquestionably; and we appeared before the Senate committee to urge it.

Mr. MOORE. In that you have been disappointed?

Mr. GADSDEN. Yes; we have been disappointed.

Mr. MOORE. So that it stands to-day with regard to public-utilities companies that whereas railroads have received advances in rates and an advance in passenger fares on their lines, and will receive direct loans, the public-utilities companies go on in the same old way with such resources as they have, probably limited now more than before, and must charge the same old rates, the same 5-cent fare?

Mr. GADSDEN. I think that is a fair statement of the situation.

Mr. GREEN. In line with Mr. Garner's question, do you have a public-utility commission in South Carolina?

Mr. GADSDEN. No; we have to go before our local city councils.

Mr. GREEN. And they are not willing that you should raise your rates?

Mr. GADSDEN. The experience over the country is that relief from the various municipal bodies is very much slower than from the commissions.

Mr. GREEN. But you have made application. Do you know of any applications having been made?

Mr. GADSDEN. A great many have been made to municipalities.

The CHAIRMAN. All right, Mr. Palmer.

**STATEMENT OF MR. ALBERT R. PALMER, OF THE FIRM OF PALMER & SEARLES, ATTORNEYS AT LAW, NEW YORK CITY.**

The CHAIRMAN. Whom do you represent?

Mr. PALMER. I represent a number of corporations; no one in particular.

I want to say that I appear before this committee because I have enjoyed considerable—or, rather, I used to enjoy considerable—practice—I do not enjoy it so much since this law has been passed—but I have had considerable practice before the Department of Internal Revenue in connection with the tax law, and have various corporations and individuals who are affected by it. What criticism I have to make of this law is not made for the purpose of carping at the various features of it, but to bring to the attention of the committee different portions of the law that have seemed particularly objectionable to my various clients, and I have a few suggestions that I think

might render the sections less obnoxious and raise a little more revenue.

One of the principal objections that I find to the law is the excess-profits tax on salaries, this provision that taxes the recipient of a salary 8 per cent of his salary above \$6,000, not so much for the amount of the tax but because it is called an excess-profits tax. Of course, if I am employed by a corporation at a salary of \$10,000 I receive the \$10,000, win or lose. I do not share in the profits of the corporation at all as far as my salary is concerned. And there has been a great deal of objection on the part of our clients who have received salaries to pay this 8 per cent tax as an excess-profits tax. I do not think there is any objection; at least I have not heard any objection on the amount of the income tax to individuals. Almost everyone I know is glad to pay his tax, but they object to paying 8 per cent on their earnings, when another individual, perhaps, who is not engaged in business, who has the same income or amount of money to spend, receiving it from interest on mortgages and bonds, or in one way or another, both men being entirely equal in the amount of money they have at their disposal to spend for their living or to invest. The one who gets his by his daily labor in the form of a salary pays this tax as an excess-profits tax, while the other man does not. I do not know exactly how much money that 8 per cent tax raised. Of course, that information is at the disposal of the Treasury Department, and, I suppose, can be figured out.

The CHAIRMAN. I expect it raised more fuss than money.

Mr. PALMER. That is exactly the point. It raised considerable fuss, and I do not think it raised a great deal of revenue, and I think it ought to be repealed. I think it would be very much better if it could be done to reverse the proposition, and the man who did not work would pay more than the fellow who did.

Mr. LONGWORTH. I might say for your information that I offered an amendment, not to repeal section 209 but to take earned incomes from the provisions.

Mr. PALMER. I think that would be a very wise provision, because that is the first criticism that any salaried man makes.

Mr. MOORE. Will you state the case of a man who obtains unearned increment, the man who does not work? Give us a case in point. We know about the man who earns \$10,000 in salary or through commissions or otherwise, but who is the man who earns \$10,000 and does not work for it?

Mr. PALMER. Why, he obtains it from his previous accumulations, from interest on his investments.

Mr. LONGWORTH. Or inherits it.

Mr. PALMER. Or inherits it.

Mr. MOORE. Comes to him under a spendthrift trust.

Mr. PALMER. Or by his previous accumulations.

Mr. MOORE. Of course, that is working whether it comes to a man through his own efforts or not; it is paying somewhere along the line.

Mr. PALMER. I understand that, Mr. Moore, but the point is that here is one man who receives a salary of \$10,000, while here is another man who inherits enough money to bring him in \$10,000.

Mr. MOORE. If it comes from income on Federal bonds or on municipal bonds it might pay taxes in some form, in some proportion, but if it comes from railroad bonds or in other securities of one kind

or another it would be money that would be working and paying its way.

Mr. PALMER. Certainly.

Mr. O'SHAUNESSY. Would you differentiate between the man who is living on something he has earned and the man who is living on something he has never earned? I mean one who is living on an inheritance, never having worked.

Mr. PALMER. That would be the ideal system, but I am not enough of a political economist to work that out. The ideal system would be to tax the man at one rate who earns his money by working, and at another rate the man who has worked and retired and lives on his earnings, the income from his earnings, and at still a different rate the man who has never worked at all but has inherited his money. I think if we passed a law like that nine-tenths of the tax would be used up in administering.

Mr. MOORE. Have you considered this phase of the question, whether there can be an excess profit on a salary, which is the same now that it was prior to the prewar period?

Mr. PALMER. A man who receives the same salary now that he received five years ago is not receiving as much actual value.

Mr. MOORE. If he receives over \$6,000, he is subject to excess-profits tax under this law.

Mr. PALMER. Yes, sir.

Mr. MOORE. As a matter of fact, he has received no excess profit because his salary is the same as it was before the war.

Mr. PALMER. That is exactly the point.

Mr. MOORE. I am asking whether you have given any consideration to the propriety of including that man in the excess-profits tax.

Mr. PALMER. I do not think he ought to be.

Mr. LONGWORTH. Isn't it an utter absurdity to have an excess-profit tax levied on an individual?

Mr. PALMER. I think it is the most objectionable feature of the law.

Mr. LONGWORTH. In the House we had no excess profits applied to individuals. They ought not to apply to individuals; but certainly if it does, it ought not to apply to individuals without invested capital when the basis of the law is invested capital.

Mr. PALMER. I see a distinction between myself, for instance, or any other professional man, and a man who is on a salary. I think there is a difference.

Mr. LONGWORTH. There is some difference.

Mr. PALMER. I think that if I can extend my business I get the money I can earn, but the man on the salary can not get any more than his salary.

Mr. MOORE. But he is included in the excess-profits tax if he gets more than \$6,000.

Mr. PALMER. Yes; and I think he ought not to be included. If a man is on a salary of \$10,000 and he received, if the corporation makes a large amount of money, a bonus, I do not see any particular objection to taxing that bonus, if you must tax an excess-profit tax against him. But it does seem to me that a man whose salary is fixed, and if the company makes a million dollars, he doesn't get any more salary; and if it makes less, he still gets his \$10,000.

In my practice I have found this criticism of the law, not so much the money but the fact that you call it an excess-profits tax when it is really nothing of the kind.

Mr. FAIRCHILD. Don't you think that a man who makes a salary over \$6,000 ought to pay some tax?

Mr. PALMER. Certainly, and he is taken care of in the surtax.

Mr. FAIRCHILD. I know, but the man who pays an excess-profits tax pays an income tax, too. Why shouldn't a man who is making over \$6,000 contribute to the Government? You need not call it an excess-profits tax. It is a tax toward the war.

Mr. MOORE. In lieu of the excess-profits tax.

Mr. LONGWORTH. Why should he contribute more than the man who gets money from inheritance?

Mr. FAIRCHILD. He does not.

Mr. PALMER. He does.

Mr. FAIRCHILD. He doesn't pay more than the man who pays an excess-profits tax.

Mr. PALMER. On the contrary, he does.

Mr. FAIRCHILD. Well, I mean, it depends on the percentage of profit that a man makes in his business; if he pays excess-profits tax, this may be more or less. We had to fix some arbitrary method.

Mr. LONGWORTH. Under our present law the way it works out is this: A and B each have a tax of \$10. A has an income from an inherited estate. B earns his whole income of \$10,000. A and B both pay the same tax, and B earns his income and has to pay more than A. 8 per cent more.

Mr. PALMER. \$320.

Mr. FAIRCHILD. In the one case the law gives the man who gets his income from bonds and mortgages 8 per cent exemption, or 9 per cent, whatever the case may be. Of course, men that get their income from that do not make 8 per cent on their investment: They only make 4 or 5 or 6 per cent. You can't get any excess profits out of an investment that pays less than 8 per cent.

Mr. LONGWORTH. There is no excess-profits tax on an income of \$10,000 unless invested, but if he earns the money you charge him 8 per cent more.

Mr. FAIRCHILD. He doesn't make the amount of the exemption, therefore he can't have any exemption. But the man that gets his salary has got an exemption of \$6,000.

Mr. O'SHAUNESSY. He has got his \$10,000 coming in no matter what the per cent is, and so has the man who has his salary.

Mr. PALMER. But the man who gets his \$10,000 from interest would be taxed under the income tax, but he doesn't pay as much tax as the man who earns his \$10,000 by \$320. Now, why should one of them be called an excess-profits tax and not the other?

Mr. FAIRCHILD. That is the question. You come here asking us to take off this tax of a man who gets \$10,000. You say you think we ought to do that in order to equalize these men, tax them the same. Wouldn't it be better for you to come here and ask us to put the tax on the other fellow, so that he would have to pay the same amount of tax as the man who gets \$10,000. We have to provide revenue.

Mr. PALMER. I understand that.

Mr. FAIRCHILD. You understand that we did not put a tax on these men because we wanted to, but because we had to have the revenue.

Why wouldn't it be better to devise some plan so that the man who gets his money from inheritance would be taxed so that the burden would be equal?

Mr. PALMER. That is what I propose to you.

Mr. FAIRCHILD. If that is your proposition I think it is just.

Mr. PALMER. I would say that this amount of tax, whatever it was, that was raised by this 8 per cent tax on salaries can be compared to the total amount of income tax, and a sufficient increase in the rates made to produce that much revenue so that it is paid, but not as an excess-profits tax on salaries.

Mr. FAIRCHILD. If that is your idea I agree with you exactly.

Mr. PALMER. That is my idea, precisely.

Mr. GREEN. As I understand you, then, you think there would not be any serious objection if, in view of the exigencies of the Government in needing to raise such a tremendous amount of money, this tax would be made to bear upon all persons alike?

Mr. PALMER. I do not think there would be any objection among my clients.

Mr. GREEN. The most of us realize very fully the illogical theory upon which this tax is imposed, and many of the committee also think that there should be, if there is to be any tax at all, a similar tax levied upon earned incomes as upon unearned incomes, but as I understand you, taking into consideration the Government, you think there would be very serious objection if this tax was made to bear upon all alike?

Mr. PALMER. No: I do not think there would be, I think it would meet more general approval if it did tax unearned incomes in excess of earned incomes, but it now meets with disapproval because it does exactly the opposite thing, and I do not think it produces enough revenue to pay for the fuss, as the Chairman says.

Another criticism of the law is the tax on—

The CHAIRMAN (interposing). Before you come to that, do you know how this section 209, about which you complain, got into the bill?

Mr. PALMER. I understand it was put in in conference.

The CHAIRMAN. Yes; but the House had no such provision.

Mr. PALMER. I know it, and I commend you for it.

The CHAIRMAN. The House did not have any excess profits accessible against any individual. We only included corporations and partnerships. The House left out individuals for the reason, first, that it was hard to administer. The difficulties of administration were manifold, greater than in partnerships and corporations; secondly, that it gave the corporation a great advantage in the same business with the same capital over an individual, so we left it out.

Mr. PALMER. I understand that.

The CHAIRMAN. The Senate put it in, but it was heralded throughout the country by the press that it ought to be put in. Now, when it came to conference, the House kept the individual out, and would have kept the individual out of 209, but the Senate insisted upon keeping the individuals in at the rate of from 20 to 60 per cent, not 8 per cent, in addition to the original income tax. In other words, under the provisions which the Senate had, and which are now in the law, the individual farmer, the individual merchant, the individual banker, the individual mechanic or contractor or builder

or architect would pay from 20 to 60 per cent in addition to their income tax. Now, then, the House conferees said, "if you put the individuals in which we protested against, if you put in the individual farmer, merchant, and banker, and all the other individuals, we do not think it is fair and just to exempt lawyers and doctors and salaried people who contribute no money to build up industry, give employment to no labor, and are not helping the community any by their capital, and take no risk in investment," wouldn't you say that the House was right if you tax the individual farmer, and merchant, and all the other people 20 to 60 per cent, wouldn't it be an injustice to give the lawyer not more than 8 per cent? Don't you think the lawyer and doctor ought to stay in there.

Mr. PALMER. I mentioned the difference between professional men who are in business for themselves, and the men on salary. Now, I don't think it makes any difference whether the man's salary is \$5,000 or \$100,000, the principle is the same, that he ought not to pay a tax on his salary as such, because it is not at all dependent on the profits of the business. Now, if I or any other lawyer succeed in making \$10,000, and next year I can make \$15,000, I can have it all, but the fellow who works for me for \$10,000 does not get any more no matter how much I get.

The CHAIRMAN. The fixed salaried man.

Mr. PALMER. The fixed salaried man is the man I object to. I do not think that he ought to be taxed at all, but if we have to have money he might as well be taxed.

The CHAIRMAN. I know that several officers of corporations have put in their salaries, and some of their returns amounted to \$500,000. But for this 8 per cent provision the corporation would deduct \$500,000, and they would escape taxation on the corporation. We anticipated that something like that would be done.

Now, there is something in your argument that the fixed salaried fellow can not go up or down—sometimes they go down—undergoes a hardship under this provision, but you made a distinction a while ago between earned and unearned income, which my friend Mr. Longworth sometimes makes. Take a lawyer, now, that makes \$10,000. He earns it. That is what we call earned income. Now, they say that a person who receives an income from a fixed investment or from money loaned, that that is unearned, and then I understood you to agree that a lawyer who earns his \$10,000 should be taxed less than a person who gets his \$10,000 income from lending his money or from investment in stocks.

Mr. PALMER. I said, Mr. Chairman, that that would be the ideal situation, but I do not think it is possible.

The CHAIRMAN. The real fixed incomes on money loaned are mostly or a large part to widows or orphans who got their money from insurance companies. Do you think the widows and orphans and children should be taxed for lending money at 6 per cent. The law will not let them get more than that, and they must pay county, town, and State taxes, and it leaves about  $3\frac{1}{2}$  per cent. Unlike the man in business whose money is in business making 10, 20, or a hundred per cent, and they get 6 per cent. You do not mean to say that the man who receives \$10,000 that way should pay more tax than a lawyer.



Mr. PALMER. That could be corrected by setting a figure of exemption—that is to say, if you think the \$10,000 is sufficient for the widow to live on if exempted up to \$10,000 and tax unearned incomes over that.

The CHAIRMAN. Suppose I put \$100,000 in a corporation, say a cotton mill, I am just simply a stockholder. That \$100,000 goes to build up an industry in my community, gives employment to labor, helps the community, produces something of value to the public, and I will say that that corporation makes 25 per cent on each \$100,000, making my earnings \$25,000. There is a lawyer across the street who gets for his salary \$25,000. Have you ever sat down and calculated under this law? If you have, you found out that my \$100,000 invested in this industry, which is doing good to this community, is paying three times more taxes than the lawyer with his \$25,000. How could you call my income unearned? Lawyers have written to me and told me why that unearned investment of mine was not taxed, when the truth is that that \$100,000 which has earned \$25,000 pays three or four times what the lawyer pays.

Mr. PALMER. Certainly, but the tax in that situation would be exempted because it would be a dividend; that is merely incidental.

The CHAIRMAN. No. It would be a dividend when I got it in my hands, and I would have to pay my surtax.

Mr. TREADWAY. You take an income of \$25,000 derived from interest on bonds and mortgages. Now, that income does not pay any tax except the income and the surtax.

The CHAIRMAN. Because there is no excess.

Mr. TREADWAY. Why not give a man \$6,000, and charge him 8 per cent on the rest.

The CHAIRMAN. That would not be so bad if you were going to have an excess-profits tax.

Mr. TREADWAY. It is doing this: it is taxing earned incomes as well as unearned incomes, while we are not taxing unearned incomes at all.

The CHAIRMAN. If it is an unearned income, we are taxing it three times more.

Mr. TREADWAY. We are not taxing it outside of the income tax. We are not getting any excess-profits tax.

The CHAIRMAN. But the corporation is paying an excess-profits tax before I get the money.

Mr. TREADWAY. I am speaking of individuals.

Mr. LONGWORTH. As a matter of fact, in every country in the world they are taxing earned incomes at a higher rate than unearned incomes. It is perfectly feasible to do so. The Secretary of the Treasury recommends it, and makes that the basis of this law.

Mr. TREADWAY. Do you mean that they tax earned incomes more than they do unearned?

Mr. LONGWORTH. I mean taxing earned incomes less than unearned incomes.

Mr. TREADWAY. You said unearned.

The CHAIRMAN. No country in the world taxes unearned incomes all the way up. Take, for instance, Great Britain. She does not tax incomes all the way up. According to these figures, when it gets to \$2,708, over that they are taxed exactly alike whether earned or

unearned. When it is \$1,000, Great Britain taxes unearned incomes 20 per cent, and the earned incomes 15 per cent.

Mr. LONGWORTH. I think you are wrong, Mr. Chairman. It begins at \$20,000.

Mr. TREADWAY. It begins below that.

The CHAIRMAN. They begin at \$12,500.

Mr. LONGWORTH. \$15,000.

The CHAIRMAN. They end up at \$12,500.

Mr. LONGWORTH. They get together at \$15,000.

Mr. DIXON. They are together at \$15,000.

Mr. PALMER. The point that I had to make, Mr. Chairman, was—I was led astray to the discussion of earned and unearned incomes—it does not seem to the general public fair to tax the salaried man, who, as I say, has no interest in the earnings more than the fellow who is interested in the earnings by being a stockholder or bondholder. Just exactly what this law does—and I do not believe it produces enough revenue to make a great deal of difference, and if it does produce enough revenue it should be distributed over all the people by raising the rate of their normal or surtax enough to cover it.

Mr. MOORE. Have you any fault to find with the \$6,000 limitation on salaries?

Mr. PALMER. No; I do not think the amount of limitation makes much difference. The principal objectant is the fellow who gets around \$10,000 and has to pay \$320, and he wants to know what for.

The CHAIRMAN. Tell him to win the war.

Mr. PALMER. He would rather pay it as an income tax.

Mr. MOORE. If you were to apply this to smaller incomes it is self-evident that the man who has been earning \$3 a day as a mechanic and now by reason of the war can earn \$5, is better able to pay the increased war cost of living than the salaried man who earns \$1,500 in war times and earned \$1,500 in prewar times.

Mr. PALMER. Absolutely.

Mr. MOORE. That sort of mechanic receiving war wages is in a much better position to meet war conditions, war living costs, than is the salaried man whose income is the same during the war as it was prior to the war.

Mr. PALMER. Yes, sir.

Mr. MOORE. Well, now, that rather sustains your argument up to the point of the mechanic or small-salaried man, but you have no objection to the limitation of \$6,000 in which to begin the excess profits.

Mr. PALMER. I think that is high enough.

The next objection that I have found to the law is on the tax on stock dividends. Now, the Supreme Court decided the Yale and Towne case a short time ago, in which they held that stock dividends were not income, and I can not conceive of anybody thinking that they are income.

Mr. MOORE. What was that case?

Mr. PALMER. Yale and Towne.

The CHAIRMAN. You mean the Supreme Court of the United States?

Mr. PALMER. Yes.

The CHAIRMAN. That was mere dictum. It had nothing to do with the case at all.

Mr. PALMER. It was a decision that the distribution made was not taxable, that a certain dividend was not taxable under the 1913 law, and in this law we have not the provision that they are taxable. But they should not be taxable, because they absolutely can not be argued to be income. If you have an apple and you cut it into four parts, you have still the apple. Now, the income arises in a stock dividend when you sell one-quarter of the apple. But as long as you keep all the four quarters you have not had any income. You have four pieces of blue paper for one piece of pink, and under this law there has been a great objection because business men who have corporations wanted to divide stock more widely, among their employees, for instance. Their stock may have become worth \$500 a share, and they may want to give one of their employees five shares of stock, but they did not want to give him stock of the value of \$2,500. They wanted to give him \$500. Now, I can not see that there would be any objection to splitting up their corporation into as many parts as they want to. Now, they will not get any income, and they will not get any until they sell it. Then they are taxed on the income, and Mr. Hughes's brief in the case is very illuminating. He discusses this subject in full, and I think it would be worth while to look into it.

The CHAIRMAN. Let us see how this would work. There is a million dollar corporation that makes \$100,000 a year, and pays in addition a 6 per cent dividend. For 10 years it puts out \$100,000 in surplus until it has a million dollar surplus. There is another corporation that made the same amount, but turn over to me each year what it makes, but the other corporation does not turn it over to me, but keeps accumulating and accumulating until the amount is doubled. Then at the end of 10 years, they give me a stock dividend of a million dollars, worth a million dollars. I can go into the market and sell it for a million dollars. Isn't that a return, an earning upon my million dollar investment in that corporation?

Mr. PALMER. Not until you part with it.

The CHAIRMAN. I have got to sell it?

Mr. PALMER. Certainly.

The CHAIRMAN. All right, let us suppose that I have your note for \$100,000, paying me 8 per cent interest every year, and Mr. Longworth has \$100,000 of your notes with interest due every year. I collect mine each year, \$8,000 for 10 years. He doesn't collect it. I put mine in my pocket, and at the end of 10 years he collects his all at once. Is there any difference between Mr. Longworth's and mine?

Mr. PALMER. Not at all.

The CHAIRMAN. Except I have paid taxes each year, and he has not paid any taxes each year, for it is like the stock dividend.

Mr. PALMER. No.

The CHAIRMAN. Suppose under the law, as it is now, that note of \$100,000, \$8,000 due January 1, I don't want it. Don't I pay an income tax on that?

Mr. PALMER. If you do not collect it, you do not.

The CHAIRMAN. It is worth it, and I am worth \$8,000 more than I was a year before. In the case of the stock dividend I put this

\$8,000 in the corporation, but it did not declare any dividend the first year, but my stock if it makes 8 per cent is worth \$8,000, and in 10 years is worth \$80,000. Don't you think I ought to be taxed on the income?

Mr. PALMER. Certainly.

The CHAIRMAN. I did not get the money, but I can get the money on it. Suppose I take Mr. Longworth's note. It is worth something. I do not collect the \$8,000, but I can go out and get the money any time.

Mr. PALMER. Here is the difference, Mr. Kitchin——

The CHAIRMAN (interposing). Isn't this the fact about your dividends. Now, we have got a million dollars, and we make \$100,000. Ought not the stockholders to be taxed?

Mr. PALMER. When you get it.

The CHAIRMAN. When you get it in money?

Mr. PALMER. Yes.

The CHAIRMAN. Suppose I take it in Government bonds. It ought to be taxed.

Mr. PALMER. Certainly.

The CHAIRMAN. Because you can get the money.

Mr. PALMER. Not for that reason, but because you have got something you didn't have before.

The CHAIRMAN. I have acquired \$100,000 more with these stock holdings.

Mr. PALMER. Yes, sir.

The CHAIRMAN. But suppose we leave it there in surplus. Haven't I got \$100,000 more stock than I had?

Mr. PALMER. Yes; but it is not in your possession.

The CHAIRMAN. I can sell my stock.

Mr. PALMER. When you do you pay an income tax.

Mr. LONGWORTH. Suppose I have \$100,000 worth of stock at par and it goes up to \$200,000. Do you mean that that is income until I sell it?

The CHAIRMAN. I do not mean that and the law doesn't say it, but take your earnings that have accumulated and have escaped taxation for ten years. If paid in cash that year the individual stockholders should receive \$100,000 dividend and would have to pay income tax and the surtax, but if you let them accumulate and never pay that tax for 10 years, and then in 10 years when you have got the million dollars in stock, you say that it will escape taxation, then I am worth a million dollars and would never sell it and would escape taxation on the stock that has accumulated for 10 years and on the million dollars as long as I hold the stock.

Mr. PALMER. You miss the point, I think, in this. Your corporation, ordinarily, here is capitalized at a million dollars and earning \$100,000 a year; in 10 years it would have accumulated another million dollars. Now, I propose to double the stock of this corporation and declare a stock dividend, and you, being the owner of the stock, will get it.

The CHAIRMAN. Yes.

Mr. PALMER. That is the situation.

The CHAIRMAN. Yes; I have got the same property.

Mr. PALMER. You have got exactly the same thing before we doubled the stock.

The CHAIRMAN. My stock before you put this money in surplus would sell two for one.

Mr. PALMER. Certainly.

The CHAIRMAN. Now, when you give it to me, I have got the same amount of stock; it will sell for the same. Suppose I had your 10-year note. Let me give you a case. Suppose I have got your note for \$100,000 and interest for 12½ years, accumulated at \$8,000 a year, and that note is worth \$200,000, isn't it?

Mr. PALMER. Yes, sir.

The CHAIRMAN. Am I not taxed on that \$100,000?

Mr. PALMER. Certainly.

The CHAIRMAN. Certainly; and I am worth the same. One is a note; it has got \$100,000 principal and \$100,000 interest, which makes \$200,000. You paid the interest in money. I am worth \$200,000, and I am going to be taxed and ought to be taxed. And here is a corporation with \$100,000 of its stock, and \$100,000 has accumulated. Shouldn't I be taxed on the \$100,000 earnings which have escaped taxation for 10 years, when the other fellow has paid taxes on his \$100,000?

Mr. PALMER. Certainly; but my point is this, that after the stock dividend has been declared you have got the same thing.

The CHAIRMAN. So the \$100,000 that has accumulated for 10 years is worth \$200,000. You are going to pay me the interest. The principal is the same. You pay me in money or notes, and I have got two papers—two papers worth \$200,000. One is earnings of \$100,000, just like the stock dividend.

Mr. PALMER. Before the stock dividend was declared you had \$100,000 worth of stock that was afterwards worth \$200,000.

The CHAIRMAN. Certainly; and before you take your interest on the note for \$100,000, the paper was worth only \$100,000, but with the accumulated interest, just like the \$100,000 of the stock of the corporation, if it has accumulated 10 years, it is worth \$200,000, and your earnings on your stock and your note are worth \$100,000.

Mr. LONGWORTH. The Supreme Court decided that question specifically in the Towne case.

The CHAIRMAN. The only case brought before the Supreme Court was under the 1913 act, and we have changed the 1913 act in the last year's act.

Mr. LONGWORTH. But the Supreme Court, nevertheless, declared that stock dividends are not income, a decision which Congress can not override.

The CHAIRMAN. They are held so by the statute. That was simply a dictum in that case.

Mr. HULL. I am sorry I was not able to be in when you commenced. Isn't the basis of this question the power of Congress to impose a tax on the stockholders with respect to the undistributed dividends of the corporation?

Mr. PALMER. Do you mean, do I think there is such a power?

Mr. HULL. Yes.

Mr. PALMER. I do. My argument is this, Judge Hull, that stock dividends as such should not be taxed, because they are not an income.

Mr. HULL. Well, I was coming to that. In the Hubbard case, with which you are familiar, I am sure, the court held that Congress did have the power to tax on every penny of undistributed stock.

Mr. PALMER. I agree with that.

Mr. HULL. You think that is still sound law?

Mr. PALMER. I do.

Mr. HULL. Now, under that Congress could tax these stockholders on any dividends when they had been earned, and from that point on, from your standpoint, they could be taxed up to the point where they have become capital?

Mr. PALMER. No; my contention is this: At the time the stock dividend is declared isn't the time when the stockholder is possessed of any more property that he had before; he has two stock certificates where he had but one before, but they are of the same value. The question of the money that made up that value has nothing to do with this value. The present law fixes the stock dividends at the actual value, and assuming that a corporation has a capital and a surplus exactly double its authorized capital, then each share of stock would be worth exactly double.

Mr. HULL. Yes; but I am not going as fast as you are, or you are going faster than I am. I am coming to the question of how Congress can tax profits until they are accrued profits—when they are held by each holder of stock, and held according to the number of shares of stock—now, at what point do you say the power of Congress ceases?

Mr. PALMER. I think that Congress has the power to tax a stockholder every year for the entire amount that his shares of stock bear to the entire capital stock of the corporation.

Mr. HULL. Up to the time they are taxed?

Mr. PALMER. Up to the time they are taxed; it doesn't make any difference—that is, if the corporation makes \$60,000 this year and doesn't distribute any of it. I believe Congress has the power to tax each stockholder for each share; but I don't think it is wise to do it.

Mr. HULL. Then suppose Congress doesn't tax each stockholder for this stock, but was willing that the corporation keep a certain amount for expenses, overhead, etc., but taxed so much as the corporation might decide to transfer to capital account. Now, how would you measure that kind of a tax?

Mr. PALMER. You mean, tax them in a year only after it was transferred to capital account?

Mr. HULL. Yes; you couldn't tax them in advance, because you don't know what amount they are going to transfer.

Mr. PALMER. Well, in the first place, I think a tax on the undistributed surplus that belongs to the stockholder is an impracticable tax, because the stock keeps shifting all the time, so far as that is concerned. Now, to tax a stockholder when a corporation transfers a certain amount of stock to capital would seem to me to be less reasonable than taxing the corporation.

Mr. HULL. I wasn't discussing the policy at all. I was getting your view as to when the power of Congress ceases to tax that portion of the stock which was transferred to capital account.

Mr. PALMER. I don't think they can tax it at all.

Mr. HULL. Then isn't the only purpose of the present act, putting out of sight the legal character of stock dividend transactions—the the only purpose of Congress was to tax not all the profits undis-

tributed but to tax only those which the corporation decided to transfer to capital account at any time, and they are taxed accordingly?

Mr. PALMER. I don't know what your purpose was in writing this in the statute, but if it was for the purpose of raising revenue it has fallen to the ground, because it has stopped stock dividends.

Mr. HULL. I understand—I can't quite get your viewpoint as to whether you admit that Congress can levy a tax on the stockholder with respect to this class of profits and fix some definite rule by which to measure.

Mr. PALMER. I think they can, but I don't think this law does. I think Congress has that power.

Mr. HULL. You think it has the power to say that wherever the directors leave a certain amount of undistributed profits with the view of issuing new capital stock for it that the tax can be then fastened on that stock?

Mr. PALMER. Yes, sir.

Mr. HULL. And it would be a valid tax?

Mr. PALMER. I don't know whether it would be valid. I think it would.

Mr. HULL. I am not discussing the policy. I am discussing the validity.

Mr. PALMER. It would be a special tax, but not an income tax.

Mr. HULL. You wouldn't consider that income, when the stock is allotted to the stockholder?

Mr. PALMER. No.

Mr. HULL. Then would you consider any income that is lodged there?

Mr. PALMER. I don't think logically it should be considered an income until it is lodged in the hands of the stockholder.

Mr. HULL. But held as not being income?

Mr. PALMER. Yes, sir.

Mr. HULL. The Hubbard case held to the contrary, did it not?

Mr. PALMER. Yes, sir.

Mr. HULL. My question is, whether you think the Hubbard case is sound law?

Mr. PALMER. I think it is.

Mr. HULL. Then my question is, whether the Congress should levy a tax on unearned profits; that is, if they have the power to levy that at any stage of the proceedings, then it would become what the Supreme Court has said is capital?

Mr. PALMER. I think that is correct.

Mr. CRISP. Your proposition is that the stock dividend and the unearned profit on the original stock are of the same value?

Mr. PALMER. Yes, sir.

Mr. CRISP. Then if you issue a stock dividend and the person should sell that stock dividend, he should be taxed—

Mr. PALMER. He would be taxed an amount, the difference between the original stock and the amount he got under the dividend.

Passing now to the excess-profits tax. In my opinion, the exemption in this tax should not be based on capital. The tax is, in effect, another income tax, and I do not think that the capital of the corporation ought to be considered. The capital exemption has caused more confusion and more difficulty in administration than any

law with which I am familiar, and its effect is to penalize the man with a small capital and a large amount of brains as against the man who has a large capital and just lets in turn over. It also leaves to the administrative officers of the law a very grievous burden of deciding, under their interpretation, what is capital and what is not capital. I think the officers of the Internal Revenue Department are in the main able men, but I think they have had an almost intolerable burden put on them to decide under this law what is capital, and I venture to say if we were to poll this committee we will get a different opinion from every man on it.

Mr. MOORE. Have you made an attempt to define capital?

Mr. PALMER. I defer to the judgment of the committee on that.

Mr. MORRE. You have not defined it?

Mr. PALMER. I do not think it can be defined.

Mr. MOORE. I think any good lawyer who can render a definition on that will be rendering a very effective public service.

Mr. PALMER. I would like to be able to do it.

Mr. MOORE. Are you going to offer any suggestions in the way of amendments?

Mr. PALMER. Yes, sir. The effect of this tax has been to vary the operation of the tax in a very material manner. I have made a table here of 60 corporations from among our clients, and it shows the difference in the amount of tax assessed against substantially the same incomes. It is really quite startling. It varies from 6 per cent in a corporation that has no excess-profits tax to 40 per cent; there are several at 36 per cent, and all the way up the line. Now, the reason for that in almost every case has been the difference in assets, and the difference in exemption for that reason. Here, for instance, is a corporation in the phonograph business whose net income was \$49,514; their tax, combining income and excess-profits tax, was \$8,682; the per cent of that tax to their income was 18 per cent.

Mr. STERLING. What was the amount of their capital?

Mr. PALMER. The amount of their capital was \$261,374. Their tax was \$8,682, on an income of \$49,514. Here is a corporation in the trucking business. Their income was \$33,896 and their tax was \$8,983, which is \$300 more on \$16,000 less income.

Mr. GARNER. What is their capital stock?

Mr. PALMER. I don't know what their capital stock is, Mr. Garner. The figures I have here are the admitted assets and the net assets. I mean by that, figuring on and figuring off.

Mr. O'SHAUNESSY. What are those figures?

Mr. PALMER. The phonograph company had a net income of \$49,514 and paid a tax of \$8,682; the trucking company had a net income of \$33,896 and paid a tax of \$8,983.

Mr. MOORE. What are the respective assets?

Mr. PALMER. The phonograph company \$261,374 and the trucking company \$109,173.

Here is a corporation who are distillers; their net income was \$359,166 and their tax was \$65,315.

Mr. STERLING. What per cent is that?

Mr. PALMER. That is 15 per cent.

Mr. GARNER. What assets did that corporation have?

Mr. PALMER. \$1,935,479. Now, their tax, bear in mind, was \$65,000 on an income of \$359,000.



Now, here is a corporation engaged in the manufacture of nails; their net assets are \$249,294 and their net income \$131,717, and their tax is \$53,760, at the rate of 40 per cent. The distilling business made \$220,000 more income and only paid \$12,000 more taxes.

Mr. GARNER. But they had so much more money invested in it. Do you think they ought to pay on the amount of their receipts without regard to the capital stock of the corporation?

Mr. PALMER. I believe this tax, Mr. Garner, ought to be assessed on the basis of income.

The CHAIRMAN. What do you mean by the basis of income? All pay the same rate? That is, all corporations pay 20 per cent of their income, or 40 per cent, or whatever it is?

Mr. PALMER. Perhaps I misstated myself. I mean the capital should not be considered, or the prewar income; but the present income.

The CHAIRMAN. Do you know that it was calculated last year that about 150 corporations would have escaped taxation by the difference in the profits of the prewar period, would have escaped taxation of about \$350,000,000? Take Ford, for instance, with millions and millions of income, he would have escaped taxation last year on \$9,000,000 to \$14,000,000—he wouldn't have paid a cent; that is according to the statistics given to us at the department. Ford lacked a little of making as much in 1916 and 1917 as he did in the prewar year. The American Tobacco Co., the same thing; it didn't make as large a percentage of profit on its capital as it did prewar years. So in any tax you will find, as we have found, in any taxes that are suggested from any source, you work it out and you are going to find these things.

Mr. PALMER. I know you are certain; but on this basis—

The CHAIRMAN. Now, your suggestion there would cut us out of about a billion dollars of some of the most prosperous concerns.

Mr. PALMER. I doubt it very much.

The CHAIRMAN. Well, about 150 corporations and many millions of dollars will escape taxation.

Mr. GARNER. What do you say, Mr. Palmer, about these two provisions, one on a prewar basis and then one levied on the excess profits, as it is in the bill?

Mr. PALMER. This bill is so full of difficulties now if another is added to it I think the business men will rise in arms.

Mr. LONGWORTH. We had a man here yesterday, a Prof. Sprague, who recommended that the tax be 80 per cent and that thereafter a tax be imposed on the amount of business done.

Mr. PALMER. The only thing I can suggest about that is that the Government should at once begin to employ a number of watchmen, because it will have a large number of establishment on its hands, because the people will go out of business.

Mr. LONGWORTH. I understood him he would put the tax at 80 per cent and then a tax on the present level.

Mr. GARNER. That was my understanding of his suggestion, but there was another suggestion made, that you apply the prewar capitalization and then put a clause in the bill that if the tax does not equal the tax levied under the bill, you take the other one. In other words, you take the best one.

Mr. PALMER. That is a good scheme, but it won't work. I think if you take the bill submitted in the Senate by Senator Smoot, which a good many business men have gone over, with reference to the capital, that provides that you take the five years before the war and you exclude the high year and the low year; that is, you average it out, and then you average your earnings this year, and provide the tax on those two years. In doing that there could be and should be an allowance made for additional cash money put into the business since the war began.

Mr. GARNER. The question comes right back there to how much money would it get?

Mr. PALMER. I believe, Mr. Garner, you would get more than you do under this bill. I think so. Because I believe that business, generally speaking now, from my experience with my own clients, and speaking for my own clients, they are making more money now than they did five or six years ago, or they are out of business.

Mr. STERLING. The Smoot bill doesn't ignore capital?

Mr. PALMER. No; I know; but there is a method in that bill for arriving at the tax which, I think, is a good one. Taking the pre-war basis and then making allowance for the money actually paid into the corporation since the war began—actual money, not only patents or inventions or secret processes, on which they are profiteering, and which are bunk, in my opinion. I think if they were put in the business and paid for in money, then they are legitimate additions to the capital.

Mr. LONGWORTH. Mr. Palmer, do you think we could justify a bill before the country—an excess-profits tax of any kind—under the figures made by the American Tobacco Co., for instance, or the Ford Automobile Co.?

Mr. PALMER. No; and they couldn't escape it, unless they are not making more money; then it wouldn't be excess profits.

Mr. GREEN. Do you mean, Mr. Palmer, if the Standard Oil Co. was making 100 per cent before the war, and they are making 100 per cent now, they should not be taxed?

Mr. PALMER. Every law will have its exceptions; you can't apply this law without hitting this man where he should not be hit, and—

Mr. LONGWORTH (interrupting). The American Tobacco Co. is actually making less money, I believe, than they did before the war; therefore it wouldn't pay any tax.

Mr. PALMER. These examples, of course, gentlemen, are startling.

Mr. GREEN. I think it is true we are taxing the small business man more than we ought to, in that we do not make sufficient allowance for the kind of man at the head of it. In a small business it isn't the capital, but the man at the head of it.

Mr. PALMER. That is it.

Mr. GREEN. It seems to me they should be placed on a flat exemption of so many thousands of dollars?

Mr. PALMER. Well, I don't think the flat exemption would work, because if you raise it up to \$10,000 you would lose a lot of taxes. There are a lot of people making under \$10,000 who are paying a lot of taxes. On this list there are a number of people making less than \$10,000 that are paying quite a lot of money.

Mr. GREEN. I am glad to hear you speak of that. If it couldn't be done in that way it could be done in some other.

Mr. PALMER. I believe it can be done. It will produce more revenue. It may allow some of these large profit-making concerns to escape if you take the before-war average, exempt the present income on such exemptions as you think best for the additional money put in the business and tax them on the balance. And I think also the obvious thing to do is to raise the rate to everybody. I think the corporations can pay more than 6 per cent.

Mr. HULL. Mr. Palmer, do you think it would be feasible to take the English system and modernize it by American methods and then pick up these two industries and put an especial excise tax on them with such exceptions as would place them on a relative basis or parity with other businesses?

Mr. PALMER. I don't know whether it could be done or not, Judge. That would be a very good method, if it is constitutional.

Mr. GARNER. Who would you suggest to get up a list of these corporations not making any more now than they did before the war?

Mr. PALMER. You have a list of them in the Treasury Department now. The capital stock tax bill required that every corporation must list its earnings, starting with 1911 or 1912, I don't recall just when it did start. You have that list now. Not a list, but they made reports. The people you are after here are the people of over \$99,000 in capital value.

I also wish to call the committee's attention to another phase of this situation, and that is this: That in the commissioner's report of 1917 he says that there were 204,551 corporations that were taxed, and 140,499 corporations that were not taxed. In other words, out of the corporations in this country only 56 per cent of them paid a cent of income tax.

Mr. GREEN. Excess-profits tax?

Mr. PALMER. Income tax. They paid none because they made no money.

Mr. GREEN. They paid a corporation tax. They all pay a corporation tax.

Mr. PALMER. They paid no income tax, because they made no money.

Mr. MOORE. Not because they were exempt, but because they didn't make any money.

Mr. PALMER. I suppose that is it. And because a great many of these corporations are not in business now; they just filed a list to get off the books; but there must be a large per cent of them in business and not paying taxes, because they are not making any money.

Now, I have got a list here of 28 corporations whose gross income was \$3,003,105; their net income taken altogether was \$17,384; they paid the Government a tax of \$1,044. We realized a tax here for the Government—

Mr. LONGWORTH (interrupting). Are those public-utility corporations?

Mr. PALMER. There are all kinds of corporations. I do not represent any public-utility corporations.

Mr. MOORE. Are you going to put this in with your statement?

Mr. PALMER. Yes; I am, Mr. Moore. The income of these corporations ranges from \$10,000 to \$3,856,000, and they made altogether a

net income of \$17,394. I want to suggest to the committee now that it might be very instructive to find out what the gross income of some of these corporations is, of all the corporations, and see what percentage of tax on their net sales would be needed to produce enough revenue, and I believe it will be found that by a very inconsiderable tax on the net sales or the gross income it will a great deal more than equal the present income.

Mr. GARNER. If you levied a tax on these 28 corporations greater than is now levied, wouldn't they go into bankruptcy?

Mr. PALMER. No; because they would pass the tax on to the consumer. I don't believe there is any man on this committee that doesn't believe the consumer pays the taxes anyway.

Mr. LONGWORTH. We were told last year that he wouldn't, but we have found out he does.

Mr. MOORE. On this list that you have submitted you have listed the gross income and the tax. Does it suggest to you the likelihood or advisability of endeavoring to reach gross income?

Mr. PALMER. Yes; I just suggested that.

Mr. MOORE. You just suggested that?

Mr. PALMER. Yes. These statistics that I am presenting here are the files of my own office. There are thousands of them in the internal revenue office. I don't know whether this is a true cross section of the business interests of the country, but I think it is, because we represent a great many different kinds of business, and if it is a true cross section of the business interests of the country a small gross tax imposed on the business man and passed on to the consumer would pay a large amount of revenue.

Mr. MOORE. You have given these 28 corporations where the disparity is so glaring. Has it occurred to you that any of these gross receipts, aggregating more than \$8,000,000, has been turned in to evade the taxes?

Mr. PALMER. I don't think they did, because I looked them over pretty carefully before I put them down.

Mr. MOORE. Could it be due to padding the credits, by padding the pay rolls, or anything like that?

Mr. PALMER. I don't think so, Mr. Moore.

Mr. MOORE. Here is one concern on your list has an income of \$1,955,118, practically \$2,000,000, that didn't pay any taxes at all.

Mr. PALMER. They are a milk concern, since gone into bankruptcy.

Mr. MOORE. Here is another whose gross income was \$260,000 and also paid nothing.

Mr. PALMER. Yes, sir.

Mr. MOORE. How do you account for that?

Mr. PALMER. That particular concern was hit hard by the labor conditions; they have paid in the past and will again.

Mr. GARNER. I thought you said they went into bankruptcy?

Mr. PALMER. No; that was the milk business.

The CHAIRMAN. Do you think a corporation should pay an income tax when they do not make any income?

Mr. PALMER. No; I think a source of revenue is in the gross receipts, because at the present time there are 140,000 corporations in this country, business corporations, not paying any tax at all.

The CHAIRMAN. Wouldn't that make them lose more money?

Mr. PALMER. No, sir; because if it was small enough they would pass it to you and me.

The CHAIRMAN. But his competitor across the street that is not making any money now, by taxing his competitor 5 per cent, don't you think you would run him out of business?

Mr. PALMER. Five per cent might, but 5 per cent would produce all the money in the world.

The CHAIRMAN. Wouldn't a gross-receipts tax involve more inequalities than any other thing you can think of?

Mr. PALMER. I don't think it would.

The CHAIRMAN. You are going to put 5 per cent on this \$350,000,000—

Mr. PALMER (interrupting). Put it at 1 per cent, because at 5 per cent you get too much.

The CHAIRMAN. What are the total amount of corporations in the United States?

Mr. PALMER. I don't know. I have heard gentlemen make statements here that startled me. I prefer not to say anything about it.

Mr. MOORE. The tax on small sales would reach out into the country, wouldn't it, away from the centers?

Mr. PALMER. A tax on mercantile sales I proposed.

Mr. GREEN. You are aware, of course, in various businesses the profits on the turnover are very small indeed?

Mr. PALMER. Yes, sir.

Mr. GREEN. Not large in the aggregate, whereas in other business the profit is 5 and 10 per cent, even?

Mr. PALMER. Yes, sir.

Mr. GREEN. But you would tax these anyway, just the same?

Mr. PALMER. Yes, sir; because they pass it on to the consumer anyway. They did it last year.

Mr. GREEN. You think that is true of any of these taxes?

Mr. PALMER. Yes, sir; I do.

Mr. GREEN. Some of these gentlemen who were before us last year and then wrote us letters were evidently very much mistaken then of how it hit them, but as you say it wouldn't hurt them and they collect on a sale.

Mr. PALMER. And they collect on a sale.

The CHAIRMAN. Do you mean the wholesaler or the retailer?

Mr. PALMER. Everybody, on the sale.

The CHAIRMAN. You mean the wholesaler collects from the jobber and the jobber from the retailer and the retailer from the consumer—he collects it when he sells it to the consumer?

Mr. PALMER. Yes, sir. And some of them make a profit doing it, too.

The CHAIRMAN. Then he collects it and pays the tax?

Mr. PALMER. Yes, sir. That was demonstrated in the tobacco tax. You put a small tax on cigarettes, and they collect on down the line, and they make a little money.

Mr. MOORE. How can we get anything out of these milk dealers?

Mr. PALMER. You, unfortunately, can't. They went into bankruptcy.

Mr. MOORE. These contractors, they are still in business?

Mr. PALMER. Yes, sir.

Mr. MOORE. I presume they pay large salaries?

Mr. PALMER. Yes, sir.

Mr. MOORE. And they pay some in that way, and they got something on the automobiles and materials as it was passed along to them?

Mr. PALMER. Yes, undoubtedly. They couldn't do that much business without paying some tax.

Mr. MOORE. Your only suggestion as to the recovery of any tax on nearly \$4,000,000 of business by this contracting firm, would be on the gross income?

Mr. PALMER. Yes, sir; that is a way. I don't know of any other way you can collect it from them.

Mr. MOORE. Have you the gross taxes proposed in form?

Mr. PALMER. No; but I would be glad to do that.

The CHAIRMAN. Which do you prefer, to take the prewar period and tax on that basis, or to take the gross-sales tax you referred to?

Mr. PALMER. I think the gross-sales tax would be less felt and would be more widely distributed, and I believe the more we can popularize this tax the better off we are. I believe the public is absolutely at one with you or that you are with the public—they know that you need the money, and they know we have to get it—and the more you can make every man pay the better it will be. Of course, it would give us much more pleasure to let the other fellow pay it, but the more widely it is distributed I believe the more popular it will be.

Mr. GARNER. How much would you take, ordinarily, from capital and how much from consumption?

Mr. PALMER. I wouldn't take any from capital.

Mr. GARNER. I mean from income?

Mr. PALMER. I think the tax, assuming the expenses of the Government were \$2,000,000,000, if we collect \$500,000,000 in import taxes and the balance in the various small excise taxes—which would amount to \$300,000,000, \$500,000,000, and \$1,000,000,000 in income and business taxes—the proportion would be about right.

Mr. GARNER. About fifty-fifty?

Mr. PALMER. I think so. I think the import tax is passed on to the consumer.

Mr. GARNER. That has been the Democratic viewpoint for some time.

Mr. PALMER. That is one point on which I have to agree with you.

Mr. O'SHAUNESSY. How much of this passing from the wholesaler to the retailer, and so on, would you expect? Do you think the consumer would be able to stand it?

Mr. PALMER. I think so, because the rate would be very low. Take the difference between the net and the gross income and see how the rate would change.

Mr. O'SHAUNESSY. And there is always a little added.

Mr. PALMER. You can cure that by another statute.

Mr. O'SHAUNESSY. In the end it will be on Mr. Consumer.

Mr. PALMER. Don't you think the American Tobacco Co.—this is just an example, I know nothing about their business—makes the man who smokes cigarettes pay the taxes now?

The CHAIRMAN. The taxes are ultimately paid by the consumer.

Mr. O'SHAUNESSY. We were thinking about a pair of shoes; take on an \$8 pair of shoes, and it kept on going on, how much would the consumer pay?

Mr. PALMER. On a \$9 pair of shoes you might pay 10 cents.

Mr. GREEN. On the same rate as the tobacco company it would be about \$12.

Mr. PALMER. There is one other thing I want to mention, that I skipped over, and that is the question of interest allowed to be deducted. I see no good reason why a man or corporation should not be allowed to deduct in their amount of money they pay during the year for borrowed money; and this limitation of interest has resulted in several cases in our practice in taxing corporations who had no income at all. That is to say, they were not permitted to deduct as much interest as they paid, so they showed a profit, and in a good many cases it has resulted in taxing them on their expenses as interest. And it has caused a great deal of comment among business men and others, and unless there is some very good reason for keeping it in the law it should be taken out. I don't see any good reason for leaving it in.

Mr. GARNER. You would allow them to credit to their expenses the amount of interest paid?

Mr. PALMER. Absolutely. I think if I can borrow a million dollars and am paying interest on that, I ought to be allowed to deduct that interest. It results in taxing commission houses, for instance, who borrow a large amount of money, on their interest.

The CHAIRMAN. Let us see now how that would work in the income tax. You are going to deduct the interest. You and the gentlemen over there and myself are going in together and organize a \$300,000 corporation, and here are three gentlemen here who are going to organize another \$300,000 corporation. Now, you are going to deduct the interest we pay as expenses. Now, we three fellows are a little keener than these three fellows, and they put all their money in their capital stock and don't keep any of it in their pockets. When they come to pay tax they can not deduct anything, because they have their money in capital stock.

You and myself and the other gentleman are a little keener, and we say, "See here, let us put \$1 into capital stock, and then we will loan the corporation the money to do business," and you loan the corporation \$100,000 and I loan the corporation \$100,000 and the other gentleman loans the corporation \$100,000, at 6 per cent, and we can make a deduction of \$18,000 because of this borrowed money, with the same capital and the same profits and the same money and capital, so we are creditors, and we proceed to deduct \$18,000 interest, and these fellows were honest, and they didn't have sense enough to do that. That is the reason that is put in there, to keep such fellows from cheating the Government, and keep the keen, shrewd sort of fellows from taking advantage of such a situation, and make them pay like the fellows who came out in the open like every man ought to do. You know that is right; you said you had some corporations that did borrowing and borrowed from themselves. There isn't so much reason for that now since we have the excess-profits tax. We had that in mind, too. Now, these fellows will be afraid, since there is an excess-profits tax, because, then, they would have to pay that

tax. An excess-profits tax tends to make them swell their capital stock.

Mr. PALMER. Sure.

The CHAIRMAN. There isn't so much reason for that now since we have this excess-profits-tax provision in the law. Now, standing alone, that is the reason it was put in. You didn't know that was the reason it was put in.

Mr. PALMER. I was told it was put in to prevent inflation.

The CHAIRMAN. I think the committee will give very careful consideration to revising that provision when we take into consideration cutting that out.

Mr. GARNER. The excess-profits tax, as you say, protects that now.

Mr. PALMER. I think that was written into the law some time ago.

The CHAIRMAN. In 1913.

Mr. PALMER. And then business was not taxed so much. It was not so good a game then, because the individual has to pay on his income now.

The CHAIRMAN. We will give most careful consideration to that.

Mr. PALMER. One other item, Mr. Chairman, if I may. I urge the committee to give most earnest consideration to the payment of the taxes in installments.

The CHAIRMAN. We will have nothing to do with that. We will work out the tax, and the administrative officers will do that. We thank you, Mr. Palmer, and are glad to have had you before us.

Mr. PALMER. I thank you very much, Mr. Chairman and gentlemen, for giving me this patient hearing.

(The tables produced by Mr. Palmer, and referred to in his statement, are as follows:)



Comparison of taxes assessed against certain corporations for the year 1917 under the present income and excess profits tax laws.

[Submitted by Albert R. Palmer, Esq., of the New York bar.]

GARDNER-18-No. 4-5

No.	Business.	Net assets.	Per cent of tax.	Admitted assets.	Per cent of tax.	Net income.	Per cent of tax.	Net sales.	Per cent of tax.	Income tax.	Excess profits tax.	Total tax.
1	Dairy.....	\$49,924.76	0.05	\$49,924.76	0.05	\$13,362.42	0.20	\$256,325.33	0.01	\$698.15	\$1,893.17	\$2,591.32
2	Bealty.....	635,503.59	.004	635,503.59	.004	41,951.58	.06	126,736.23	*.02	2,517.09	(1)	2,517.09
3	Distillers.....	1,031,479.55	.03	1,974,767.76	.035	359,166.43	.15	8,536,305.14	.007	19,031.94	46,584.10	65,315.04
4	Plumbing supplies.....	184,792.80	.06	155,812.80	.08	49,741.06	.26	492,630.83	.0265	2,336.56	10,798.66	13,135.22
5	Wine merchants.....	200,000.00	.26	200,000.00	.26	8,749.18	.06	231,008.20	.0225	524.95	(1)	524.95
6	Trucking and storage.....	109,173.52	.08	109,173.52	.08	33,806.79	.265	216,739.30	.04	1,590.20	7,393.52	8,983.72
7	Jewelry cases.....					205.79	.06	40,149.81	.0003	12.35	(1)	12.35
8	Photographs.....	261,374.59	.033	249,937.90	.035	49,514.00	.18	782,136.69	.011	2,558.43	6,123.64	8,682.07
9	Banking and S. B.....	578,870.18	.023	578,870.18	.023	90,403.29	.14	1,447,290.77	.009	4,920.36	8,397.37	13,317.73
10	Advertising.....	105,736.97	.0035	105,736.97	.0035	6,302.50	.08	27,489.35	.013	378.15	(1)	378.15
11	Manufactures of gin.....	221,399.48	.048	221,399.48	.048	53,565.16	.20	815,247.91	.013	2,724.66	8,074.12	10,798.78
12	Motion-picture house.....	79,777.37	.066	79,777.37	.066	22,746.12	.23	110,186.84	.05	1,114.50	4,171.00	5,285.50
13	Lumber.....	198,742.50	.07	198,742.50	.07	59,656.85	.235	1,360,543.74	.01	2,748.95	11,274.21	14,023.16
14	Gloves.....	349,549.97	.08	349,549.97	.08	101,648.00	.25	1,210,438.04	.02	4,868.98	20,498.32	25,367.30
15	Perfume.....	519,864.89	.0415	519,864.89	.0475	121,369.07	.20	1,074,609.28	.002	6,118.62	18,225.18	24,343.80
16		408,344.62	.0014	408,344.62	.0014	10,053.70	.06	507,613.09	.0012	603.22	(1)	603.22
17	Dairy.....	73,651.97	.04	73,651.97	.04	18,185.92	.19	437,310.16	.007	746.32	2,413.90	3,160.22
18	Plumbing supplies.....	150,603.22	.06	196,563.17	.05	47,577.19	.20	879,564.74	.104	2,428.13	7,168.38	9,596.51
19	Wholesale hardware.....	102,664.04	.326	40,164.04	.08	12,547.62	.26	400,633.05	.008	587.70	2,752.73	3,340.43
20	Han kerchiefs.....	93,371.32	.02	93,371.32	.02	16,582.97	.13	399,373.65	.005	925.07	1,165.13	2,090.20
21	Towin.....	77,479.64	.13	58,115.15	.18	27,337.95	.36	136,379.12	.08	1,096.59	9,061.39	10,157.98
22	Mercantile.....	1,279,859.95	.091	1,200,779.43	.08	396,092.66	.30	5,411,749.35	.20	18,184.30	93,020.97	111,205.27
23	Fishing rods, etc.....	212,526.92	.014	20,893.59	.023	20,198.39	.146	237,405.53	.1025	1,100.91	1,850.39	2,951.30
24	Trucking.....	31,549.19	.007	31,549.19	.007	3,667.75	.07	181,450.21	.001	220.18	(1)	220.18
25	Nails, etc.....	249,294.14	.212	249,294.14	.212	131,717.05	.40	753,404.76	.007	4,975.95	48,784.55	53,760.50
26	Importers.....	409,346.82	.008	349,346.82	.01	38,318.05	.10	1,692,796.70	.002	2,192.72	1,772.75	3,965.47
27	Patent Develop.....	100,000.00	.00348	100,000.00	.00348	5,800.22	.06	7,874.05	.04	348.00	(1)	348.00
28	Chemical manufacturing.....	305,125.43	.03	321,792.10	.029	57,523.59	.16	450,195.31	.02	3,078.29	6,218.78	9,297.07
29		979,111.30	.04	657,689.14	.06	167,378.80	.02	2,492,849.17	.06	8,192.74	30,833.03	39,025.77
30	Investment.....	168,000.00	.0023	168,000.00	.0023	6,497.75	.08	10,418.66	.037	389.87	(1)	389.87
31	Electric wire.....	1,829,892.61	.031	672,802.61	.04	336,527.77	.20	1,954,826.56	.03	17,325.86	47,763.41	65,089.27
32	Victrolas.....	13,449.11	.018	13,449.11	.018	3,859.62	.07	24,866.17	.009	231.57	(1)	231.57
33	Cravats.....	488,000.00	.0005	488,000.00	.0005	4,598.94	.05	876,167.93	.0003	245.94	(1)	245.94
34	Galvanizing, etc.....	158,338.40	.005	115,722.48	.007	11,864.13	.07	194,564.07	.004	207.69	152.71	360.40
35	Repairs.....	80,622.51	.004	80,662.51	.004	5,552.58	.06	64,993.34	.005	333.15	(1)	333.15
36		74,600.00	.005	74,600.00	.005	6,573.54	.06	6,573.54	.06	394.41	(1)	394.41
37	Lumber.....	19,859.63	.009	19,859.63	.009	3,034.08	.06	31,914.66	.005	182.04	(1)	182.04
38	Imp. and Exp. and Eng.....	85,536.82	.007	85,536.82	.007	10,057.03	.06	637,667.56	.0009	603.42	(1)	603.42
39	Commission merchants.....	550,608.05	.006	801,157.88	.004	64,269.32	.048	161,388.16	.019	3,088.16	(1)	3,088.16
40	Towing.....	54,393.39	.16	54,393.39	.16	24,636.97	.32	296,637.99	.03	1,005.27	7,862.55	8,867.82

1 None.

REVENUE BILL.

237

Comparison of taxes assessed against certain corporations for the year 1917 under the present income and excess profits tax laws—Continued.

No.	Business.	Net assets.	Per cent of tax.	Admitted assets.	Per cent of tax.	Net income.	Per cent of tax.	Net sales.	Per cent of tax.	Income tax.	Excess profits tax.	Total tax.
41	Hosiery.....	\$627,452.41	0.12	\$399,056.44	0.18	\$189,565.38	0.38	\$3,121,976.59	0.02	\$7,426.47	\$65,790.86	\$73,017.33
42	Investment.....	160,000.00	.026	160,000.00	.026	28,990.25	.14	28,000.00	.14	1,541.16	2,637.56	4,178.42
43	Electrical manufacturers.....	296,581.65	.10	280,764.95	.10	95,273.04	.29	1,138,899.82	.02	4,280.73	23,027.49	28,208.22
44	Dairy.....	32,161.32	.11	32,161.32	.11	12,588.66	.28	97,051.12	.037	572.89	3,040.30	3,613.19
45	Surgical instruments.....	21,204.05	.06	21,204.05	.06	6,641.56	.19	103,332.86	.012	346.47	907.10	1,253.57
46	Bar iron.....	761,144.70	.04	761,144.70	.04	166,103.93	.18	1,010,884.61	.031	8,590.78	22,924.29	31,515.07
47	Milk by-products.....	654,818.05	.008	233,368.05	.02	44,945.46	.12	408,692.99	.013	2,282.09	3,243.95	5,526.04
48	Towing.....	120,964.08	.06	120,964.08	.06	32,890.41	.22	184,476.47	.04	1,633.04	5,672.73	7,305.78
49	Butcher.....	149,531.21	.03	149,531.21	.03	29,255.05	.17	2,388,222.90	.002	1,545.39	3,498.74	5,044.13
50	Milk.....	5,149,029.02	.005	5,404,580.90	.004	402,360.02	.06	16,685,876.47	.001	23,381.05	( <sup>1</sup> )	23,381.05
51	Steel.....	44,420.82	.56	78,920.62	.31	54,855.73	.45	338,124.09	.07	1,910.10	23,020.79	24,930.89
52	Railroad appliances.....	212,100.00	.0017	119,488.00	.3	6,092.29	.06	277,615.25	.0013	365.54	( <sup>1</sup> )	365.54
53	Warehouses.....	15,000.00	.06	15,000.00	.06	5,225.31	.16	165,802.52	.005	279.30	570.19	849.49
54	Sulphur.....	261,621.88	.02	120,341.88	.04	54,155.66	.09	602,704.64	.008	2,015.42	2,850.79	4,866.21
55	Ship chandlery.....	194,661.49	.004	179,844.93	.005 <sup>1</sup>	15,825.90	.06	846,535.50	.001	949.55	( <sup>1</sup> )	949.55
56	General supplies.....	83,374.08	.02	83,374.08	.02	12,728.09	.12	644,401.81	.002	716.31	789.48	1,505.79
57	Fireproof et.....	128,739.08	.02	128,739.08	.02	18,593.29	.12	632,581.42	.003	1,036.02	1,316.31	2,352.33
58	Blas tape.....	80,683.37	.031	80,683.37	.031	16,849.08	.15	177,314.99	.014	913.38	1,626.08	2,539.46
59	Hard rubber.....	1,120,606.58	.01	1,351,548.03	.01	176,424.97	.11	900,225.38	.02	9,924.87	11,010.47	20,935.34
60	Vailings.....	1,714,612.53	.003	1,714,612.53	.003	109,980.86	.06	1,748,593.17	.004	6,599.21	( <sup>1</sup> )	6,599.21

<sup>1</sup> None.

\* Net sales column—Divided interest..... \$11,495.53  
 Rent..... 114,230.70  
 126,736.23

Comparison of gross and net income of various corporations not subject to excess-profits tax for the year 1917, their net income being less than \$5,000.

[Submitted by Albert R. Palmer, of the New York bar.]

Company.	Gross income.	Per cent of tax.	Net income.	Income tax.	Business.
A.....	\$41,690.00				Real estate.
B.....	42,025.00				Marble sawing.
C.....	113,900.00	0.0002	\$374.00	\$22.50	Importers.
D.....	74,972.00	.002	2,538.00	152.30	Trucking.
E.....	41,574.00				Plumber's supplies.
F.....	55,033.00				Roofing materials.
G.....	58,516.00	.001	1,126.00	67.61	Fountain pens.
H.....	1,955,118.00				Milk dealers.
I.....	72,279.00	.00054	681.00	39.66	Automobile tires.
J.....	27,513.00				Leather.
K.....	3,856,335.00				Contracting.
L.....	62,395.00				Jewelry makers.
M.....	10,638.00	.005	988.00	59.91	Machine shop.
N.....	149,938.00	.0009	2,900.00	174.04	Plumber's supplies.
O.....	71,177.00				Restaurant.
P.....	14,901.00				Chemicals.
Q.....	23,250.00	.006	2,405.00	144.31	Victrolas.
R.....	148,306.00				Furniture.
S.....	151,931.00				Patent development.
T.....	36,818.00				Whisky.
U.....	17,842.00	.003	997.00	59.85	Storage warehouse.
V.....	200,764.00	.0004	1,662.00	99.77	Importers.
W.....	114,834.00	.0004	864.00	51.87	Photo engravers.
X.....	56,147.00				Outdoor advertising.
Y.....	126,414.00				Poultry dealers.
Z.....	106,852.00				Tailors.
Z-a.....	167,367.00	.001	2,869.00	172.18	Leather tannery.
Z-b.....	204,276.00				Bookbinders.
Total.....	8,008,105.00		17,394.00	1,044.00	

**STATEMENT OF MR. VERNE E. MINICH, 52 VANDERBILT AVENUE, NEW YORK CITY, N. Y., VICE PRESIDENT AND GENERAL MANAGER OF THE AMERICAN FOUNDRY EQUIPMENT CO. AND SAND MIXING MACHINE CO.**

Mr. MINICH. Mr. Chairman, I notice that I am on the calendar on the subject of income and excess profits. I haven't anything to say at all on the subject of the income tax. The income tax is an equitable one. I want to speak of the inequity of the excess-profits tax as applied to my particular concern. I do not chance to know and have not learned in rather a wide acquaintance of any case at all similar to ours, and yet I assume there must be a good many of them, and that some of the peculiar ways in which this law affects us must affect others. Mr. Palmer, who just preceded me, referred to patents. That hit me right where I live. In our case it is almost purely a case of patents.

Now, if I may take the time of this committee to give a very brief outline and history of our business, it will perhaps make more clear the reasons why we believe the law operates inequitably as applied to us. Our business is based on a patent which covers a labor-saving machine. I had the occasion recently, fearing that we might have serious difficulty to obtain materials for the manufacture of our machines, to send out a questionnaire to our customers, who comprise many of the leading manufacturers in the United States in the iron and steel industry and who use our machines in the production—so we believed when we sent out this questionnaire—of material that was used

very largely by the Government in the prosecution of this war. We sent out the questionnaire with a view of discovering to what extent the machine assisted them in producing war materials in order that we might obtain exemption in buying materials. The replies that we received indicated that among those who are using our machines they are averaging 61 per cent of war materials. The point that I wanted to bring out, however, is that the machine is a labor-saving machine; that was one of the questions included in our questionnaire, and the replies indicated that the one machine saves the labor of from 2 to as high as 12 men; many of them said that under present conditions they would not be able to get out their present production without the aid of the machine.

Back in 1907 I heard of this machine. It was made down at Pickerington, Ohio. It had been put on the market in a small way down there. It interested me very much, and although I was engaged in other business, it looked so promising to me that I engaged in the business of manufacturing it. I started in the business in 1908 and ran along a little bit, as long as I could swing it, and then organized a company of \$175,000 to take over the patents. Gentlemen, we got for our \$175,000 these patents and obligations amounting to between \$9,000 and \$10,000, if I remember right. Those are the approximate figures. In other words, we got between \$9,000 and \$10,000 less than nothing aside from the patents. The market for our machine was relatively limited, and on deciding on the sales plan by which we should get back our \$175,000, with some profit for our risk and the effort we knew we would have to put into the development of the new field, we concluded we would put our machine out largely on the royalty basis.

I might say that this machine is used for the preparation of sand for making castings in foundries, gray iron castings, steel castings, and aluminum castings, and only in a minor way for bronze and brass castings. Most of you gentlemen, perhaps all of you, are familiar with castings and foundry practice to some extent. The castings are made in sand molds. The molders work in the day, and here <sup>is</sup> a pattern, we will say [indicating]. They have a pattern of aluminum or wood, and they make it in a box or flask. They ram that up in the box, and then in the latter part of the afternoon the molten iron is run into this form, and the molten iron produces the casting and then the sand is shaken out in the evening. This has dried out the sand, so that it is necessary to put water on it.

Now, this has always been done heretofore by shovels, so that when this machine came out it was operated at night mostly. It was a new field, and we thought it was limited, because there is only a relatively small number of foundries arranged so as to use this machine, so we came to the conclusion to market it on the royalty plan. I make this explanation for the purpose of saying that we had a slow process in building up our business. Furthermore, when I got in I learned that the machine was not developed. Our original machine was a type A machine; since that we have developed and thrown into the discard types B, C, D, E, F, and G. We are a close corporation; there are three of us. I was the only stockholder active in the business, and we operated on a very conservative basis. After we put on the market the model B we put it in the discard, and we put in the expense account what it cost us to build

it and all the other expenses. We didn't put that in the capital account. This always went into the expense account; and so on with the others, clear down to model G, always we were foolish enough to believe that we could develop the machine fully; always it went into the expense account and not into the capital. We did not have capital enough to manufacture our machines, and up until 1916 we had our machines manufactured, and we couldn't get them when we wanted them. But early in 1916 we had got to a point where we could start a plant of our own, which we did in Cleveland, Ohio, and then we began to reap the benefits of the results of our very good machine and of our effort, and we could get a machine when we wanted it, and it is a good, satisfactory machine. Briefly, we spent the years from May, 1908, to the end of 1915 showing a profit of a little less than \$5,000. Some years we showed a pretty nice return and another year we lost it by scrapping these machines we had built, and the design, and so on.

In our particular case it happened that in the prewar period we were making practically no returns, and we had gone through all these years with practically no returns, as I have explained; but as the result of our years of effort, as the result of getting to the point where we could establish our own plants, and so on, we began now getting very nice returns. In 1916 we made returns that vindicated our judgment when we paid \$175,000 for \$9,000 less than nothing except a piece of paper guaranteed by the United States Government as a patent. We spent our money in our faith in the value of this patent and in the faith we had in the protection of the Government during the lifetime of that patent if developed. Now, coincident with the passage of this excess-profits-tax law we commenced to get returns which we figured on from the outset, although we did not believe they would be so long deferred, or I do not believe we would have had the nerve to have started it. But we commenced to get returns which, if we could have retained a reasonably good proportion of them, would soon have paid us for the years which we spent in which we got no returns.

Our situation is made doubly difficult in the fact that our patent was issued in June, 1906, and will expire in June, 1923, and I suppose there are none of us here who are optimistic enough to hope that we will be rid of excess-profits taxes before that time, and when June, 1923, comes around our business is gone, in a measure. We can draw no more royalties. Everybody who is in the foundry equipment machinery business who thinks we have made a lot of money and who can add this piece of equipment as an auxiliary and make \$5,000 or \$6,000 out of it, it is velvet for them. They did not spend their years and risk their money in creating a new article and a new market, and any money that they get out of it is easy money for them. But our time and efforts have pretty largely gone.

The CHAIRMAN. When did you buy this patent?

Mr. MINICH. The patent was issued in 1906. I, personally, started operation under it, alone, in 1908.

The CHAIRMAN. You operated it individually?

Mr. MINICH. Individually. I did not own the patent then.

The CHAIRMAN. When did you form your corporation?

Mr. MINICH. The corporation was organized on June 1, 1910.

The CHAIRMAN. Have you had a reorganization of it since then?

Mr. MINICH. No, sir.

The CHAIRMAN. What did you put in as the value of the patent June 1, 1910?

Mr. MINICH. We put in the value of the patent as \$150,000.

The CHAIRMAN. \$150,000; and \$25,000 cash?

Mr. MINICH. We deducted the indebtedness of the old company we took over, whose patents we acquired, and we deducted that from our investment and put in the balance in our books as good will, although, as a matter of fact, the good will was worth nothing; but we so treated it on our books.

The CHAIRMAN. What is the capital stock now of the corporation?

Mr. MINICH. \$175,000.

The CHAIRMAN. The same amount as the other?

Mr. MINICH. Precisely.

The CHAIRMAN. Have you put any surplus to that?

Mr. MINICH. We now have some surplus, but our tax returns were made up after the end of our fiscal year, our fiscal year running from June to June, you see, and the returns made up covered the first five months of the year 1917, and at that time all our assets were just about equal to our capitalization, our \$175,000, a little more or less, I do not recall the exact figures, and they are the figures we have for our exemption.

The CHAIRMAN. They only allowed you \$175,000 for your deductions?

Mr. MINICH. Precisely.

The CHAIRMAN. That is what I am getting at.

Mr. MINICH. Yes.

The CHAIRMAN. That is, you were allowed 7 per cent?

Mr. MINICH. We asked for 9 per cent, we applied for 9 per cent and deducted it in our return. Whether it will be allowed or not I do not know.

The CHAIRMAN. You were allowed 7 per cent?

Mr. MINICH. Yes; under the strict reading of the law I think we could only take 7 per cent. We applied for 9 per cent, and asked for it. To my astonishment and chagrin that made a difference of only about \$300 on our tax return.

The CHAIRMAN. That is all; \$320, I think. Now, you are allowed \$12,250; that is all the exemption you are allowed. Your profits, of course, for 1916 and 1917 were considerably more than that?

Mr. MINICH. Yes, sir; they were very good. Our profits in 1916 were fair and for 1917 they were good.

The CHAIRMAN. What would you suggest to us should be done in this sort of case, under the law?

Mr. MINICH. Mr. Chairman, you have asked me a very difficult question. I hope I can make this clear and emphatic: That we have no objection to paying the tax. I do not object to paying the tax we pay now, if everybody else pays dollar for dollar in proportion to what we pay. If I need to pay every dollar that I have got in taxes, I am willing and glad to pay it, if it must be done to complete this job and do it right, because it must be completed, and we have all got to pay the tax to do it; and we have all got to make sacrifices to do it; and I have no objection under the sun to making the sacrifices

I am making, if others are making the same. All I ask is to be placed on an equitable basis.

The CHAIRMAN. Yes; but would not everybody else having \$175,000 capital invested, making the same profits you are making, pay the same tax, whether in the flour business or in the lumber business or in the Angora goat business, or anything else?

Mr. MINICH. I grant that.

Mr. LONGWORTH. What rate of tax do you pay?

Mr. MINICH. Up to the maximum.

Mr. LONGWORTH. To the maximum?

Mr. MINICH. Yes.

Mr. LONGWORTH. You must remember that under the English system, which is now suggested for adoption, you would be paying much more than you are now paying.

Mr. MINICH. I have no objection, if everybody else pays the same.

The CHAIRMAN. Everybody in the same class with the same capital invested pays the same.

Mr. MINICH. Perhaps they do. May I ask this illustration? Here are two farmers, one of whom is growing wheat in 1908. He gets his returns in 1908 for his wheat, and in 1909 and 1910, and so on. But here is another farmer over here who plants apple trees, and he puts his money into those apple trees, and he tends them year after year, and does not get a cent back. He has got to put all his money and labor year after year into those apple trees; and finally, in 1917, Mr. Wheat Man has had his profits every year from 1908 to 1916, inclusive, and finally Mr. Apple Man begins to get apples from his trees.

The CHAIRMAN. But the other man has paid his taxes, too.

Mr. MINICH. Yes.

The CHAIRMAN. And all the expenses in making his wheat have been deducted, just exactly like in the case of the man raising the apple trees. He has paid no tax at all, and if he had to pay any he would deduct his expense in the same way.

Mr. MINICH. Yes.

The CHAIRMAN. And during all those years he has not paid anything to the support of the Government, during those seven or eight years, while the other fellow has.

Mr. MINICH. Yes; that is true; but the wheat man has gotten his income all the time. Now this man comes in and pays his tax until 1923. The wheat man is getting his returns, and he is saving something. Mr. Apple man finds his trees begin to bear apples in 1917, and that continues up to 1923, and then his trees are done bearing, and he has not made one-fourth as much as the other man, or as the coal man or many others.

The CHAIRMAN. That is a matter of difference in the business. You have not made as much as the coal man has, although you made at least 100 per cent on your investments in 1916, you estimate; the fellows that put their money in coal were in a paying business, and the other fellow went into a business that did not have an income for several years and a business the earnings of which naturally expire in three or four years. But apple trees live longer than that in my country. They last 25 or 30 years.

Mr. FAIRCHILD. Yes. Mr. Minich has got a parallel case to thousands of others in the country. And he has not suggested to us what he would like to have us do.

Mr. MINICH. I confess, gentlemen, I have given that some thought, and have not been able to formulate anything in my mind that seems to cover the case. I do not think there is any question but what we are being done a serious injustice as compared with others.

Mr. MOORE. You have no competitors, have you?

Mr. MINICH. No, sir.

Mr. MOORE. So that your case is entirely special?

Mr. MINICH. It is a special case.

Mr. FAIRCHILD. This case is predicated on a patent.

The CHAIRMAN. There are lots of cases like yours.

Mr. MINICH. I said that I have not any doubt there are; I have not a doubt of it; and yet I think you gentlemen will admit that we are in worse case than a man who has been in a standard line of business and who, if he has conducted his business economically and intelligently and so on, has made his profit and gotten his profit and got it in his pocket or in his bank, or else has put it back in the business and increased the exemption, and so on, or he has put it into something else. It is not all being taken from him when it chances that just coincident with the passage of an excess-profits law he begins to get returns.

Mr. LONGWORTH. The trouble is that there are only two methods of collecting an excess-profits tax. One is the English war tax. There are no prewar profits, but he certainly makes a substantial amount.

Mr. MINICH. Yes; although I feel safe in saying that not 15 per cent of the income we are getting has anything to do with the war. I have figures showing the steady increase of our business that have nothing to do with the war, but is simply a result of our cumulative effort.

The CHAIRMAN. We have several cases like yours of these smaller concerns whose income is not so much on the capital invested, but from the personal efforts of the men who are running the corporation. We are going to give very grave consideration to the question of whether we can differentiate and put those in a separate class in which there will not be so much hardship.

Mr. MINICH. I am glad to know that the matter has received consideration.

Mr. MOORE. It has received consideration. It is a question of helping out in a case where the profit comes suddenly just when the tax is imposed.

Mr. MINICH. We have not made so much money. We are simply beginning now to receive deferred profits. Now, what would my position have been if in 1908 and 1909, and so on, up to 1916, instead of putting these machines out on lease which yields me an income each year through my ownership of the patent, I had sold those machines outright, and invested the money in enlargement of my business and gotten the exemption under this law, every time I sold a machine I had put the money into the business, or if I had taken that money and put it into property that was only yielding an average rate of return, and so on? What would have been the comparison? The comparison would have been that I would have paid only



a small sum of money on the excess-profits tax, if any, whereas now I am enjoying deferred profits.

A very large percentage of our income to-day is rentals, royalties, that we are receiving from contracts that we closed before the war was ever declared, and as for the war increasing our business, within a month after the war was declared I went to Bridgeport, Conn., to have machines made under contract, and carried with me unfilled orders for a year's business, business that we had had on our books before war was declared, more unfilled orders than we have ever had on any one date since. I want to make the point that in our opinion we are not now enjoying profits that we got in 1917, but we are getting deferred profits. We are getting profits on work that was done and on contracts that were closed long before the war was thought of by anyone except the Kaiser, perhaps, and his coterie.

Mr. GREEN. How is it that you have not any larger capital than that which you put in, \$175,000, originally?

Mr. MINICH. We paid that for the patent, you understand.

Mr. GREEN. Yes; but you now own and are using these machines, which must have cost you considerable money.

Mr. MINICH. Yes; but you understand all the time we were putting this money into the development and perfecting our machine and the building up of our trade, and so on.

Mr. GREEN. I do not know just how the revenue officials would construe this, but it seems to me that the real trouble is that you have put the money you made each year into your business and you have not gotten any credit for it as capital.

Mr. MINICH. Yes; that is true; but unfortunately we wrote it into the business as expenses. And during the early stages of our business I was the business and my hat was the office. I did not have an office, and I did not keep a set of books, and it was not, certainly, before 1911—I ought to give you the exact date, but I can not off-hand—that we began to keep a set of books from which I could get those records. It is our fault; yes; we were doing business on too conservative a basis. We were a close corporation, and we were not figuring anything as assets except real money; that is all, but we put it into the machines. There were these various models—

Mr. O'SHAUNESSY. You are suffering the results of the hazard of your business?

Mr. MINICH. Yes.

Mr. O'SHAUNESSY. From the hazard of doing business and from doing business under a patent that is about to expire?

Mr. MINICH. Yes.

Mr. O'SHAUNESSY. That is hazardous business?

Mr. MINICH. Yes; but those who take that hazard invest their money in an article that is guaranteed by the United States Government.

Mr. O'SHAUNESSY. A patent?

Mr. MINICH. Yes.

Mr. O'SHAUNESSY. A patent runs for so long and then it dies.

Mr. MINICH. That is very true; but if we could enjoy a reasonable return from the patent we should be satisfied.

Mr. O'SHAUNESSY. The man who will undertake to do business under a patent knows the risk that he takes.

Mr. MINICH. Of course, that is one view of the matter.

The CHAIRMAN. We are going to give very careful consideration to the cases like yours, and we are going to see if we can work out something.

Mr. MINICH. I appreciate that expression very much. We feel that having taken the risk and done the work to create a business which was new, to develop an article which was new, which has proven valuable and useful, which is proving valuable to-day in the production of munitions of war to fight the enemy, we ought to be entitled to some sort of reasonable consideration. We want to pay our share of taxes the same as anyone else, on an equal basis, and if it takes all we have got, we will pay it cheerfully, if the other fellow is doing the same thing.

Mr. MOORE. You simply want a chance to go on and exist?

Mr. MINICH. We do, and we do not want to feel that in a few years the efforts of a decade and a half have been lost and wasted.

#### STATEMENT OF MR. ELLIS A. BALLARD, GENERAL COUNSEL OF THE PHILADELPHIA RAPID TRANSIT CO.

The CHAIRMAN. You are representing the Philadelphia Rapid Transit Co. here?

Mr. BALLARD. I represent them, and I wish to present to this committee, gentlemen, a situation which has arisen in Philadelphia and probably in other places, although I think we perhaps have it worse than anywhere else.

Under the peculiar laws of Pennsylvania the street railway system of Philadelphia has grown up in this way: Beginning about 1858 the legislature granted to street railway companies perpetual franchises to operate upon the streets of Philadelphia, practically without condition. There was the condition that they should keep the streets in repair. Those were perpetual and exclusive franchises. Our streets are narrow and they are exclusive legally and they are exclusive also for practical use.

These companies, however, had only the right to operate horses. They struggled along from 1858 up until the time when people began to put things together, in the eighties, and then the cable came along and then the electrical system of trolleys, when a bunch of men started to put these roads together. They had been making, throughout the centennial years, a pretty large dividend. They had all had a period, perhaps, like the corporation of the last speaker had had, of building up the business, and the brain of Mr. Johnson conceived the idea of forming a new kind of corporation which, while it had no right to lay or own a track, might nevertheless furnish power and cars for any company that already had a franchise on the street, and operate that under a lease. They could have operated it under ownership had they not been restricted at that time in the amount of their capital stock and their borrowing capacity. The corporation laws of Pennsylvania at that time were quite strict. A million dollars then was the limit of the capital stock, and one-half of that was the most you could borrow, in 1883, when the first of these companies was formed. Therefore they resorted to what were practically perpetual leases—999-year leases.

Of course, the rental reserved in those leases was the interest upon what was considered the fair value of those properties at that time, and that value was nothing, gentlemen, but the franchise. There was a streak of rust in the street which we called a track, and there were horses in the stable that were sold for \$1 apiece, and there were little short horse cars, and I have one in my back yard for my boys to play in, which I bought for \$10. And now grew up the cable system—or started to—at a cost of several million dollars, and then that was abandoned and the trolleys were installed. Now, there has been a succession of phases of financing, and I am not here to defend it, until to-day some 600 miles of trolley line is operated in Philadelphia by a single company called the Philadelphia Rapid Transit Co., which has a paid-in capital of \$30,000,000. Every dollar has been paid in, in cash. It took in, last year, \$30,000,000 in 5-cent fares. We have applied for permission to put up our fares, and we have had a long, hard fight, and we may eventually get it, I do not know.

We earned, after the deduction, practically 10 per cent upon our capital and surplus. So that the Philadelphia Rapid Transit Co. pays in Federal tax the 6 per cent tax and the excess-profits tax—and it had no earnings in 1911, 1912, and 1913, and therefore has a 7 per cent deduction—something like \$220,000 or \$230,000 in Federal taxes on that basis. But when we come to make the return for these leased or dead companies which leased their roads beginning in 1881 and down as late as 1902, we find that the rentals reserved run in one case as high as 72.9 per cent upon the capital stock paid in. There is one company with a capital stock of \$192,520—that is all its books show—which gets a rental of \$140,000, which means income tax and excess-profits tax of \$64,000. Now, every one of these leases has been drawn by a different lawyer. Oh, perhaps the same lawyer drew two or three of them. Mr. Johnson drew two.

Mr. MOORE. Do you refer to the late J. G. Johnson?

Mr. BALLARD. Yes. When we say "Mr. Johnson" in Philadelphia there is only one Mr. Johnson. Now, every man tried to make his lease cast iron. I drew a couple of them, I am sorry to say. Perhaps we overshot the mark; because if you use too many words, you are likely to do something you do not intend to do.

The CHAIRMAN. You mean to say that they did not anticipate the Federal income tax?

Mr. BALLARD. No one said "income tax" or "excess-profits tax," but we did say "all taxes of any and all descriptions levied by any authority whatsoever upon the bonds, incomes, profits, receipts, gross and net, or upon any receipts arising in any way out of the business." [Laughter.] I know them by heart.

Mr. MOORE. Let me say for Mr. Ballard that he is capable of writing one like that.

Mr. GARNER. This is the first instance I ever heard of a Philadelphia lawyer overlooking anything.

Mr. O'SHAUNESSY. I think he could say that in his sleep.

Mr. BALLARD. Now, the Pennsylvania Supreme Court has had one or two cases of this sort before it. One was the North Penn Railroad case and the other the Catawissa Railroad case, and if you people, at this late hour of the day, will not pay too careful attention to it, I will make an even bet that you can not tell in which one of those cases the supreme court said the lessor had to pay the tax

and in which one the lessee had to pay the tax; but, as a matter of fact, they decided those cases differently, and it is no reflection on the supreme court, because they decided those cases early in the day, and when you look closely at them you do see the difference. I will tell you what the difference was. In the North Penn case the lessee stumbled upon these words, "Receipts under this lease," and the supreme court said that the rental was a receipt under the lease, and that the income tax—this was after your 1913 tax, and we had not had the excess-profits tax—that the rental was the income and that the tax was on the rental, and that therefore the lessee company had to pay it.

Now, gentlemen, if the Philadelphia Rapid Transit Co. has to pay all of the taxes which are levied on the leaseholds properties, and if those taxes are calculated upon the basis of the capital and the surplus shown by the taxes of the lessor company, it will pay 150 per cent on the profits over 7 per cent, and the company, for instance, which gets \$140,000—now, do not kick me out of court before you hear me through, because I am right about it, although the figures I gave the chairman yesterday were too big, as I have found—the company that gets \$140,000 on a \$200,000 rental, and will get its \$60,000 tax paid for it, must next year report an income of \$200,000, because anything that is paid for it, the commissioner has ruled, is a receipt; so that next year the tax will be on a \$200,000 basis, and you can not deduct Federal taxes any more in getting up your net income, so that we will have to pay 60 per cent upon that 60 per cent next year, which will increase our tax \$36,000, and the next year we will have to pay 60 per cent on that \$36,000, which will increase our tax \$23,000; and while that is a decreasing ratio, we will in five years get a tax levied under this act, which we will have to pay on a company which has been dead since 1883, getting the same income all the time—we will have to pay \$167,000 tax on \$140,000 rental.

Now, the tax is going against the wrong man. It is going against the wrong man because—

Mr. MOORE. Will you allow me to interrupt you there?

Mr. BALLARD. Certainly; I am glad of interruptions.

Mr. MOORE. Is this underlying company to which you refer a company which is now being operated by the rapid transit company?

Mr. BALLARD. Yes; it is the line on Tenth and Eleventh Streets.

Mr. MOORE. You refer to it as being dead?

Mr. BALLARD. Yes.

Mr. MOORE. But the company itself is alive?

Mr. BALLARD. Yes; the company itself is alive. And, if it is interesting to know, these figures are well known—

Mr. MOORE. Will you also state how many underlying companies there are now incorporated into the rapid transit company?

Mr. BALLARD. It has been stated that there are about seven. The rapid transit company can not lay a foot of track.

Mr. MOORE. I want the gentlemen of the committee to understand the attitude of the Philadelphia Rapid Transit Co.

Mr. BALLARD. I find in a memorandum I have here, 15 different companies.

Mr. O'SHAUNESSY. And how many leases are there?

Mr. BALLARD. I think there are about seven, but if we had a track that came to that door, and if we had a track that came to that window [indicating], and we wanted to connect them, there is no power in the Philadelphia Rapid Transit Co. to lay a mile or a foot of track and there is no power in those companies to extend, and we have to go to our legislature and get a charter to lay that necessary track from the door to the window to connect those two tracks. Those little things do not count, except that they make work for the lawyer.

The percentages and the tax which have to be paid under this act by—I think it is—15 of these companies, in which we own none of the capital stock, the stock being all owned outside—a tax-free investment unless you and I can get at them in some way—are as follows: 72.9, 71.7, 42.8, 40, 36, 33, 31.6, 30.8, 27.5, 24.2, and so one down to 10.1 per cent, and the 4 per cent war income tax on these properties will amount to \$293,000, and the war-excess profits tax, figured as I have said, will amount to \$879,000; and if we had to pay that \$1,100,000 in addition to our \$200,000 out of our net receipts of \$2,008,000 on a \$30,000,000 capital, you will see where it lands us. Now, these cases are being litigated. The first case we will have up is this Catawissa case. We think we can win them.

This company has just entered into a contract with the city of Philadelphia under which it will restrict its dividends to 5 per cent over a period of 40 years and undertake the operation of high-speed lines, which the city has embarked on, and one of the provisions of that contract is that we will not pay anything in the way of a fixed charge which the city thinks of doubtful legality, and they have called upon us, because the lease is not yet approved by the city council, to litigate this matter. In fact, I do not believe that Congress wants to put upon an active company serving the public a tax which will break its back, and let an investment which is not serving the public go tax free. Of course, if we have made our bed, we must lie on it. If we have a contract that can not be broken, that we are going to pay all taxes of every kind and description, including an excess war tax and a Federal income tax, if we were foolish enough in 1883 to make that contract, it may be that the courts will not be bold enough, when everybody ought to bear their own burdens—and it a white man's burden—it may be that the courts will not be brave enough to say that that contract is against public policy. It may be that they will.

Even in those cases where we may lose the income tax I propose to argue to our Supreme Court that the excess-profits tax related to a leased line is not a tax upon income. Two lines may have the same income and one pay no tax and the other a heavy tax. It is a tax on the bargain that those fellows drove with us before they would give up their dog-in-the-manger position in the streets; when they said, "We will not give up our lines, and if you want to operate them you must pay us for our franchise that we got for nothing and pay us such a price"; and so there is not anything in any one of these cases that will make the lessee company pay to the lessor company a tax upon the bargain that he drove. But it is a serious matter to leave it to the last throw, and the court is the last throw; and I believe if you think that this is a matter in which Congress could and should properly express, in so far as it can express, its view of

the public policy without attempting to infringe upon the obligations of contract, if this is a case which appeals to you and if you would like to put something in this act, I have sketched a couple of things that I know would help me a whole lot in my argument. [Laughter.] Now, we might as well be frank.

Mr. GARNER. In that connection your particular case might not apply to Chicago or San Antonio or Seattle. Just the reverse situation might exist in some other place. Your suggestion as to the lessor and the lessee applied to the whole country might prove a hardship against people similarly situated in other cities.

Mr. BALLARD. Yes, Mr. Garner; if it is a hardship to make every man to-day come across and meet his share of this bill that we have got to meet, although he thought he had been shrewd enough to avoid that thing.

Mr. GARNER. You take San Antonio, Tex.

Mr. BALLARD. Yes; now, you put a case where the hardship would be on the lessee.

Mr. GARNER. Suppose the lessor making the contract with the lessee gave them a liberal contract and the lessee got the best of the bargain?

Mr. BALLARD. Then there would not be any excess-profits tax; that is my answer to that.

Mr. GARNER. Well, perhaps not.

Mr. MOORE. Do you know whether the lessors to whom you refer are in such a position as to be able to meet the income tax if it should be transferred in the manner indicated?

Mr. BALLARD. Yes; this matter has been thrashed out in Philadelphia, and these lessors are represented by half a dozen lawyers who are the leaders of our bar, and we have said to them that we will advance them the money to pay their tax this time on the obligation upon their part that we may take it out of the rentals. When they read this in the paper they will all be down here.

Mr. MOORE. Their property is still so preserved and in such financial condition as to meet obligations if this should be imposed upon them?

Mr. BALLARD. Yes; they get a cash payment either quarterly or semiannually. We pay them the cash. Sometimes they do not even take the trouble to meet; they just have a standing resolution that the treasurer shall divide up the money among them. Sometimes under direction they simply furnish a list of the stockholders and order that it shall be divided up.

The CHAIRMAN. You were going to offer amendments to the law?

Mr. BALLARD. I have here two amendments which I would propose to tack onto the law as it exists to-day. I assume you will go along the line of least resistance and not do anything that we have not got used to, because we have got used to some of these things and this is to add on more.

Mr. RAINEX. Let me see if I have the situation.

Mr. BALLARD. Yes.

Mr. RAINEX. This new and novel method of taxation which has come into existence in the last two or three years did not exist in 1883?

Mr. BALLARD. I do not think either side anticipated it.

Mr. RAINEY. And now you have some proposition which, if we write it into the law, will relieve your company from the contract obligation of 1883?

Mr. BALLARD. No, sir; if we assumed a contract obligation, and I am not at all sure that we did assume it, I am not at all sure that any general provision naming specific things, and then with the kind of hurrah at the end, and which does not mention a single Federal tax, will be held by the courts to have been intended to cover such an exigency as this and such taxes as are levied; and as I have written this thing, sir, I have not said anything about the normal income tax—I mean the income tax for revenue under the 1916 act.

I have thought it was only fair—and I find you win your case sometimes if you are a little fair, whereas you do not win your case if you are not a little fair—I have thought it was better to direct my attention to these excess taxes in which I could make an extraordinary argument and appeal to the court, that it should use every intendment possible in construing these leases, which are there and can not be changed—you can not change them and I can not change them—that I would use my best efforts to rid myself of the war tax which we hope, as somebody said, will not go beyond 1923; we hope they will last no longer, and will pay anything in the way of a tax or ordinary revenue which the court might say by intendment we estimated.

Mr. RAINEY. I see the difficulty that you are in, and now you want to get out of it.

Mr. BALLARD. Maybe we will not get out of it, but this reads well, anyhow. [Laughter.]

Mr. O'SHAUNESSY. Is this matter in the courts now?

Mr. BALLARD. No. It will be in the courts after next Saturday.

Mr. O'SHAUNESSY. Oh!

Mr. BALLARD. I did not tell my friends that I was coming down here, because I wanted to tackle virgin soil; but they will all be down here.

Section 205 of the bill is a sort of large wheelbarrow load of stuff that needed explaining and putting in at the end to show what you meant, and I thought if you added a subsection C, something like this—this does not sound vicious—

Mr. MOORE. Section 205?

Mr. BALLARD. Section 205.

Mr. GARNER. You want to put an additional section C on it?

Mr. BALLARD. Yes; a little C on it—see?

Mr. GARNER. Yes.

Mr. BALLARD. This proposed amendment will read as follows:

(c) If an individual, corporation, or partnership has during or prior to the prewar period leased its property to or contracted with another individual, corporation, or partnership to carry on or operate its trade or business, receiving under such lease or contract a fixed sum or a fixed percentage of the results of such operation, the tax herein imposed, as well as the tax imposed under Title I of this act, shall be levied upon and paid out of the net rental or return received thereunder.

Mr. RAINEY. Do you think that would be constitutional?

Mr. BALLARD. If the Constitution will not stand it, it will help me construe my contract.

Here is another one. I do not know which of these is the slickest. [Laughter.] Now, Mr. Moore, if you look at subsection 1 of paragraph 7—I was going to add something to that. Just drop the period out and start with a little letter. It is not so conspicuous.

Mr. MOORE. Will you read it?

Mr. BALLARD. This would read as follows:

and the taxes assessed hereunder as well as income taxes assessed under section 1 of Title I of this act, shall be deemed as not issuing out of any given property, but shall be assessed as a personal tax against persons and corporations liable therefor, computed upon the resultant of their total gains, profits, and income, less deductions as provided for herein, and in reduction of the amount of surplus or undivided profits which the said person or corporation would otherwise have for said current year.

Now, I have no doubt that there are gentlemen here who can do this job better than I.

Mr. LONGWORTH. No.

Mr. O'SHAUNESSY. You flatter us.

Mr. MOORE. I think we see the point, but you are ably representing the Philadelphia Rapid Transit Co., as you always do. It is the one controlling factor in Philadelphia transit now. It has 600 miles of trackage. Will you state about how many shareholders there are in the Rapid Transit Co. and about how many there are in the underlying companies, who might be affected by this legislation?

Mr. BALLARD. I think there are about 3,500 stockholders in the Philadelphia Rapid Transit Co. Any statement I would make would be an open guess on the other, but I would think there would be 10,000 or 12,000.

Mr. MOORE. You run on Tenth and Eleventh Streets?

Mr. BALLARD. Yes.

Mr. MOORE. How many stockholders were there there? That was Mr. Roberts' company, was it not?

Mr. BALLARD. Yes; not many stockholders.

Mr. MOORE. That is certainly nearly all in the estate of Mr. Ellis?

Mr. BALLARD. I do not believe he controlled it. I think 30 or 40 per cent of it is there.

Mr. MOORE. I wanted to get about the number of people that would be affected.

Mr. BALLARD. If it is of any interest and instruction to the committee I will furnish that in a little brief which I would like to print and file with the committee.

The CHAIRMAN. Without objection, you may file that brief.

Mr. MOORE. It is a painful subject to tarry upon, but since I happen to be on this committee and you are a Representative of Philadelphia and in the capacity to speak, the responsibility being now here of raising eight billions of dollars as against four billions raised last year by taxation, could you suggest any new way that this committee might proceed to get that extra dollar for every one we had last year?

Mr. BALLARD. I would start lower down and double it up, and I would stick just as close to the act I had before as possible. We have all scrapped with it, we have all quarreled with it, we have all got a lot of decisions from the commissioner that we think are not right; but we know it, and I would raise my taxes by adding on to that rather than by trying to go into new matters.



Mr. MOORE. Do you care to say anything about fares and the possibility of raising any more taxes by increasing fares? The gentleman who preceded you suggested we should levy a tax on those incomes.

Mr. GREEN. On gross savings.

Mr. MOORE. No; gross incomes.

Mr. BALLARD. I will tell you how the fare situation is. We have a contract with the city of Philadelphia that the rates of fare shall remain as they are until both parties want it changed. When we got into that in 1907 it looked very good, but now the nickel does not look so large, and we have a new contract with our city which is now before the public utilities commission waiting to go into effect, which provides that the fare shall be changed from time to time by the commission, so that the receipts of the system will always be 5 per cent on our stock, and not to exceed the sinking fund charges on the bonds which the city is to issue for the construction of the high-speed lines, that to be adjusted in a fair way by the commission.

After that contract is approved we will have to go soon to the commission to get our fare raised. Until that contract is approved, while there has been a decision of the attorney general of our State that the public-service commission has abrogated all contracts as to fare and that the fare question is now solely in the hands of the commission, we are afraid of the public sentiment that might be aroused if we did not go to councils first, and we therefore went to councils about three weeks ago at the instance of our men who were demanding a very large increase of wages, and told councils "If you will agree to let us put our fares up, we will agree to keep our dividends down to the present level where they have been for two or three years, and will give our men \$1,750,000 wages which they are asking for, and in other matters that will apply to the benefit of the service."

# REVENUE BILL

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No. 5

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## HEARINGS

BEFORE THE

## COMMITTEE ON WAYS AND MEANS

HOUSE OF REPRESENTATIVES

WITH REFERENCE TO

## THE NEW REVENUE BILL

[THIS PRINT OF THE HEARINGS IS SUBJECT TO REVISION  
BEFORE THE FINAL PRINT]

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**COMMITTEE ON WAYS AND MEANS.**

**HOUSE OF REPRESENTATIVES.**

**SIXTY-FIFTH CONGRESS, SECOND SESSION.**

**CLAUDE KITCHIN, North Carolina, *Chairman.***

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<b>CORDELL HULL, Tennessee.</b>	<b>WILLIAM R. GREEN, Iowa.</b>
<b>JOHN N. GARNER, Texas.</b>	<b>CHARLES H. SLOAN, Nebraska.</b>
<b>JAMES W. COLLIER, Mississippi.</b>	<b>NICHOLAS LONGWORTH, Ohio.</b>
<b>CLEMENT C. DICKINSON, Missouri.</b>	<b>GEORGE W. FAIRCHILD, New York.</b>
<b>WILLIAM A. OLDFIELD, Arkansas.</b>	<b>JOHN A. STERLING, Illinois.</b>
<b>CHARLES R. CRISP, Georgia.</b>	<b>WHITMELL P. MARTIN, Louisiana.</b>
<b>GUY T. HELVERING, Kansas.</b>	<b>WILLIS C. HAWLEY, Oregon.</b>
<b>GEORGE F. O'SHAUNESSY, Rhode Island.</b>	<b>ALLEN T. TREADWAY, Massachusetts.</b>
<b>JOHN F. CAREW, New York.</b>	
<b>GEORGE WHITE, Ohio.</b>	

**JOHN E. WALKER, *Clerk.***

# REVENUE BILL.

COMMITTEE ON WAYS AND MEANS,  
HOUSE OF REPRESENTATIVES,  
*Wednesday, June 12, 1918.*

The committee met at 10 o'clock a. m., Hon. Claude Kitchin (chairman) presiding.

There were also present Representatives Rainey, Dixon, Hull, Garner, Collier, Dickinson, Oldfield, Crisp, Helvering, O'Shaunessy, Carew, White, Moore, Green, Sloan, Longworth, Fairchild, Sterling, Martin, Hawley, and Treadway.

## STATEMENT OF MR. ROBERT R. REED, ATTORNEY, REPRESENTING THE INVESTMENT BANKERS' ASSOCIATION, 155 WILLIAM STREET, NEW YORK, N. Y.

The CHAIRMAN. State your name in full, so that the committee can get it, and your occupation.

Mr. REED. Robert R. Reed, of Reed, McCook, and Hoy, of New York City, representing the Investment Bankers' Association of America, which is composed of the bond and investment houses of the country—the dealers in investment securities.

Individually, the members of this association have special problems under the present tax laws. Collectively, they have at this time one general and very important interest, growing out of their wide relations with the public, which they serve. The one general interest of the investment banker in revenue legislation is to see the Government levy and collect the greatest possible tax with the least possible harm to the business productivity of the country, to get as much as practicable by tax, as much as need be by bonds, and to distribute the tax and the bonds as generally and equitably as possible, throughout the country.

Probably no interest in the country at all times, and particularly at this time, is so completely identical with the general interest, with the interest of the Government. We emphasize this point because it is the basis and the whole basis of our appearance before this committee, of our interest, our very great interest, in the important problems which it is now considering. We are, of course, confining ourselves to the problems with which as investment dealers we are most familiar and most concerned.

### INCOME TAX.

I take it that at this stage the committee is principally interested in two fundamental and primary questions, What is income, and what are war profits that can be subjected to war-profits tax.

On the subject of what is income: For four years a relatively small tax has been levied on "incomes." The general purpose has been

that the "income" taxed should be the actual income of the taxpayer. In most cases this has been so. In many cases it has not been so; the so-called income has represented accidental factors far removed from actual income and the taxpayer without an income has paid out of a depleted capital or borrowed money a tax on an income which he never enjoyed.

If I may, I would like on this point to read a part of an argument which we submitted to the Supreme Court in reference to the recent income tax before that court. The argument was really prepared as an argument in the Treasury Department, and was put into form overnight and printed and submitted to the court. [Reading:]

No word or clause was ever inserted in any constitutional amendment as to which the legislative and popular sense in which it was used was so well known and recognized as was the legislative and popular interpretation and intent of the word "incomes" (plural) in the sixteenth amendment.

The most widely recognized authorities agree with the popular conception of an income tax (and of "incomes" under an income tax) that it rests on the principle of "ability to pay" out of income and aims to reach what Dr. Seligman has called "that amount of wealth which flows in during a definite period and which is at the disposal of the owner for purposes of consumption, so that in consuming it his capital remains unimpaired."

That this was the legislative and popular view on which the income tax amendment to the Constitution was proposed and adopted is so well known as hardly to justify citations.

That the amendment would not have been proposed or adopted on any other view is equally plain.

That it was intended to give Congress power to tax as such the proceeds of the sale of one's house, the gross receipts of one's business, or any other factor of "income" (as distinguished from "outgo") is, in brief, preposterous.

The result of this viewpoint expressed, so to speak, in the terms of the Brushaber decision is that a tax on gross receipts or on factors of income, or on capital in the form of "income" as distinguished from "outgo," is in effect a direct tax on the capital subject to the rule of apportionment and not taken out of that rule by the sixteenth amendment. This, because such a tax is not a tax "on incomes" in the plain sense authorized by the amendment. It is in a very real sense a direct tax under the Pollock case.

Congress in the enactment of the law and the Treasury.

\* \* \* \* \*

For reasons deemed satisfactory the 1916 act met the main problem in a more direct and fundamental way. It levied the tax primarily on "income received," but at the same time and as though to make plain the purpose to reach and tax only "incomes" in the constitutional sense, it added in subdivision (g) of section 8 the important provision providing that "an individual keeping accounts on any basis other than that of actual receipts and disbursements, unless such other basis does not clearly reflect his income, may, subject to the regulations," make his return and have his tax computed on this basis.

This simple provision is in a sense a key to the past and present income tax acts and, in fact, to the sixteenth amendment. It discloses almost unconsciously the purpose and intent of the amendment and of the act. "Income" in this illuminating subdivision of section 8 does not mean "gross income." It means "net income" or "taxable income," an "income" which has its plural "incomes," an income "which is at the disposal of the owner for purposes of consumption, so that in consuming it his capital remains unimpaired."

I might say here that our general viewpoint upon which we address the committee is that when we get down to the really beneficial income, then there is very little that we can take. If we are taxing accidental factors of income we are limited all along the line, and will hear protest after protest from all parts of the country. This creation of what might be called a statutory income, disregarding the real income, first arose for public discussion at the time of the ruling made under the law of 1913 that a loss on the sale of property or on

a trading transaction outside of one's own established business was not a "loss incurred in trade" and therefore not deductible in determining a man's income for the year. This ruling ran counter to what we believe was the original intention of this committee and of the Congress in drafting the law and to the view taken by lawyers all over the country. It also ignored utterly the basic principle of an income tax and of the sixteenth amendment, a principle recognized as to the basis of the income tax since the beginning of tax economics, the principle of taxing a citizen according to his income and to the ability, measured by his income, to contribute to the support of the Government. It is "the ability to pay." There is no ability to pay out of a statutory income that does not exist. In the original Senate debates Senator John Sharp Williams, in reply to a question as to whether income from a business "squandered by speculation" on the board of trade, said:

A squandered income is no income \* \* \* it does not make any difference how the man lost it \* \* \*

I am practicing law, let us say, and I get \$10,000 during the year from that practice, and during the same year I lose \$5,000 in my agricultural pursuits. My net income, therefore, so far as that is concerned is \$5,000. Suppose my house, which is worth \$5,000 burned down; that I had no insurance upon it, and I take my \$5,000 and pay it out during the year to build a new house. If all three of these things happen in the same year I have no net income at all, nor ought I to be charged with any.

Mr. President, the object of the bill is to tax a man's net income; that is to say, what he has at the end of the year after deducting from his receipts his expenditures or losses. It is not to reform men's moral characters; that is not the object of the bill at all \* \* \*. The law does not care where he got it from, so far as the tax is concerned, although the law may very properly care in another way.

And Judge Hull, the original drafter of the bill, was reported to have said that to any person—

Who keeps familiar with his business affairs during the year to the extent that at its end he knows with reasonable accuracy the amount of his aggregate profits, the matter of executing his tax return will be both simple and convenient.

And, gentlemen, those were very happy days.

Under the Pollock decision, a tax on income derived from real or personal property is a burden on the property itself and as such a direct tax within the constitutional requirement of apportionment. The sixteenth amendment took out of this rule of apportionment "taxes on incomes." If in a given year or period you collect \$5,000 from rents and lose \$6,000 on a sale, you do not have an income for that year or period. You have not the ability to pay out of income and must pay, if at all, out of a depleted principal. A tax on the \$6,000 is a tax on the item of receipt from the real property. It is a burden on that property, a direct tax within the constitutional rule, and not an income tax within the sixteenth amendment. Certainly a separate tax on rents or interest would not be a tax "on incomes" within the sixteenth amendment, and a tax confined to items of receipt without deduction for actual losses would not seem to be an income tax in either an economic or constitutional sense.

This principle was recognized and very clearly stated by Senator Cummins in the 1913 debates (Cong. Rec., 3843), when he said:

Our authority is to levy a tax upon incomes. I take it that every lawyer will agree with me in the conclusion that we can not levy under this amendment a tax upon anything but an income. I assume that every lawyer will agree with me that we can not legislatively interpret the word "income." That is purely a judicial matter. We can not enlarge the meaning of the word "income." We need not levy

our tax upon the entire income. We may levy it upon part of an income, but we can not levy it upon anything but an income; and what is an income must be determined by the courts of the country when the question is submitted to them. \* \* \*

If it were within the power of Congress to enlarge the meaning of the word "income" it could, as I suggested a moment ago, obliterate all difference between income and principal, and obviously the people of this country did not intend to give to Congress the power to levy a direct tax upon all the property of this country without apportionment.

And Senator Simmons added (p. 3844):

I readily agree with the Senator in his contention that we have no authority to tax anything except income, and I readily agree with him that, in the last analysis, the court must decide what is income and what is not income.

To which I would add that it is the function of Congress also to determine what is income and what is not income under the Constitution, and to be guided itself by its own judgment as to that principle. As we have said, the error originally in this important matter was in the ruling as to income under this 1913 act, not in the law. The storm of protest that arose resulted in a compromise in the law of 1916, which is continued under the present law. That compromise allows, as a separate item of deduction, as follows:

Fifth. In transactions entered into for profit, but not connected with his business or trade, the losses actually sustained therein during the year to an amount not exceeding the profits arising therefrom.

There are two limitations to this deduction: First, the transaction must be "entered into for profit," thus excluding (according to the letter, which is, I think, not rigidly enforced) a loss on the forced sale of one's house purchased for use rather than profit, and, second, and chiefly, the loss can be deducted only to an amount "not exceeding the profits arising" from similar outside transactions.

Now, put side by side with this the definition of taxable income, which includes "gains, profits, \* \* \* derived from \* \* \* dealings in property, whether real or personal, growing out of the ownership or use of or interest in real or personal property \* \* \* or \* \* \* derived from any source whatever."

In other words, a day could be spent in argument on constitutional questions of this kind. Ignoring for the moment a difference in the constitutional question involved, and taking the largest view of the whole proposition, an income under an income tax should represent an ability to pay, and a normal profit upon a capital asset creates an ability to pay, while a normal loss upon a capital asset destroys an ability to pay. In one year a man may make a profit on the sale of a house inherited from his father. He is taxed on the excess above its appraised value when acquired or on March 1, 1913, if acquired prior to that date. He buys a new house which for one reason or another he sells the following year at a loss exceeding the profit previously taxed. Literally he can not figure this as a loss at all unless the transaction was "entered into for profit."

In nine cases out of ten he could not deduct it, because in the second year he would not have profits against which to offset it.

Now, in a good year he pays on both his business profits and outside profits aggregating say \$20,000, and in a bad year, though his business profits of \$10,000 are wiped out by his outside losses of \$10,000, he must pay out of his capital the tax figured on his statutory income of \$10,000, and he has to borrow the money to do it.

These extreme cases only point the argument they illustrate, but there are tens of thousands of cases where injustice has been done, probably without hope of remedy for the past injury, cases where you have taxed as income items received by men who had no income in fact, cases where taxpayers—that is really the important, fundamental way to look at it—entered the taxable year worth \$10,000, \$50,000, or \$100,000 and went out of it worth little or nothing, a large part of their principal taken from them by a tax, so-called, on income or excess profits. There have been cases of individuals where entire incomes for 1917 were wiped out by losses—not a few of them by losses on Liberty bonds purchased on the slogan of “borrow and buy”—who are now borrowing money to pay that tax levied on that imaginary income which never existed.

I have heard a man, with tears in his eyes, say that he had not been able to borrow the money to pay his income tax; he had not the credit and he had not the money.

The sum and substance of it all is that you can pay a 2 per cent tax out of an income which you are supposed to have but have not, but if you are to pay a 50 per cent tax you have got to have the income to pay it out of. Another class of cases, not so frequent but which are relatively worse in possibilities, is involved in the instances which I have already cited. A dividend is declared to be income, regardless of what it represents in fact to the recipient. I say it is declared to be income, because so far as I know the view has been generally taken, and not disputed in the courts, that in the definition of “income” in the law the items named are supposed to be characterized specially as “incomes.” It seems to me that here is a perfectly possible construction much more in accord with the circumstances to say that what is intended to be stated there are the general principles of what is an income, and that all those things are lumped together as mere instances of what may enter into the computation; but it has been taken to be a fact that dividends as such are characterized and taxed as income.

Normally a dividend is income. We all think of it as such, and perhaps, in the words of Mr. Justice Pitney, used in one of the cases decided last week, that the word was based on the offhand conception of business men. That is right. That has seemed to me to be a rather loose term to express an action of Congress. I think that Congress intends to follow the sound, recognized, fundamental principle of business as understood by decent men, because offhand a dividend is income. As a matter of principle and fact, it frequently is principal or capital. I may have paid \$2 500 yesterday for 10 shares of stock with a par value of \$10 and accumulated earnings of many years. The company may sell out its surplus investments and declare a cash or stock dividend of 2,400 per cent. and I suddenly find that \$2 400 of my principal is converted into statutory income and taxed at a rate established by its addition to my other income. If I am very rich the rate may exceed 50 per cent. To a man of moderate means it is apt to be about 10 per cent. In any event, it is principal, not income, when it is taken, and I may then find the man that sold me that stock the other day had originally bought it in 1913 for \$20, that he had already paid the tax, we will say, on a profit of \$2,300 realized on his original purchase, the very profit—the undistributed profit—of the corporation, on which I am



taxed again to-day. But to him it was income over that period of years. To me it is principal. The Government takes it twice.

An extreme, but apparently actual case, showing the operation of this injustice in combination with the losses in trade proportion is fully set out in a ruling made by letter of Deputy Commissioner Speer under date of August 2, 1917, published in the Corporation Trust Co.'s "Income Tax Service, 1918," as paragraphs 499 to 504. It has all been spread upon the record, and I think I would like to submit it to the committee. [Reading:]

Receipt is acknowledged of your letter of July 31, 1917, inclosing a clipping from the Wall Street Journal relative to the amount of income to be returned for Federal income-tax purposes in a case where the individual purchased "a few months ago" 100 shares of stock, at \$1,000 a share, received thereon a stock dividend of 900 per cent, and later sold his entire holding of 1,000 shares at \$105 a share. In reply, you are advised that, assuming the dividend in question was paid during the present year from earnings or profits which were accumulated in their entirety by the corporation on or after March 12, 1913, the individual will be required, under the provisions of section 2 (a) of the Federal income-tax law of September 8, 1916, to include the amount of its cash value in his personal income-tax returns for the year 1917, and that amount will be subject to additional income tax in his hands. The cash value of the 900 shares of stock received in payment of the dividend is held to be their proportionate share of the entire amount of surplus which was capitalized, which presumably was equal to their par value, or \$90,000. For Federal income-tax purposes the 100 shares of stocks purchased, and the 900 received as a dividend, should be kept separately—

**In business they are kept together—**

the cost of the latter being considered the amount of their cash value, which amount, as previously stated, should be included in the individual's 1917 return as a dividend, and the amount of loss or profit derived from their sale computed and returned as follows:

100 shares purchased at \$100.....	\$100, 000
100 shares sold at \$105.....	10, 500
	110, 500
Loss.....	89, 500

Although under the income tax law they have kept these two items separate, the fact that in this particular case the man resold his stock shortly afterwards and suffered a loss upon it would enable the Government to balance the two accounts upon the returns, if the poor devil had made \$90,000 in some other transaction, and only if he had made \$90,000 in some other transaction; otherwise, \$90,000 of what was a few months ago principal is taxed as income. That is, in substance, what follows here. I will let it go into the record.

Mr. MOORE. Does it state in that letter just how the dual transaction took place?

Mr. REED. He was held to be taxable on the \$90,000 as a presumed par value of the stock dividend when he got it. He was held to be taxable on an additional profit of \$4,500 when he sold it at \$105, or for \$94,500.

Mr. GARNER. Are you not complaining now of the construction of the law rather than of the law itself?

Mr. REED. No; that is pretty well in the present law. It was the construction of the original law.

Mr. GARNER. What remedy would you have for that condition of affairs?

Mr. REED. First, as to losses in trade, I think you have got to allow a deduction. Practically everything you tax is income. If a man is taxed on a profit in a transaction in one year, and suffers a

loss in a similar transaction next year, if the item of the first year is a general item of income, the item of the second year should be an item of deduction.

Mr. GARNER. That will not enable you to tell in any one year, even approximately, how much you were going to get under that deduction.

Mr. REED. Oh, yes; you could. I am not going to compare the two matters. I only want the law to read so that if an item of profit on a transaction is taxable in one year, an item of loss on that transaction, if there is a loss, will be an item of deduction in another year.

Mr. TREADWAY. What kind of transaction do you refer to, a bona fide purchase of the property or a marginal purchase?

Mr. REED. I do not think it makes any difference under this law. This law is not for the purpose of any action on a proposition of morals, but it is to get the tax out of an income, if you have it.

Mr. TREADWAY. That is true, but there is a difference so far as the actual nature of the transaction is concerned, of course.

Mr. REED. There is a very great difference under the operation of any income-tax law.

Mr. TREADWAY. Are you arguing with reference to marginal transactions?

Mr. REED. Oh, not in the slightest. We do not represent the stock brokers. We are not interested in stock transactions as an association.

Mr. MOORE. You made the point before reading this section, that the Government takes the tax twice. This illustration does not bear that out.

Mr. REED. The other does bear it out. The only illustration I have given, and perhaps it is a little clearer than I said before, is this—

Mr. MOORE. In one instance it was taxed as income in the hands of an individual, and in the other case after he had completed his transaction, it was taxed in the hands of another as capital.

Mr. REED. Yes; that was the case.

Mr. MOORE. You said it was taken out of what had been income, and was again taxed—

Mr. REED. I want to make that proposition very clear now, if I can. I will give another illustration that will make it clear. A buys stock in 1913 for \$10,000. In December, 1915, the stock is worth \$52,000. In January, 1916, he sells it for \$50,000 and pays a tax on \$40,000. That brings in a further point, there. He is taxed on what was to him principal, in 1916; but under the law as it stands, it certainly was income, and in January, 1916, he is taxed on \$40,000 profit. He sells that stock to B for \$50,000 in January, 1916. There they turn around and distribute to B, in cash or by stock dividends, the \$40,000 of accumulated earnings on which A had realized his profit on the sale to B, and B is taxed on that \$40,000 as a dividend. You have to worry a little bit about taxing undistributed profits, here; but in some cases you will see that the Government gets them, and gets them twice. That is another problem.

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Mr. O'SHAUNESSY. Is it your point that the Government gets it twice, and there is only \$40,000 of this in reality, between these two men?

Mr. REED. It is unfortunate in some ways that these various illustrations sometimes illustrate two or three fundamental propositions.

Mr. MOORE. Is that the fault of the law or of the regulations?

Mr. REED. That is at present the fault of the law. That is, it is the fault of the law as it has been construed by practically everyone since 1913.

One remedy under the law would be to adopt a very broad construction to the effect that the general definition of income under section 2 is intended to simply characterize some of the items that enter into the determination of what is income, and not to characterize each one of them separately.

Now, you spoke of marginal transactions. I just want to add to this illustration taken from the letter of Mr. Speir that if you will suppose, what is far from impossible, that a man in such case only used \$10,000 to \$20,000 to make the purchase, and he bought that stock on margin, he then has got a \$90,000 taxable income, and he never had \$90,000 in the world—he never had but \$20,000 in the world. That also is true. A man may really have bought that stuff on margin, and then they may have turned around the next day and given him the \$90,000 dividend, and it is taxed, all of it, as income.

I was extremely interested in the very clear statement the chairman gave yesterday during Mr. Palmer's hearing, of a stock dividend proposition. For the purpose of serving the powers of government, there probably is no difference, Mr. Chairman, between a man that gets a \$100,000 note representing the accumulated earnings, or a \$100,000 stock dividend. In other words, in substance, it amounts to this, that the Government may take advantage, if it will, of the stock dividend transaction to tax at that point the accumulated profits.

That is probably true. It is only a book transaction, really, because he has not got any new property, as he would have if he took a note or Government bond. He has got the same property, in different form. But this committee at this time is interested primarily in what it should do under this law. As I said before, it wants to levy this tax in such a way that it will reach net incomes and will impose a tax commensurate with net income, and not impose it upon accidents of income; and when that stock dividend is declared and the value of your stock drops from \$1,000 a share to \$100 a share, then the committee knows that there is no income, and it knows whether it is a stock dividend or a cash dividend, whether it is a \$900 note or a \$1,000 bond; so that if no other changes are made in the law I think you might put into it, if you want to make it fair in all respects, a provision for permitting the Treasury Department in cases of extraordinary dividends to allow for depreciation in the stock on account of payment of dividends. In that case you would get it. There would be limited or allowed \$9,500 less on his stock as against the nominal profit on the dividend, which is what it is in business affairs and what the committee wants to make it.

Mr. LONGWORTH. In other words, if the stock was worth \$110, and a stock dividend of 10 per cent was made, and the stock fell to par, you would say that that was not profit?

Mr. REED. In the last analysis it is not, but in the normal condition of things in the course of a year the stock reestablishes a 10 per cent loss, and you recognize it as a normal dividend, and it does not do

any injustice when you treat it as dividend; but it is a dividend of from 100 to 300 per cent. Under these circumstances you can not put all these details in a statute, and if under all the circumstances the Commissioner of Internal Revenue considers that an extraordinary dividend, and that it is offset immediately by the depreciation in the stock, that depreciation is not made up during the year—perhaps it is realized in early sales—and he puts the two transactions together where they belong, and there is no income, or an income covered by these two features of the transaction.

Mr. LONGWORTH. That is, you think that according to the case just cited it is not income?

Mr. REED. The court does not settle the question.

Mr. LONGWORTH. You say you do not think so.

Mr. REED. The Supreme Court says it is not construing the Constitution, but is construing the statute—the 1913 act. Of course when you are dealing with a corporation you are not confined to income taxes. You have the excise power to take all you want, to-day. And you have got to deal with that and recognize it, and you have got, in many of these points, especially in dealing with the corporations, very far beyond a question of power, and it is a question of justice.

Mr. OLDFIELD. I did not exactly get your answer to Mr. Longworth. Do you think that the 10 per cent stock dividend you were talking about there should be taxed?

Mr. REED. For all practical purposes it may be taxed. If I was rewriting the law I should say that depreciation because of payment of dividend not made up before the end of the year is not counted, but for all practical purposes you only need to worry about the ordinary dividend. Your stock was selling at 110, and after the dividend it is selling at 100, and by the end of the week it may go back to 110, and probably will do so.

Mr. GARNER. The trouble is you and these other gentlemen come here and undertake to point out to the committee how to frame the law so as not to do injustice to this, that, and the other business, but you seem to fail to take into account where we are going to get the money.

Mr. REED. My proposition is that if you define an income to be a real income, you can get all of the money that there is in the country.

Mr. GARNER. Do you not think that you owe it to the committee in trying to arrive at a just law, to submit to us the character of law that you think will get the amount of money that has to be gotten under this law?

Mr. REED. I would be glad to suggest how you can get more money.

Mr. GARNER. The committee desires, I imagine—in fact, I am sure I speak for the entire committee when I say they would like—to draw these income tax and excess profits tax provisions of the law so as not to do injustice, and get a certain amount of money; but you realize that that is a very difficult thing to do?

Mr. REED. I do.

Mr. GARNER. And you come in and suggest that we do not assess this, that, and the other. I think you ought to take into consideration the advisability of helping us draw a law to get the money.

Mr. REED. I do that, and my viewpoint is absolutely yours; and the viewpoint of the investment brokers is absolutely to help the Government get the largest possible tax; and what we are trying to point out to you here to-day is that you can not get that tax unless you first get down to the solid, real incomes of the country and then put the highest possible tax upon them; and we are very much of the opinion that you should raise the rate, after you have done that.

Mr. MOORE. Are you going to point out how we can do that?

Mr. REED. If the committee will hear me, I will be glad to point out everything I possibly can as to that. My personal view is that you should exhaust your possibilities under the income tax in this present year.

Mr. MOORE. Which you think the present law does not do?

Mr. REED. Which it does not do. Which it can not do without causing tremendous injustice, because the income defined under the law is in many cases not real income.

Mr. MOORE. Will you point out where at any time we may wipe out exemptions?

Mr. REED. I am coming to that later—that is, briefly. I think you want to make this change. You want to continue the 2 per cent normal tax, under the old law, and reduce the exemption of one to two thousand dollars, and then you want to put on a large normal tax.

Mr. GARNER. What I would like to do with that would be to get a proposed section of the law that would get the highest possible rate of income this year, 1918, so as not to do injustice to any business. I would like to see your prescription for securing from the American people the highest possible amount of money under the income-tax law of the Constitution without doing injustice to business.

Mr. REED. I heard one Member, Mr. Garner, complain yesterday that some gentleman came down here talking about rates. The thought was that at this time you gentlemen wanted to get the basis of the tax, and then you would put on the rate as high as you possibly could. As I said when I started, I think the fundamental questions before you now are, what are incomes and what are profits, and if you gentlemen solve those two questions there is practically no limit, except as you bump up against 100 per cent, to the rate you may get. But you have got to solve these questions, and there are a number of items involved in them and this dividend question is one of them.

Mr. HAWLEY. Suppose the adjustments you are suggesting are agreed to by the Committee, how much increase could there be in the income tax?

Mr. REED. You, gentlemen, are familiar with the English rates, and I suppose we are as much in this war as Great Britain, and we can stand the rates of Great Britain. That is my personal view.

Mr. HAWLEY. Could we stand the higher rates of Great Britain? Could the business interests of this country stand the higher rates of Great Britain?

Mr. REED. Considering the profits of this year we might. From my personal view I can see no objection at all, especially when we allow the liberal exemption we do in this country. Mr. Garner made the statement yesterday, "We want to find out how much these corporations can live on, and then take the rest." I think there is an element of unsoundness in that as applied to corporations, because

corporations represent the business productivity of the country, and if you apply that principle to them you will endanger it; but as applied to individuals, I think it is absolutely sound.

Gentlemen come down here and talk about taxing 100 per cent over \$50,000 or \$100,000. It is not necessary to do it, that is all. There is no need for 100 per cent. When you get up to 85 or 90 per cent, you are getting it.

The CHAIRMAN. Do I understand that you are going to prepare an amendment along the lines you have suggested?

Mr. REED. I will; yes, sir. I have been a week preparing this argument, and I have no draft that I want to submit at this time. This outline which I have here is pretty long, and I want to make certain points clear in a general way, directing my attention to the basic proposition, here, of what is income.

Mr. STERLING. I do not understand why you distinguish between the individual and the corporation as you do.

Mr. REED. I do think this, Mr. Sterling, that the more you drive through the artificiality of a corporation on these matters, the quicker you are going to get your income.

Mr. STERLING. But would you take from a corporation all except what is necessary for its living?

Mr. REED. This is the only difference. I look upon a corporation as a business entity, and I look on the individuals as its owners. It is your business to get every last dollar out of the individuals that you can. Do not think for a minute that I do not expect you to tax corporations very heavily.

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Mr. FAIRCHILD. May I give you an example? I have stock in a company myself which last year, to my surprise gave me 50 per cent stock dividend. That stock had been selling, before I got the dividend, around 95 to 98. It has been paying 6 per cent. After I got that 50 per cent stock dividend it began to pay 8 per cent. Now, does it make any difference whether I receive the stock dividend? They could have sold that stock upon the market at 95 to 98 and taken the cash. How would you differentiate there?

Mr. REED. I would so frame the law that a complete accounting might be had on stock transactions for a year, dividends less depreciations. If the stock dividend is paid, it is the value of the stock dividend plus the depreciation in the stock.

Mr. FAIRCHILD. You would go to work and examine all the books and examine all the rules that govern the organization of the company.

Mr. REED. Yes.

Mr. FAIRCHILD. It would be very difficult to treat every organization fairly and equitably.

Mr. REED. That is right. It is very difficult to treat any taxpayer equitably. As a part of the question, and a very important part of the question, of what is income, I think we should also be careful to consider what is income of the taxable year, and to in effect extend the principle already adopted of allocating income to the year in which it accrued. No one, however, wishes to see untaxed any accumulated profits of 1915, 1916, and 1917 which have so far escaped the tax. Possibly no one would object seriously if you taxed for 1918 income accumulated during recent war years and



realized in 1918 provided that the income taxed has all been received as income by the persons taxed and that you make some allowance for extreme cases. An extreme case I would take to be that of a man who refused an offer of \$2,500,000 in 1916 for an oil property which cost about \$400,000 in 1912. He was worth \$2,500,000 in December, 1916. When he sold the same property for \$2,000,000 in 1917, he was told that his profit was subject to all the new taxes for that year.

That man was worth \$2,500,000 in December, 1916. I do not know the exact figures, but we will assume he got of 1917 only a little over a million dollars, and the only satisfaction was that it was only his income for 1917 that was taxed. Now, that is preposterous.

Mr. STERLING. I would like to submit this question to you: Suppose a man out in Illinois bought a quarter section of land 30 years ago for \$50 an acre. He sells it this year for \$250 an acre—and that is happening out there.

Mr. REED. Yes; surely.

Mr. STERLING. How ought his income to be computed? Ought any of that property to be computed as income?

Mr. REED. At \$250 an acre, you say he sells it?

Mr. STERLING. Yes.

Mr. REED. He may have mortgaged that property for \$200 an acre last year or in 1916. If you tax him on the profits from \$200 up to \$250, you take everything he has got left there.

Mr. STERLING. All of that is not profits of this year.

Mr. REED. It absolutely is not.

Mr. STERLING. It is the profit of 30 years.

Mr. REED (continuing). And if you want to tax the income of 1917, if you want to make a man contribute on what he is earning this year, you have to allow him the value of his property on the first day of the tax year. But if it accumulated during prior years when the profits were subject to tax—since 1916—then you should tax him according to the rate of that year. And it is not difficult. It adds to prior years the amounts that are now discovered. You examine them and figure out a man's income tax, and add \$5,000 to it and assess him on the \$5,000 additional.

Mr. SLOAN. The accumulation is not income.

Mr. REED. Under the Constitution, I think, it is not.

Mr. LONGWORTH. Then you would not tax him on that part of the property accumulated between 1913 and 1918?

Mr. REED. Originally the law did, but it is not as the law stands now.

Mr. LONGWORTH. And for that portion of the profits which accumulated between 1913 and the day he sold it, you would call that income?

Mr. REED. Yes.

Mr. LONGWORTH. And you would assess that at the rate of the year 1917?

Mr. REED. No; I would not; because as to your new income tax, and as to your excess profits tax, these are new taxes for the year 1917. Now, on that point, I think you must take into consideration the decision of the Supreme Court which has been rendered within the last month, in which they last interpreted this law, in the case of *Doyle v. Mitchell*. There was never any question of constitutional power to tax corporations, but in 1909 Congress undertook for the first time to impose a tax. The question involved in that case was

whether standing timber, standing on December 31, 1908, sold at a profit in 1909, should be valued for the purpose of determining that profit at its original cost or at its value on December 31, 1908.

The court held that it should be valued as of December 31, 1908; that was a part of the income for that year. Now, when you come in any year to levy a new tax, you are in exactly the same position as Congress was in levying the corporation excise tax in 1909. You should tax a man on his income accumulated during the year. And I want to stress it every time as I go along, every time I say it, that what I am trying to present to you gentlemen is the necessity of taking these extreme cases into consideration, so that you may levy the highest possible tax on actual beneficial incomes. You do not want any man, when you levy 50 or 60 or 70 or 80 per cent tax, to come out of the year, at the end of the year, worth half what he is worth at the beginning of the year, and have him come around and ask you how you did it, and have to say "That was only your 1918 income which was taxed," because he will say to you very quickly that you taxed the 1901 income.

Mr. MOORE. This is a very general question, but while you are on the question of incomes I would like to know, since you are speaking for representative investors, whether it is your belief that under existing law we lose a very considerable sum in collections on such incomes as ought to be taxable.

Mr. REED. I have no way of answering that question.

Mr. MOORE. You have suggested that we might raise more money on incomes, which suggests my question as to whether we are losing money on incomes that ought to be taxed.

Mr. REED. I have no doubt whatever that with the pending tax and with human nature as it is, we are getting to a time when people will more and more try to evade the income tax. I have never seen anyone try to do it; I have never seen people try to withhold or hide their income, personally.

Mr. MOORE. The present law is an intricate one. It is a law for lawyers rather than for laymen and it involves many references to preceding acts, and there are so many provisions which require skillful construction which are beyond the average business man, that I am compelled to ask whether it is possible to incorporate into the law the capital and income on which the Government necessarily loses a large amount of revenue.

Mr. REED. It is wholly an offhand answer, but under the present conditions I think a man might hold back a good many salient facts.

Mr. MOORE. Could you give us any suggestions as to how we might prevent him from holding back the facts so that no injustice will be done to the Government in view of its increasing demands for revenue?

Mr. REED. I have never had the question to study. I think the suggestion is worth while considering, and if I can make any suggestions I will be glad to make them.

Mr. MOORE. The investment bankers have been very patriotic up to date and made suggestions during the pendency of the war-revenue bill, and they could help materially, if they would, to correct such errors of law as we may have been guilty of in passing the bill.

Mr. REED. I think it is a very fundamental and important thing that every possible effort should be made to do that. You might want to license accountants throughout the country to make returns

on large corporate incomes and things of that kind, to be sure that the accountants were of such a character as to be approved by the Government; and, as I said a moment ago, as you increase the tax you are increasing the tendency to conceal.

Mr. MOORE. The tendency to deceive?

Mr. REED. Yes. I think one of the most important factors in the present success of the income-tax law, and taking it by and large it has been tremendously successful in the matter of obtaining disclosures, is its secrecy. A man may make a full return to the Government under secret disclosure and oath which he would be inclined more or less constitutionally to avoid otherwise.

Mr. MOORE. Would you have these returns made public?

Mr. REED. Never individual returns.

Mr. MOORE. Would you have corporation income tax returns made public?

Mr. REED. Only in such cases as the Secretary of the Treasury thought fit.

Mr. MOORE. Do you think it would be wise to leave such a discretion to any administrative officer?

Mr. REED. I think during the war you have got to leave such discretion to the Treasury, and I think that discretion has been exercised splendidly.

Mr. MOORE. Might not such discretion lead to favoritism that would be unfortunate, especially where a man was competing in the same line of business?

Mr. REED. Absolutely in peace times it would be tremendously so, but I have seen a good deal of the personnel in the Treasury Department and there is no doubt about the high-minded attitude adopted up there at the present time.

Mr. MOORE. That is a matter of faith in the present administration. It might be that a change of administration would cause a change of opinion.

Mr. REED. Do not misunderstand me on one point. I am not considering at all the general public policy. I am not a great believer, myself, in privacy; I am only speaking of the income tax from the point of view of a revenue producer. You are not going to get the incomes the Government ought to get if all the records are spread out before the public.

Mr. MOORE. My mind is not as strictly legal as that of some of the members of the committee, and I would like to get at things more directly than by the elaborate details provided by this law. I would like to know how we are going to get the money. We have got to get \$8,000,000,000. It was suggested that the Government might in some instances collect double taxes. That would be unfortunate and I would like to see that corrected, if it is against the same sum of money.

Mr. REED. I have also suggested a difference of principle.

Mr. MOORE. A point extremely important to us is to know how we are going to get additional money, whether you get it out of incomes or from some other source, and we would like to have suggestions as to how the Government can get more income.

Mr. REED. What I said was with reference to the necessity of the paying power of income. You should reach your highest point at this time and this year. That is my present view.

Mr. MOORE. I had hoped that in view of your knowledge of investing conditions and of incomes that you might be able before the close of this hearing to make some suggestions as to how we can derive additional incomes, or to what sources we shall go.

Mr. REED. I shall be glad to do that. I will say you ought to have a much larger war normal income tax.

Mr. HULL. Some of us on the committee are not so much concerned about the rates as to get the knowledge of business people and professional people as to the best methods of applying these tax rates and tax methods, and how to get these taxes from business equitably and efficiently.

Mr. REED. I am glad you asked that because you were not here when I tried to make it very clear at the commencement, directing myself to two fundamental propositions on which the basis could be laid, and those are: What is the income, and what are war profits? I have not given the thought that I was prepared to give later to the question of rates. The sources, I take it, are incomes, and you want to determine an income in such fashion, or possibly in no fashion at all, if you state in that law that you tax incomes and the Treasury be allowed to do the rest, so that you can tax the real beneficial income.

Mr. FAIRCHILD. Would you not also consider what the losses are?

Mr. REED. My point is there is no income until the losses have been deducted.

Mr. FAIRCHILD. For instance, a man invests a million dollars in a security at par. The company gradually loses ground and the value goes down from par to five. He has got a loss of \$950,000 but can not allow for that loss. What is your suggestion as to that?

Mr. REED. I think at the present time the Treasury could possibly extend what is called the inventory basis to the individual. Under the present provisions of the law, stating in the case of an individual keeping accounts on a basis other than that of actual receipts and disbursements, that if such basis does not fairly reflect his income, he may have a reduction for that and compute according to his conscience on that basis. I think Congress should extend and amplify that provision very materially so as to give complete power to the Treasury Department to allow individuals to deduct for depreciation. There is no question about it, that a man in the condition you speak of might be in the bankruptcy courts and have no income or hope of income.

Mr. FAIRCHILD. The Government would have to analyze the conditions for every corporation in the country.

Mr. REED. It would simply have to check up and see if the rates in his books represent a fair depreciation of stock, just as a local assessor would have to do in assessing for local taxes. The proper administration of the tax law compels you to compare the value of the property. It would be a big job, but not in proportion to the amount of property involved. It has been suggested that it is necessary to get the basis correct and if the basis is correct the amount of the income tax is only a question of rates and you can determine what the Treasury needs.

Mr. O'SHAUNESSY. How would you provide for calculating the depreciation in cases similar to the one suggested by Mr. Fairchild?

Mr. REED. There are various ways of doing that. You might accept as prima facie the concern's statement approved by a licensed accountant.

Mr. O'SHAUNESSY. Then, you would get licensed accountants into the game of making returns?

Mr. REED. I do not know whether you have followed the regulation, but under the present law the merchant's inventory of goods is subject to review by the Treasury.

Mr. O'SHAUNESSY. Is there any way to find out depreciation?

Mr. REED. Your bank will tell you sometimes if you have got to borrow money. You may carry that stock into the bankruptcy court.

On the allocation of income I would like to read an extract from this memorandum on behalf of the Investment Bankers' Association of America in the case of the Southern Pacific Co., on page 11:

We submit that the new 1917 tax, both the new income and the new excess-profits tax, must be read as of the date, or at least the year, of its enactment, and under the view first expressed the Congress can not by a new tax in 1917 tax as income and under the Constitutional amendment a right to the earnings of 1913 to 1916 converted into cash by the sale of the stock in 1917.

Also that it was not the intention of Congress to impose these new taxes on incomes accrued but not received prior to 1917.

Further that though not previously taxed, the profit realized by sale in 1917 would be subject to the previous tax at the rate of 5 per cent payable annually and should be paid at that rate.

Finally, if, as is of course the fact, the rate for each prior year was different, the profit attributable to each year must be apportioned on a correct business or legal method and taxed according to the rates of those years.

One more and very important consideration might be mentioned. Assuming that A was engaged in the business of a dealer in securities and that the net profits of such business in 1917, crediting the \$40,000 profit and deducting losses, was \$30,000, but that by a deal in real estate during the year outside of his regular business he lost \$30,000, we feel very strongly that he has no income which can be taxed for that year under the constitutional amendment authorizing "taxes on incomes." He has no income at all. The \$40,000 profit is a factor of income, as is the \$30,000 net profit from his business, but neither of these factors is his income, it seems to us, within the sixteenth amendment, or subject to a tax "on incomes."

Let us take another concrete case: M in 1917 had an incorporated oil business which cost him \$500,000 in 1913 (in the shape of wells and development). In 1916 he was offered and refused \$3,000,000 for it. In 1917 the business earned \$400,000 after paying an excess-profits tax of \$300,000 on the corporation. M sells the stock in December, 1917, for \$3,000,000 after receiving cash dividends of \$300,000 out of the year's profits.

It is quite possible in this and many such cases that the combination of excess-profits and income taxes (all, in fact, income taxes as applied to the individual) as now administered will leave the individual with a mere fraction of what was on January 1, 1917, his capital, and yet each tax is declared to be, and popularly supposed to be—and we contend that in law should be—a tax on income for 1917.

That is practically our whole proposition on all these points, that it should be the income, and the real income, that is taxed, and you never wanted to do anything else, and you do not want to do anything else now, and yet some people are likely to say they have been taxed unjustly, whereas if we wrote it into the law, a dozen times if we had to that we are only intending to tax the beneficial income we would lay the basis, and the sound basis for the highest possible rates.

That brings us to a question which originally we did not think belonged to us or did not think we should discuss at all, the value of undistributed income of corporations, but the more we consider it the more it seems to be tied up with the other question.

The taxation of the undistributed profits of a corporation is more closely connected with this matter of reaching the profits of a particular year and also with the taxation of dividends than is generally supposed. Dr. Adams, of the Treasury Tax Advisory Board, has recently stated somewhat broadly the general proposal of taxing undistributed income to stockholders as though it was distributed. Probably there is no real intention to press so extreme a proposal, but if there were its character and dangers would deserve earnest consideration. It has other and much more vital possibilities than those of Federal revenue.

Let me say by way of preface that the taxes which the Government gets in 1918 out of profits on the sales of securities and out of dividends representing earnings of prior years is a tax on the undistributed income creating the profit on the securities or on the undistributed income of the prior year which was in that year not taxed to the stockholder.

The Government by no means loses all the tax it seems to lose by not taxing directly the undistributed income of corporations. In an instance already cited, we have seen that one man is taxed on \$2,300 profit on a sale of stock carrying accumulated earnings and another man taxed on \$2,400 cash or stock dividend representing the same earnings. Surely no one will question the fact that, even though undistributed in cash, these profits have been twice taxed, once to the man who really got them as income to him and once to the man to whom the corporation distributed the stock dividend representing its income. In 1916 there were large undistributed profits. In 1917 a part of these profits were distributed and a part were realized upon by the sale of stocks. The Government taxed a large part of them at much higher rates than those of 1916. This process is repeated year by year. It is not altogether clear that the Government is the one to worry about the "undistributed income." Sooner or later it can get it all, and some of it it gets twice or more. I say twice or more because it taxes every profit realized on a fluctuating stock and does not, generally speaking, return anything on the losses.

Ignoring these substantial considerations, however, and considering solely the income tax on the net profits of a business as such, these profits may be divided into three parts—those which are distributed, those which normally would and now could be distributed but are not, and those which are normally or necessarily retained to meet the essential growth of the business. The first part are already taxed to the stockholders as dividends. The second part are now largely taxed indirectly either in the year they accumulate or in succeeding years. The third part should not logically be taxed at all. The first and second parts are income or reducible to income and represent "ability to pay." The third part is not income, is not reducible to income, and creates no ability to pay. We can tax it in form, but in fact the tax is shifted to the other part—that distributed or distributable to the stockholders. What is essential to the business remains in the business and the stockholder or partner denies himself accordingly. Business either grows or dies, and in its growth and the growth of the community it demands and absorbs the reinvestment each year of a large part of its earnings. This is universal and inevitable. We recognize, however, the fact that the present situation does not produce the revenue that it should, and also that

a large amount of corporate income is held back and escapes the surtaxes, though just how much of this tax could be collected by an effective use of the broad power given by section 3 of the 1916 act may be worth investigation. In any event the Government should get the tax on the amount, whatever it be, which the corporation would distribute but withholds to avoid the tax.

In determining the amount of the undistributed income which normally should be and now could be distributed, we must have recourse to what is usual or normal in normal times and also to what is exceptional and necessary in these times. There may be some basis on which Congress can say that a certain amount of the actual net income ought to be distributed. Provision should, of course, be made for income necessarily applied to restore a capital impairment or offset a loss of a preceding year.

The CHAIRMAN. Do you realize that you have consumed an hour and seventeen minutes, and as you are reading from your brief you could file it with the hearing.

Mr. REED. I have not started on excess profits yet.

The CHAIRMAN. I just wanted to remind you that we have seven other gentlemen to-day.

Mr. REED. I leave myself entirely in your hands.

The CHAIRMAN. Suppose you take up excess profits and file what else you want to put in the report. I do not want to cut you off.

Mr. REED. I will do that, and if you want to hear from us further we can submit it to you either in writing or here.

As to excess profits, our first thought is to the need of confirmatory regulation. There are so many cases in point to the construction of the 1917 act that we think Congress should make it clear beyond judicial dispute that the regulations which have been adopted carry out the intent of the original act and should confirm the taxes assessed or to be assessed under these regulations. Prior to the adoption of the regulations, there were no two lawyers in agreement as to the interpretation of the law. Everyone, including the responsible leaders in Congress, has accepted the regulations as embodying the law. These regulations, in so far as they may be open to question, bind the Government, not the taxpayer. With a proper provision permitting due allowance to be made for extreme cases, the regulations should be confirmed by act of Congress as conclusive upon the assessments made and to be made under them for 1917.

Also, we urge that the general principle under which these regulations have been made be carried into any new law that is adopted. There should be no doubt in the mind of any taxpayer that the regulation or decision of the department fairly within the principle applicable to him is binding upon him. Neither injustice nor evasion should be entrenched in the letter of the law. As it is absolutely impossible to take care of every possible case by literal application, the remedy lies first in the declaration of major principles to care for necessary adjustments, second in broad power to cover exceptional classes of cases by regulation, third in giving power with discretion and upon a public record of the facts and reason to dispose of special cases.

The machinery for this is already created. It has already in fact removed many of the difficulties of the 1917 act and minimized the impact of the tax in a very considerable degree. And it has produced the revenue.

Take for instance a matter already discussed, the inextricable difficulties surrounding the taxation of profits realized directly or indirectly from corporate enterprise. It is impossible to deal with such cases by rigid provision of law. Congress does not create the corporations nor assert any control over the infinite and intricate statutory and charter provisions under which they operate. It can not by provision cover every possible case. An individual case, however, can be handled by administrative methods. Necessary adjustments can be made. What those adjustments should be is reasonably clear when we come to apply the well-understood purpose of the act to the case. That purpose is defeated by a detailed provision. It can be effected by broad provisions, such, for instance, as the one already suggested that in computing the income derived from dividends proper adjustment may be made for depreciation in the value of the stock caused by the payment of the dividend. Everyone knows what that means as applied to any case. Injustice, but not the tax, can be avoided under it.

There is much greater need for such provisions under an excess or war profits tax than under the income tax. It is essential when you enter the complicated field of business with the perfectly proper desire not of taking here and taking there a few millions but of taking every last dollar that it can stand to make up the billions you demand.

The hand and the power of the tax collector must be controlled in effect and so far as may be by the general principle that the taxes levied are intended to be uniform, to avoid duplication and inequality, and to produce the largest possible revenue.

The adjustments necessary to reach this result can not possibly be prescribed in detail, but they can be controlled by well-understood principles embodied in the law. Numerous instances might be cited from the English law of this method of obtaining a war revenue. The various alternative provided for the determination of the pre-war deduction are familiar instances.

Among the typical instances of this in the English tax acts are the provision in the excess-profits act, fourth schedule, that in allowance of expenses "for the development of the trade or business" only such amount as appears to the commissioner of inland revenue to be reasonably and properly attributable to the year or accounting period "shall be allowed, the provision allowing them to treat any closely held company as a partnership," the provisions permitting them to apportion the profits of a contract over different taxing periods and the quite significant provision which has to be carefully studied to be understood, that where account is taken of income from investments for excess profits only—in the cases of insurance and investment companies only—"any variations in the value of any of those investments which appear to the commissioners of inland revenue not to be due to a variation in profits shall also be taken into account." This last provision incidentally means that I am not taxed on a profit of £6,000 on securities representing an enhanced value which is itself due to undistributed profits out of which the profits tax has already been paid. But for the tax they realize that my profit would have been £8,000 and £2,000 has in fact been taken.

There are other similar provisions in the munitions of war acts general in form but the effect of which is determined, so to speak,



by understood principles of justice. Allowance shall be made for this, proper provision may be made for that. It is provided for, instance, that "any appropriate adjustment may be made in respect of capital expenditures specially incurred for the purpose of munition work" and for "the probable value at the end of the period of control" of any plant erected for war work. All of these provisions, I believe, are understandingly administered between the inland revenue officials and the taxpayer, and I know of no reason why in war time and as a war measure they could not be so administered here. In fact the exceptionally intelligent and efficient work already done makes it plain that they could be.

This machinery now created, working to adapt the letter of the law to carry out its purpose, especially its inherent fundamental purpose of justice and equality, is the Treasury advisory board, or board of tax reviewers, a board of interpretation and adjustment. Many unforeseen and unintended injustices it can not reach. Many unforeseen and unintended avoidances of the tax it can not prevent. The millions that are taken unjustly to the point of confiscation from A, B, and C are balanced on the Government account by the relative immunity enjoyed by the millions of X, Y, and Z. I call them X, Y, and Z because they are not so well known to gentlemen as A, B, and C.

Mr. TREADWAY. Can you offer any suggestion as to how we can reach those we do not hear from?

Mr. REED. By getting a sound basis, with power in the Treasury Department, so that we can get real war profits.

The CHAIRMAN. Do you think it would be a sound basis for us to adopt such a method as the Senate proposed to adopt, providing for a tax of 80 per cent?

Mr. REED. Not as the Senate committee tried to do last year.

The CHAIRMAN. You would favor the substitution of the English law?

Mr. REED. Absolutely, but it should be adapted first to American conditions.

The CHAIRMAN. The same method of determining those profits and income; I do not mean in amount.

Mr. REED. You are familiar with the Senate bill of last year, how they insisted on sticking in a prewar income. If a man was poor in the prewar period he would remain poor all his days; if he was prosperous he could continue to be prosperous. That is not my idea of the English law as it exists. Briefly, you could give the taxpayer all the alternatives the English law gives him, and give the Government the power to step in and see that the proper basis is applied.

The CHAIRMAN. You would not tax 80 per cent?

Mr. REED. Not except, personally, I should say 80 per cent.

The CHAIRMAN. How much more are your clients making during the war than they did during the three years prior to the war?

Mr. REED. Mr. Chairman, I guess it is a well-known fact that the investment bankers are doing nothing but selling Liberty bonds.

The CHAIRMAN. Your clients are not making as much now as before the war?

Mr. REED. Nothing like it.

The CHAIRMAN. They pay no tax?

Mr. REED. No tax at all under the percentage tax.

The CHAIRMAN. Your companies pay no tax at all under the present law?

Mr. REED. I think the Treasury Department knows best, but I think you will find they paid substantially no tax last year.

The CHAIRMAN. I want to find some people who are in favor of taxing themselves, and who do not want to put it all on the other fellow. Do I understand that your clients would pay nothing under this proposition which you desire to write into the law, but would pay something under the law as it is?

Mr. REED. No one knows what 1918 will bring forth. I would say, in my own opinion, they have paid nothing under the 1917 law as a class, and will pay nothing under any war profits.

The CHAIRMAN. I want some gentlemen to show us how we can equitably get more taxes out of themselves. Everybody knows how to get taxes out of the other fellow.

Mr. REED. We do not appear here at all in that sense, or for that purpose; we are speaking for the association as a whole, in a spirit of public service.

The CHAIRMAN. You understand, I am not imputing an improper purpose at all, but I am just telling you the information the committee would really like to have. They said that last year we taxed everybody in the last revenue bill. Now, as I said to the House, the only way we found out about these taxes was in this way: Our offices were crowded with people to tell us how to raise these billions of taxes and how to get these taxes from the other fellow, and just as soon as he left the office another one was standing at the door and showed us how to raise a tax from the fellow that just went out, and therefore we got them all. We want somebody to come right square before us and show us how to equitably get the taxes from themselves or from their clients.

Mr. REED. If the investment bankers could find out any more effective fashion to help the Government at this time than they have, they would have to take it up with the Treasury Department; because their help has been in the way of personal service and it has not been in taxes, and they do not expect to have any during the war.

The CHAIRMAN. I think the banks have done great service.

Mr. REED. Every investment banker makes his living selling securities. This resolution was passed by the board of governors of the Investment Bankers' Association of America March 5, 1918:

Whereas the board of governors of the Investment Bankers' Association of America has already indorsed the plan for the supervision of capital issues which is now in operation:

*Resolved*, That it is the sense of this board that no member of this association should buy or sell or offer for sale, except subject to the final approval of the capital issues committee, any securities which come within the scope of the capital issues committee regulations unless the issuance of such securities first shall have been approved by that committee; and,

*Resolved, further*, That a copy of these resolutions be sent to the capital issues committee, to the capital issues advisory committee, and to each member of this association.

If you realize, as we all do, what the capital issues committee is doing and that there is no power in the law that requires this association to make this declaration, you will realize that this means that this amounts to a moral obligation which the association places upon its members.

The CHAIRMAN. How many corporations does this association represent?

Mr. REED. About 500 members, large and small, throughout the country.

The CHAIRMAN. All the large cities have some memberships?

Mr. REED. Yes, and a good many small ones throughout the country. The board of governors itself comes from all over the country. Now, we approach the tax itself with a great deal of diffidence. Somewhere in one of his notable works on taxation Prof. Seligman tells us in effect, if I correctly understand and recall it, that a tax on profits as such, as a regular source of Government revenue, means business stagnation and brings a nation to a state of stagnation. It is essentially a tax on earned income as against unearned income, a tax on enterprise and capital that is active, daring, and productive, with relative immunity to conservatism, to capital that hides in a stocking or safe deposit vault, or secures itself by investment in gilt-edged securities. A short-sighted investment banker might well favor that discrimination, but the far-sighted merchant even of gilt-edged securities and the far-sighted legislator or statesman knows that the wealth of the world, the rewards of labor, industrial and social production, come from enterprise, from initiative, from risks, and from the profits of success in daring endeavor. A tax on profits, if we are to take the words of some of its leading proponents, asserts a Government interest in business, that business is in some way a privilege or as some think, a foster-child of government. This is very strange doctrine. A corporation is a privilege, a creature of government. A protective tariff may be said by some of us to make a foster-child of the protected industry. But are we ready—is the present majority of this committee or of Congress ready to assume a government-protected and created business, the profits of which as such are to be shared by the Government? That, in brief, is an outline of one argument and counter-argument for a profits tax as such.

When you talk of a war-profits tax, you change the subject and the problem. There is no more brilliant page in Government finance in war than the excess-profits duty in England, and with all its difficulties and errors in our own country. No sounder statement has been made—a statement that I hope this committee will put indelibly in the proposed bill—than that of the President that the profiteer who is not restrained by his conscience and by love of country can be got at by taxation. "Can be got at," said the President, but he did not tell us how. "Must be got at," is his demand, and it is the duty of you gentlemen to get at him.

Who is the profiteer? Instantly our minds recall two classes, but we do not always get them clearly and are apt to confuse them. One class is the going business which, in its efforts to keep pace with or go beyond war conditions, heaps up in one year a 50 per cent to 100 per cent profit on its ordinary business, a profit represented by high prices, extortionate only in the sense that in the normal effort to make money advantage is taken of war conditions to get much more than would otherwise be possible. We do not need to characterize it. Men with both conscience and love of country have made money in these trying days. We only need to apply to these businesses their own principle, to get all they can out of them as they get all they can out of their business at this time.

The CHAIRMAN. In other words, they get all they can to keep a fellow going.

Mr. REED. You have got to consider business itself. Get all you can of that class.

The other class of profiteers which we visualize is war profiteers as such, those who are making or are supposed to be making huge profits out of war contracts and war services. Generally speaking, we should apply the same principle to them, but we should take account of one vital fact in doing it. This profiteer is not as a class a going business. He represents an investment of many millions in necessary war work. He can not do the work unless he can get the money. In analysis, a purely war venture is a single transaction, whether it lasts one month or three years. A man has to get the capital, say, to supply submarine chasers. That man can not obtain capital for that proposition unless he can give a reasonable assurance of return on the capital. To the extent that you treat that as a single proposition, and let him pay back his money that he borrowed, then over and above that, whether for one or two years the Government has a share in profits and it could be a liberal share. That is the view we hold; if you want to get as much as possible out of him you have got to allow him to finance it to get it. When the war commenced the total value of his plant was his income.

Dealing first, however, with the profiteer of the first class and with the war-profits tax generally, what I have said of such a tax as a normal thing applies in our judgment to a profits tax based on capital percentages, whether it be levied in war times or peace times. To the extent that you put a special tax on the normal profits or normal business you discriminate against earned income, the income of industry, enterprise, and production. You also apply a standard which prevents you from getting all you could and should from war profits. There are many concerns whose normal rate of return is very low, who are now making a much larger return. Their excess is war profits and 50 to 80 per cent might be taken for war needs. You now take but 20 per cent under the first bracket of the present tax, and yet an 80 per cent tax on business generally on the excess above 9 per cent of the capital under the present law would be manifestly impossible and ruinous discrimination against active production.

There is no such thing as a normal rate of return on business risks. Even in the limited use made in England of the percentage basis with respect to new businesses and new capital it has been found necessary to allow rates as high as 15 and 20 per cent in certain classes of business. Without such an allowance, and with a high productive tax rate based on capital percentages, capital for business risks will not be obtainable. It will, in fact, be withdrawn wherever possible and to a very large amount to safer and less productive investments.

The CHAIRMAN. Could not we provide for that by putting in some provision as to amortization, lodging with the Treasury Department, perhaps, in special cases under special circumstances, the power to allow a reasonable reduction for amortization?

Mr. REED. You are referring, I think, to capital war expenditures. I am referring to the different risks in different classes of business. You might camouflage it, you might allow a discount on the other side of the ledger where a man can earn more than 9 per cent, but the

idea of war profits is what you are really getting. I want to emphasize this, that the differences in risks in different businesses are not the only differences in risks in business. The fundamental and the far-reaching difference is the difference in financing, the difference between being able to borrow money and being able to have your own money and not have to borrow. You take in any town in this country the case of a successful merchant who dies. His junior partners or clerks are young men and they can carry on that business, but they have not the money to buy it. The widow is willing to take their notes, or if they are men of good character and credit the banks may take their notes, in any event they can buy if they can use the credit they have. The widow can now sell to them or sell to a wealthy competitor. If they buy under this law as it now stands they pay all the money. The Government takes 60 per cent of the income. Practically every dollar they make is subject to the 50 or 60 per cent rate. Now, you can not penalize normal methods of financing. You take a corporation with \$500,000,000 preferred stock and \$500,000,000 common stock. Another corporation does the same business with \$500,000,000 bonds and \$500,000,000 common stock. The common stock bears the burden in each case, and in one case the capital represented by the preferred stock is allowed as capital, and the bonds are not allowed as capital. The earnings are the same and one corporation pays two to one what the earnings of the other paid. It is a punitive, prohibitive discrimination against normal methods of financing.

The chairman spoke yesterday of the reason for the limitation or the exclusion of interest and the deduction of interest under the income-tax law, and said that was balanced by this feature of the excess profits. I think that probably was the reason, although as soon as the original corporation law was enacted the normal tax on the stock of the individual came along, and that equalized it. The exclusion of borrowed money from the computation of capital under a profits tax is one of the most serious features of the present act, if not of the capital percentage profits-tax as such. If you wish to tax a profit or investment as such, you should tax the investor, not the business. If you wish to tax a trade or business as such on a capital percentage basis, and that is the professed object of the tax, you should, we submit, include as capital everything employed in the business and measure the tax by the earned income, without deduction for fixed charges or amounts paid for the property used in the business.

Finally, I take it that the insuperable objection to the percentage basis of tax is the difficulty, in my judgment impossibility, of making any definition of capital that will be both rigid and elastic as well as sound enough to support as high a tax as you want to and should levy on real war profits. The efforts made last summer and since to define capital, the radical differences now existing between leading representatives of the Treasury and between Members of Congress, between representatives of business and between recognized authorities on taxation, demonstrate in themselves that no definition will satisfy the country or avoid serious dangers. The English law, with its limited use of capital, does not define it inclusively, but it does provide that certain otherwise doubtful things shall be included, certain other things excluded.

Dr. Adams, who has exhaustively studied the problem as applied to our law, tells us that the value of capital is not to be found in the original investment, but in the present and future earning value of that investment. It is best represented by security values where obtainable, and as those values by no means represent the temporary war earnings of corporations, they would furnish a basis for a productive percentage profits tax. I take it, however, that such a conception of capital will not be accepted by Congress and that, considering also other objections to the capital percentage basis, we should all of us at this time turn our minds to the problem of finding, if possible, a suitable substitute for that basis.

That substitute, we submit, should be a new tax based on the phenomenally productive English plan, with all the elasticity necessary to avoid extreme hardships and with the high rates possible when that is done.

The so-called Senate prewar plan of last summer did not meet these conditions. It provided for a fixed prewar basis. The man who was poor and unsuccessful in the prewar period could remain poor and unsuccessful the rest of his days, until he went into bankruptcy, while the concern which was prosperous in those years could enjoy a relative immunity from this tax.

The CHAIRMAN. The Senate itself after consideration thought its plan was not wise. They adopted the language of the House; they said they had adopted practically the House definition of capital.

Mr. REED. I suppose no one would quarrel with this if you are levying on a moderate tax, but when you take a tax of 20 per cent up to 60 per cent it is different.

The CHAIRMAN. If you recall, they brought in another amendment of the committee a month after the matter had been under discussion and changed the basis of war profits to excess profits, only they had between 6 and 10, and the conference had been 7 and 8. What have you to say as to their making that change?

Mr. REED. I did not intend to commend them very strongly on that proposition, because they did not adopt the English plan.

The CHAIRMAN. They did not adopt the English plan in the first instance?

Mr. REED. They said, "Here is a man who has made 2 or 3 or 4 per cent, and if he makes more, now he has got to be taxed, and if he is poor he must stay poor, and if he is rich and successful then he can stay rich and successful."

Briefly, then, we would urge upon your consideration a war profits tax primarily and exclusively, but we would not ask you to bind the Government to accept as a prewar basis in any given case an abnormally high prewar income in any three or even five years. We would in the first instance give the taxpayers all the options given by the English act, so as to avoid any possible injustice, so as to make it certain that at least the normal earned income is exempt from the tax and lay a sound foundation for the heavy tax which you expect to levy. But we would also give the Treasury the power, when all question of injustice to the taxpayer has been removed, to see that no injustice is suffered by the Government.

To use the apt language of Secretary McAdoo we would superimpose upon this tax on the prewar basis a tax on some other basis—which might be the capital basis though in our judgment it should

be avoided—a basis definite enough to point the principle, elastic enough to get the tax.

Mr. SLOAN. Do you think under our Constitution we could give the same adjustment as the British could, where the administration is almost superior to the legislature?

Mr. REED. We might have had doubt of that a year ago, but not now, because of the broad discretionary powers given to the administration in war time, and in war time these things are necessary. Second, because of the remarkable work that has actually been done in the Treasury Department along this very line they have gotten three-quarters down the road already, and you gentlemen commend them, and the country commends them. You have got to write into this new law the regulation which they were forced to exercise under the former law, because all the people in the country have agreed to that.

Mr. SLOAN. You would delegate to the administration powers of adjustment which would have the authority of even changing rates?

Mr. REED. Of changing taxes. You have got to point the principle of adjustment on a business basis. We have at this time but one such alternative basis even to suggest as possible. It is suggested partly by the President's allusion to the profiteer. We propose it most tentatively. It was said yesterday that a tax on gross income or on sales would be passed on to the consumer at a profit to the wholesaler and also to the retailer; in other words, that the consumer would pay twice or three times the tax paid to the Government. We feel that the consumer, except of luxuries, is already bearing the burden of war.

Instead of any greater tax on net income as such or on gross income as such we have in mind a tax on the ratio between net income and gross income, an ascending tax on an ascending ratio, a tax that will be in a measure punitive of high prices, that will help the consumer rather than injure him. In brief, a provision that if in any case by comparison with the earnings of similar concerns and with the prewar ratio of net income to gross income of such concerns and also with the deductions determined under the returns filed under the 1917 act, it should appear to the Commissioner of Internal Revenue that the prewar income of the taxed concern was abnormally high, he shall determine the prewar deduction from such and other factors, including the ratio of net income to gross income prevailing under normal conditions prior to 1914, and that the deduction so determined shall be substituted for the deduction on the prewar income basis.

The CHAIRMAN. I suggest that you get the stenographer to give you your remarks as soon as they are transcribed, and then you can incorporate your brief.

Mr. REED. Thank you very much.

The CHAIRMAN. I would like very much to read your brief, because there are some very valuable suggestions in it.

(Thereupon, at 12 o'clock noon the committee took a recess until 1.30 o'clock p. m.)

## AFTER RECESS.

STATEMENT OF MR. ALFRED REEVES, GENERAL MANAGER  
NATIONAL AUTOMOBILE CHAMBER OF COMMERCE, WASH-  
INGTON, D. C.

The CHAIRMAN. Mr. Reeves, we will hear you now.

Mr. REEVES. Mr. Chairman and gentlemen of the committee, a little unlike these other gentlemen who have talked about taxation, the automobile is already taxed, as you very well know.

The CHAIRMAN. Mr. Reeves, give your full name and address and your business and occupation.

Mr. REEVES. Alfred Reeves, 509 Seventh Street NW., Washington, D. C., general manager National Automobile Chamber of Commerce.

The CHAIRMAN. Are you connected with the automobile business at all?

Mr. REEVES. Yes, sir; I am the general manager of the association, and not an attorney.

I want to thank you gentlemen for this opportunity of coming here and talking on this question.

The original tax under war-revenue act of October 3, 1917, of 3 per cent on automobiles, grouping them with piano players, talking machines, jewelry, perfume, and chewing gum, was doubtless placed on the theory of taxing articles that were nonutilitarian.

The automobile industry, the third largest manufacturing industry in the country, deprecates the placing of automobiles with the articles enumerated above, because during the past decade, both passenger and freight vehicles have entered so largely into the personal and business use of our people, that they must be considered articles of great utility.

These time-saving vehicles have so increased our efficiency that their disuse or any marked decrease in the number in use, would be nothing short of a disaster at this time when the speedy movement of persons and commodities is of such vital importance.

It is hoped that no favorable consideration will be given to any plan of taxation that will discourage the purchase and use of motor cars, which are such great factors in our fast-moving American life.

The making and use of automobiles should not be discouraged because:

1. The industry ranks third in manufacturing importance, employs more than 800,000 people, who with dependents would populate several of our States; pays annual wages approximately equal to all the gold in circulation in the United States; employs capital of more than one and a quarter billion of dollars, exceeding by one-quarter billion of dollars the capitalization of all the national banks; produced finished product of nearly a billion dollars in 1917. An important part of the war program is, and should be, the maintaining of industry to the fullest possible extent.

2. The passenger mileage of automobiles exceeds that of the railroads by more than 10,000,000,000 passenger miles; they carried 3,000,000,000 more persons than the railroads carried in 1915; the value of this passenger mileage at 2 cents per mile would have been \$900,000,000. It would be impossible to adequately replace this



service under present conditions by any other form of transit. A recent investigation developed that the farmers in Livingston County, Ill., bought 73 per cent of their automobiles as a necessary part of their farming equipment, 25 per cent for both business and pleasure, and 2 per cent for pleasure alone; 2,000,000 of the automobiles in use are owned by farmers; nothing could be more disastrous to-day than to interfere with the efficiency of the farmer. Mr. Garfield rules the automobiles are public utilities. Mr. Hoover buys new car, although giving up chauffeur-driven car.

3. No automobile is exclusively a "pleasure car"; the most expensive machines are used more or less in a utilitarian way. There can be no danger that so-called pleasure use of automobiles can be permitted to become wasteful of gasoline, because Mr. Requa, oil director of the Fuel Administration, has ample powers to enforce any rules necessary to conserve fuel.

4. There are 5,000,000 passenger automobiles in use to-day. Probably 850,000 per year will wear out. If production is not kept up, residential suburbs would become to a considerable extent impracticable, tending to greater congestion in cities; local and suburban transportation facilities would be inadequate; suburban and farm values would decrease tremendously; the efficiency of farmers would be impaired very greatly.

5. Automobiles are the greatest economizers of time of farmers, doctors, contractors, builders, salesmen, and men engaged in all businesses.

6. They increase efficiency of the individual when farm labor is scarce; physicians are assuming the practice of doctors who have gone to France, and manufacturers are called on for increased production. There are 150,000 doctors in the United States.

7. Railroad service has been curtailed, and many valuable hours will be lost by business men if use of the automobile is curtailed.

8. Automobiles have been used most liberally in the campaigns for sale of liberty bonds and war savings stamps, to raise war funds for the Red Cross and Y. M. C. A., in recruiting, and in many other ways connected with war activity. To discourage the sale of automobiles will make these activities less efficient.

9. Further reduction of manufacture will force out of business a large proportion of the 27,500 dealers and 25,000 garage owners whose livelihood is derived solely from sales and care of motor cars and accessories, and who are located in every town and hamlet in America.

10. Eleven big companies made 85 per cent of the cars in 1917. More than 200 manufacturers produced only 15 per cent of all the passenger cars made. These are the ones who will suffer most from any increased taxation, because their profits are smallest and they are unable to secure war contracts to keep their plants in operation. There are bound to be many failures among them. Forty-nine failed or went out of business since last October.

11. With growing scarcity of foods, the use of the automobile instead of the horse should be encouraged. Every horse continued in use represents 5 acres of land and the necessary labor to produce oats, hay, and other feed diverted from the production of human foodstuffs.

12. The automobile is one of the greatest utilities we have and renders a passenger-car service exceeding that of the steam and electric railroads combined. By no stretch of imagination can it be classed with intoxicating liquors, cosmetics, and so-called nonessential luxuries. A tax on the use of automobiles is provided for in the new bill of Congressman Cox, to which I have heard no objection, so far as the plan is concerned.

13. To replace the cars that are worn out, an annual production of about 850,000 cars is necessary, the average life of an automobile being figured at approximately six years. Production thus far in 1918 was at the rate of only about 1,000,000 a year.

14. A tax on this article with any thought of arresting its production seems unwarranted; the question of how many machines should be produced is one of materials and labor, and production should be maintained on a basis consistent with those conditions. This is a matter entirely apart from taxation and is being dealt with by another arm of the Government—the War Industries Board.

15. It is unfair to compare the motor-vehicle industry of this country with that in European countries. England has only 260,000 passenger cars and imports all her gasoline, whereas in this country we have seven States each of which has more than 260,000 cars (New York leading, with 419,000), while gasoline production here is almost 7,000,000 gallons a day, according to the Bureau of Mines report.

16. It is a great economic mistake to reduce this output and disarrange organizations important to the prosecution of the war more than our own conditions as to material and labor make it absolutely necessary. The more it is restricted because of these reasons, the greater our misfortune.

17. Holding great automobile organizations for war work seems vitally important at this time, and scores of the automobile plants are now doing Government business, with many other companies asking for similar work.

The Government should add no undue burdens to this great industry; it should be maintained as fully as economic conditions will permit, in order that such a vital and large part of our community may be in position to participate in Government loans, income and other taxes, and in other ways.

It is to be regretted that the automobile industry as a whole is sometimes judged by the glittering successes of a few companies. Probably no other business presents the same mortalities during the past eight years, our lists showing 760 companies that failed or went out of business during that period. Since last October, when the new revenue bill was passed, there have been 49 companies that failed or went out of business.

The 450 manufacturers of motor vehicles, and the 825 manufacturers of motor vehicle parts and accessories, and the 52,000 motor vehicle dealers and garages, with their more than 800,000 employees, constitute an important part of our manufacturing business-labor-community. Greater loyalty to our present cause exists nowhere, and it is their earnest desire to pay any equitable tax in their power that is considered necessary for the prosecution of the war.

If it is considered necessary and wise to raise revenue by a manufacturing tax on essential articles, with which the motor car must be

classed, there will be no complaint or objection, but it would then naturally follow that the quota necessary would be so distributed over a wide variety of articles so as not to be too burdensome on any one.

With their business dwindling owing to advanced prices due to increased cost of labor and material, and of which this tax also forms a part, and with a realization, keener than others owing to their close contact with the subject, that motor vehicles are vitally essential to our national efficiency, the manufacturer ask you to now reconsider and come to an appreciation of the point that an economic error is being made in grouping motor vehicles with nonessential articles for revenue-raising purposes.

It has always been felt that a great injustice was done to the motor truck when it was included in the last war revenue bill with perfumes, sporting goods and musical instruments, and subjected to a tax of 3 per cent. There can be no argument on the statement that motor freight vehicles should be taxed only under a plan of taxing articles of use and necessity. The motor truck has so demonstrated its ability to operate not only in the trucking field, but as a long-haul substitute for inadequate railroad facilities, and for marketing farm produce, that this has become self-evident.

In its consideration of tax measures by the members of the Ways and Means Committee, it is hoped that the tax on the automobile manufacturer will not be increased to a point where it would disturb the making or use of the motor car which is now such an important factor in adding to the efficiency of the Nation, because of its ability to transport men and materials in the shortest possible time, and to the needed relief of the railroads.

Mr. DIXON. Mr. Reeves, do you think the present tax has curtailed the manufacture of automobiles?

Mr. REEVES. I think it has contributed to a slowing down of the sales, and the automobile manufacturer would have suffered were it not for the fact that he has been taking on war work in many of the plants. Some of the small manufacturers have suffered as a result of the tax.

Mr. DIXON. The tax has been passed on to the consumer?

Mr. REEVES. Practically in all cases.

Mr. DIXON. You referred to the other method of taxation, the Cox bill. You think that is a better way to adjust the tax than to have a tax on the manufactures?

Mr. REEVES. Mr. Cox's bill, of course, applies good deal heavier fees than the bill suggested last year.

Mr. DIXON. Its principal feature is the bill that was introduced in the Senate.

Mr. REEVES. Quite so, and that bill, based on the figures of last year, at rates ranging from \$5 to \$40, would raise \$50,000,000 from the cars in use, and I would not think very much of any man's patriotism who objected to paying a small tax of that kind on his automobile during war times.

Mr. DIXON. Do you know how much money the Government raised last year from the present tax?

Mr. REEVES. My understanding is that up to this time, since October, they have taken in something like \$17,000,000.

Mr. CRISP. You spoke of the tax slowing down production. Is it not true that all of the automobile companies that are putting out automobiles are behind with their deliveries? In other words, is there not a greater demand for automobiles than they can manufacture and supply?

Mr. REEVES. I think that has become true in the last two or three months as the result of the labor and materials situation. The motor car manufacturer, gentlemen, feels it is a little unfair to take an article of which 5,000,000 have been bought and are used in this country and put it in a class with perfumes and golf balls and sporting goods of that class, and tax it on that basis.

The CHAIRMAN. You do not object to the increased tax, but you want to be taken out of the classification?

Mr. REEVES. We object to the company we are in, and if we are to be taxed we would like other industries of similar importance to be taxed also.

Mr. GREEN. Permit me to call your attention to another matter. You were speaking about the motor truck being put in the same class as luxuries. I did not feel that way about it in supporting the tax that was proposed, but we put a tax on the receipts of the railroads. Now, we can not put a tax on the receipts of motorcars because that would be impracticable; and if we put the tax on in this other way it would amount to far less than a percentage of the receipts or benefits received from the trucks.

Mr. REEVES. Yes; but you did not put a tax on the making of locomotives and freight cars.

Mr. GREEN. No; but we put a tax on them that amounted to a great deal more than it would have been if we had put such a tax on locomotives and freight cars.

Mr. REEVES. But still the fact remains that it was put on automobiles in the particular section of the bill that covered cosmetics, perfumery, and golf balls.

Mr. GREEN. A rose under any other name would smell as sweet.

Mr. RAINEY. In other words, if you could get out of bad company you would not object to the tax?

Mr. REEVES. The tax is on now and I know the automobile manufacturers would feel it would be a good deal of a burden to put any more tax on them now.

Mr. RAINEY. You do not object to the tax, for instance, on the automobiles in the hands of the ultimate consumer?

Mr. REEVES. I do not think anybody objects to that.

Mr. RAINEY. You only object to taxing the automobile before it gets to him?

Mr. REEVES. Because it is a discrimination against a particular manufacturer who is in a great industry and it seems should not be classed in that way.

Mr. RAINEY. You want to be relieved but you do not want the owners of the automobiles that you make to be relieved at all?

Mr. REEVES. It does not make any difference, because whatever tax is put on the automobile manufacturer, even that 3 per cent last year, he could not have absorbed it himself because a good many of them do not make 3 per cent on their sales. That 3 per cent gross sales tax levy the automobile manufacturer is obliged to pay to the

Government, even though at the end of the year he has a deficit, whereas in the average line of business of no better standing than the automobile business he does not begin to pay taxes until he makes profits.

Mr. DICKINSON. Would they not pass that tax on to the purchaser?

Mr. REEVES. I presume they would have to do that, and they feel that that would be a discouragement in the further use and buying of automobiles.

Mr. GARNER. Do you sell automobiles?

Mr. REEVES. I am the manager of this association, which is made up of 117 companies.

Mr. GARNER. That sell automobiles?

Mr. REEVES. Yes, sir.

Mr. GARNER. Do you not know that they do add it to the price of the automobile to the consumer?

Mr. REEVES. Yes, sir.

Mr. GARNER. If they add it to the price to the consumer, how is the 3 per cent going to affect the manufacturer?

Mr. REEVES. Because every raise in price always cuts down your sales field. That is Ford's idea, just as an example, that the purchasing power of the country is in the shape of an apex, and the lower down you get the price of your commodity the more you sell.

Mr. GARNER. But the purchasing power is much greater than the power to deliver just now, is it not?

Mr. REEVES. I do not think that is true of all the companies, but it is true of some of them.

Mr. GARNER. What percentage of the automobiles of this country are used as pleasure cars?

Mr. REEVES. They produced last year 1,700,000 passenger cars and about 160,000 trucks.

Mr. GARNER. That would mean, then, something over 90 per cent of pleasure cars?

Mr. REEVES. Yes.

Mr. GARNER. You know the country is in war.

Mr. REEVES. Quite so.

Mr. GARNER. And you understand that England has stopped the manufacture of pleasure cars entirely.

Mr. REEVES. Yes, sir.

Mr. GARNER. Why do you suppose they stopped the manufacture of pleasure cars?

Mr. REEVES. Because, first of all, their capacity in that respect was very limited and they wanted those companies to make flying motors and things of that nature. In this country—

Mr. GARNER (interposing). They wanted the labor and materials that went into pleasure cars to go into this war, did they not?

Mr. REEVES. Only because that class of industry was very limited.

Mr. GARNER. Well, it makes no difference whether it was very limited or not, whatever limited quantity it was, they wanted the material and labor to go into the products used in the war rather than into pleasure automobiles.

Mr. REEVES. Quite so.

Mr. GARNER. Now, if we need labor and materials in this country, do you not think it probably would be a wise policy to adopt some

kind of method that would restrain the use of labor and material in the manufacture of pleasure cars and direct that toward the uses of the war?

Mr. REEVES. Is it not a fact that the automobile companies of this country have been taking on this war work and are asking for it now, all they can handle?

Mr. GARNER. That may be true, but which would you rather have, a pretty heavy tax on the manufacturer and owner of pleasure automobiles or have them restricted entirely?

Mr. REEVES. There is only one answer to a question of that sort, of course. There is a tax already on the automobile manufacturer which is being passed on to the owner, and we feel—

Mr. GARNER (interposing). In what way?

Mr. REEVES. This 3 per cent.

Mr. GARNER. That is a general tax that applies to everybody.

Mr. REEVES. But the automobile is taxed in every county and State and taxed as personal property, and the man who drives has to get out a license and an operator's card, and there are various other forms of license which have constituted quite a burden to the automobile business from its earliest days, and notwithstanding all those taxes the automobile, on pure merit, has made this great progress.

Mr. GARNER. I gathered from your statement that you were making an argument against any character of legislation or taxation that is going to restrict the manufacture of pleasure automobiles.

Mr. REEVES. Quite so.

Mr. GARNER. For one, I do not agree with you.

Mr. MOORE. Mr. Reeves, have you a list of the number of automobiles in the country by States?

Mr. REEVES. I have not got it with me, Mr. Moore, but I can get it very readily.

Mr. MOORE. I would like to know how many automobiles there are in the country and how many there are by States, if you can furnish the information.

Mr. REEVES. I will be very glad to do that.

Mr. MOORE. You said New York was at the head of the list, with something over 400,000.

Mr. REEVES. Four hundred and nineteen thousand.

Mr. MOORE. You are in favor of the bill introduced by Mr. Cox, of Indiana, are you not?

Mr. REEVES. We have no opposition to it, Mr. Moore, because we feel that no good patriot who is an owner of an automobile would object to paying a small tax.

Mr. MOORE. That bill proposes to transfer the tax from the manufacturer to the individual owner of the machine.

Mr. REEVES. That is a tax in addition to the present 3 per cent tax which the manufacturer is paying, and is a tax on all the cars in use and not the few cars that may be produced this coming year.

Mr. MOORE. It proposes to tax the machine direct.

Mr. REEVES. Quite so, under a Federal license plan, as I understand it.

Mr. MOORE. On a graduated basis?

Mr. REEVES. Yes, sir.

Mr. MOORE. Based on the value of the machine?

Mr. REEVES. Yes.

Mr. MOORE. The manufacturers would continue to pass the charge on to the purchaser of the machine, would they not, whether that bill went into effect or not?

Mr. REEVES. I do not think they could afford to do anything else, Mr. Moore. The margin of profit in automobile manufacture is very small per unit. Taking the gross sales of any company, their percentage of profit is small. It runs into big figures, but the percentage is small.

Mr. MOORE. In answer to Mr. Garner, you have indicated that the manufacturer does actually pass the tax on to the purchaser of the machine now, and that practice probably would be continued, no matter what we did, so far as the manufacturer's responsibility goes?

Mr. REEVES. Quite so.

Mr. MOORE. Did you hear the testimony of Prof. Sprague, of Harvard University, who was here day before yesterday?

Mr. REEVES. No, sir; I did not.

Mr. MOORE. He referred to automobiles as being instruments of pleasure very largely, just as Mr. Garner has in the question propounded to you; and he suggested that the mechanics should be taken out of the automobile industry and put into war-munitions industries and shipbuilding and aeroplane manufacture and wherever skilled mechanics are necessary. What have you to say as to that?

Mr. REEVES. All I can say as to that, Mr. Moore, is that for seven or eight weeks during the winter I went around the country lecturing for that particular purpose for the Signal Corps, and I think Col. Deeds will tell you that they have got in the Signal Corps on the other side some 7,000 American mechanics, and that we have asked every one of the garages and dealers around the country, which number 50,000 or more, to spare from one to three men to go into the service, and they are turning them in very, very fast.

Mr. MOORE. They come out of the garages. How does that affect the manufacturer?

Mr. REEVES. They come out of the factories as well.

Mr. MOORE. Any man who can put up an automobile, build it or take it apart, is necessarily skilled in his occupation.

Mr. REEVES. A very large part of the labor on automobiles is machine labor run by a lathe hand in the plant, and the men they wanted in this service were men who were in the habit of giving service; that is to say, taking care of cars in the garages, and therefore the work was done not alone among the manufacturers, but among the dealers and garages.

Mr. MOORE. The argument seemed to have been that by retaining those skilled mechanics in the automobile industry they were withdrawn from essential war work, where they might aid the Government in the construction of aeroplanes, ships, and the like.

Mr. REEVES. A large part of those men, Mr. Moore, are now in the automobile plants turning out war work, of which the automobile manufacturers have taken on more than \$600,000,000 worth.

Mr. MOORE. But they are turning out automobiles.

Mr. REEVES. Partially automobiles and partially war work.

Mr. MOORE. How does the wage scale stand now, relatively, as between the automobile factory, where these skilled men are employed, and the munitions plant, where similar mechanics are employed?

Mr. REEVES. I do not think I could answer that question.

Mr. MOORE. Do you know whether the Government is paying more than the automobile plants pay for the same kind of work?

Mr. REEVES. I could not say.

Mr. HAWLEY. What percentage of the work done in automobile factories is done on Government contracts and what percentage on producing automobiles?

Mr. REEVES. I think it varies a good deal. I should say in some of the plants, like Chandler, Pierce, and Packard, and some of the makers of high-priced cars that have taken on Liberty motors and trucks, that it is 50-50, and that in the case of some of the smaller or lower-priced cars, with the demand for cars of that utilitarian type, the average might not be quite so big. The general production of passenger cars during the past six months is off between 33 and 40 per cent.

The CHAIRMAN. Mr. Reeves, I remember the Packard representative told me, when we were considering the last revenue bill, that it would be impossible for them to increase the price of their cars at all in order to absorb this 3 per cent tax; that they would have to lose it themselves; that it would be hard to pass it on to the consumer, because the price of the machine was so high that it had reached the limit, and if they charged any more the sales would fall off, and that they could not afford to let that happen and would perhaps have to lose it themselves. Since that bill passed levying a tax on automobiles, they have increased the price of the Packard to the consumer.

Mr. REEVES. I think the Packard and all other cars have increased in price, Mr. Kitchin.

The CHAIRMAN. Something like \$1,000 in the case of the Packard, is it not?

Mr. REEVES. I would not be surprised.

The CHAIRMAN. And the tax at that time was only a 3 per cent tax, or about \$75, or something like that, was it not?

Mr. REEVES. Three per cent on about \$3,500.

Mr. KITCHIN. And in order to take care of that \$75 they proceeded to increase their price \$750 or \$1,000, when they told us they could not increase it at all if there was a tax.

Mr. REEVES. I think, Mr. Kitchin, if you will refer to the brief we filed at that time you will find it very specifically stated that we did not feel the manufacturer, with the narrow margin of profit he had, could afford to absorb this tax himself, although some of the big makers might undertake to do it; but so far as the tax itself is concerned, it is passed on to the consumer now as a tax.

The CHAIRMAN. Do you not take the position that if you increased the price to the consumer the sales would fall down?

Mr. REEVES. I think that would be so.

The CHAIRMAN. But you did increase the price of automobiles like the Cadillac, the Buick, the Packard, and all these other cars, not only the amount of the tax but from five to ten times the amount of the tax?

Mr. REEVES. As a result of the increased cost of labor and materials. I think that is true.

The CHAIRMAN. I understand that, but if you can increase your price to the consumer to take care of the increased cost of labor and the increased cost of material, it is just as easy to increase your price to the consumer to take care of the increased tax cost.



Mr. REEVES. They have been obliged to do that, and the question is how far they can go.

The CHAIRMAN. I know they did that, and we are not blaming them, and we intended for them to do that.

Mr. REEVES. The fact remains that they will not sell half as many automobiles as was contemplated to be made when that tax was suggested.

The CHAIRMAN. Have not the Packard, the Cadillac, the Hudson and the general run of the large companies turned out, whether for the public or for the Government, a great deal more product than they did before the tax was levied?

Mr. REEVES. The production is off substantially in all but a very few companies, Mr. Kitchin. The Packard production is off, and also the Pierce Co., the Hudson Co., that you mentioned, and the Chalmers Co. They are all down. We have all the figures and I would be very glad to show them to you.

The CHAIRMAN. I would like to have those figures. The production, you say, is down, and the cost is up?

Mr. REEVES. Yes, sir.

The CHAIRMAN. So they really make about as much profit with the increased price they are charging as they did when the production was normal?

Mr. REEVES. I do not think they will make anywhere near the same profit.

The CHAIRMAN. Well, take the Packard, for instance, including the work they are doing for the Government, are they not turning out more product than they did before October 3, 1917?

Mr. REEVES. I think the Packard is an exception.

The CHAIRMAN. Then take the Hudson.

Mr. REEVES. No, sir. The Hudson Co. is very much off on their production of cars. I did not mention the Studebaker. They are off 40 per cent below their previous production.

The CHAIRMAN. But you say that the Studebaker is making aeroplane motors?

Mr. REEVES. Yes, sir; Liberty motors.

The CHAIRMAN. There is no tax on that, is there?

Mr. REEVES. No, sir.

The CHAIRMAN. I notice that in March they collected an automobile tax, this little 3 per cent tax, on the manufacturers' cost, the manufacturers' selling price, not the retail—they collected \$2,589,000, and they estimated that for the year 1919 they will collect on that little 3 per cent tax \$32,000,000. We estimated, and the experts worked it out, \$4,000,000 when it was 5 per cent, and that was on the basis of the number being manufactured then 1916. According to this, doesn't it look like there had been a great deal increase in the production of automobiles?

Mr. REEVES. No; because, Mr. Kitchin, the production in the early part of last year was running in excess of a billion dollars, and so far as the tax on the wholesale price is concerned, I am sorry to say that the revenue department here has ruled that the 3 per cent shall apply on the retail price of the car. That has resulted in putting the branches at a disadvantage with the dealers.

Mr. RAINEY. What was it you said about the Studebakers?

Mr. REEVES. I think the Studebaker is off 40 per cent. It has done little during the last three or four months.

Mr. RAINEY. Having trouble in disposing of their cars?

Mr. REEVES. The last year.

Mr. RAINEY. I had a conversation with the Studebaker agent for the District of Columbia within the last hour, and he told me that the price of a 1919, seven-passenger, six-cylinder Studebaker was now \$2,100, and the price for the same machine last year was \$1,100, and he told me that he could not get enough machines to supply the demand, but could sell many times more than they were willing to deliver to Washington.

Mr. REEVES. Well, he didn't tell you that the car which he is selling for \$2,100 is a brand new model, and has no relation to the one selling last year for \$1,100. The cars they had last year were ones that they had difficulty in selling, and they have started in with a new model.

Mr. RAINEY. They may have changed their model, but the statement shows that there is a tremendous demand for the 1919 Studebaker car.

Mr. REEVES. I think that is true.

Mr. RAINEY. It can not be supplied though it is \$1,000 more.

Mr. REEVES. I do not think you ought to take the city of Washington, or the District of Columbia, as an example, because the conditions are different.

The CHAIRMAN. Of course, you sell more cars here than in any other city in the world in proportion to the population. A lot of those fellows that wear these bars, leaves, and eagles up here are buying new cars. I never saw so many in my life.

Mr. REEVES. You can't get along in Washington without one.

The CHAIRMAN. The lieutenant colonels are buying them at a pretty rapid rate, and that makes the sales larger here than elsewhere, and I do not blame them. If I had nothing else to do than what they are doing, I would buy a new car. I am not criticizing them. I think they are doing right.

Mr. REEVES. If you took your motor cars out of the city of Washington, your street car lines would break down.

The CHAIRMAN. I am congratulating you gentlemen on selling them, and these people on buying, as the Government is getting the little tax.

Mr. REEVES. They are going to continue to buy them.

Mr. GREEN. Who is making all these motor trucks? Down at Newport News the other day I was told that very many are coming in and being shipped out very rapidly.

Mr. REEVES. It is said that the Army needs 50,000 motor trucks for every million of men on the other side. These standard trucks are being made in different plants in different parts of the country, one part in one plant and another part in another plant, and they are assembled, and a man is paid so much for assembling. I think the price is \$550 for this assemblage of a 5-ton truck.

Mr. GREEN. Isn't this enormous demand for Government work more than making up for the loss in the sales of pleasure cars.

Mr. REEVES. I think it is with a great many of those big concerns that have the equipment to take on that kind of work, but you must bear in mind that most all the motor car companies in the business do what they call an assembling business; that is, they buy their axles, motors, bodies, and other things from specialists.

Mr. GREEN. That is the way these Government trucks are put together.

Mr. REEVES. Yes; but the passenger car manufacturers are not being given any of the truck business; none of them.

Mr. GREEN. What concerns do make these trucks for the Government, do you know?

Mr. REEVES. Truck concerns.

Mr. FAIRCHILD. Don't the Packard Co. make trucks?

Mr. REEVES. They make one of those, and I believe they are making some of those assembled trucks. I think there are about 500 concerns, like the Sterling, Service, Gramm, the Rochester concern, Selden—concerns like that—and Kissel out in Wisconsin, which have orders for trucks.

Mr. O'SHAUNESSY. What is the life of one of those trucks?

Mr. REEVES. It is a difficult thing to say, depending on their service.

Mr. O'SHAUNESSY. I was interested in your statement this afternoon that there are 50,000 required for every million men.

Mr. REEVES. That is the statement made by some of the Army officers. You must bear in mind, gentlemen, that the truck business, which is to take the place of the passenger-car business to some extent, has up to this time a very small part of the productive capacity of the plants. The passenger cars will always do a bigger business because more individuals want to use cars. The truck business will never be as big as the passenger-car business.

The CHAIRMAN. What, or who, is the General Motors Co.?

Mr. REEVES. It is a corporation in New York that owns five or six of the very big companies—the Cadillac, Buick, Oldsmobile, Oakland, and the General Motors Truck Co., and two or three parts and accessories companies. The General Motors Co. made 85 per cent of the passenger cars made last year.

Mr. LONGWORTH. I notice in your written statement, which you read, in two places you use the expression that this tax was a burden. In one case you call it a burden on the industry, and in another case you referred to the additional expenses of manufacture of which this is a part, this tax is a part, but you have said in answer to a number of questions that this tax has invariably been passed on. How do you reconcile those two statements?

Mr. REEVES. The tax puts up increased sales resistance and puts more work on the seller.

Mr. LONGWORTH. But you use the word "expense," "additional expenses," of which this tax is a part. Now, you have asserted, in answer to questions, that that is passed on.

Mr. REEVES. It is part of the cost.

Mr. LONGWORTH. How is it if somebody else pays it?

Mr. REEVES. It is the amount you have to get out.

Mr. LONGWORTH. It is not an expense of manufacture. How can a tax that you pass to a consumer be an expense of manufacturing?

Mr. REEVES. You might say, then, that the insurance fees that you pay on your factory is not an expense, but it has to be included in the cost.

Mr. LONGWORTH. You pay those.

Mr. REEVES. But you pass it on and make it a part of the selling price, plus the percentage which you are entitled to.

Mr. LONGWORTH. I do not follow your reasoning. I will recall to you what you said before the Senate Finance Committee last year:

The 5 per cent tax can not generally be passed with any success to the consumer, because of the impossibility of advancing prices on a falling market. If attempted—and some may attempt it—it will decrease demand, and, of course, the volume of business on which profits depend.

Now, wasn't there a falling market at the time when you said that?

Mr. REEVES. I think the market had fallen. The proof is that they have not sold the number of cars.

Mr. LONGWORTH. But the prices received are higher.

Mr. REEVES. That is so.

Mr. LONGWORTH. Do you call that a falling market?

Mr. REEVES. A falling market is when there is a falling off in the demand for the product.

Mr. LONGWORTH. You said it would be difficult to pass the tax on and said somebody might attempt it. Didn't everybody attempt it?

Mr. REEVES. Yes, sir.

Mr. LONGWORTH. Now, don't you on all deals for automobiles put in the war tax as a part of the expense?

Mr. REEVES. Yes, sir.

Mr. LONGWORTH. So that you do not contend for a moment that this tax is an expense?

Mr. REEVES. We do contend that it is to be gotten from the consumer.

Mr. LONGWORTH. Precisely.

Mr. REEVES. And it doesn't make any difference if it is put in there as a separate item or put in there as a part of the expense of the cost. In simple articles, like tooth powder, they just put it in the price of the article, and raise it 2 or 3 cents, more than the amount of the tax paid, but here is an article of big unit, which is more like a man buys a home. It costs more, and he looks a long time at the price before he pays it.

Mr. LONGWORTH. Why did you a year ago say it would be practically impossible to pass this tax on to the consumer?

Mr. REEVES. That was the whole atmosphere at that time. The motor-car business had gone out very much, sales had fallen off, and there was a fear that you could not sell to the productive capacities of the various plants, and if the Studebaker Co. now was not engaged in war work their prices for automobiles would be much higher.

Mr. LONGWORTH. Isn't it a fact, that while this bill was being considered in Congress that the automobile prices were raised?

Mr. REEVES. I do not recall, but that is not improbable.

Mr. LONGWORTH. That is what you call a falling market?

Mr. REEVES. But they were not selling cars.

Mr. LONGWORTH. Prices had gone up on a number of standard cars 20 and more per cent at the time that you said you could not pass on 5 per cent on a falling market.

Mr. REEVES. Isn't it a fact in the case of the Packard that they had brought—

Mr. LONGWORTH (interposing). I have a number in mind.

Mr. REEVES (continuing). Brought out a car at a low price, and found that the cost was such that they had to increase it?

Mr. LONGWORTH. That is what you call a falling market, that could not absorb a 5 per cent increase?

Mr. REEVES. The falling market and the price of cars are two things.

Mr. LONGWORTH. I may be wrong, but I think the price has something to do with it.

Mr. REEVES. On a falling market, instead of being able to market 2,000 cars, I can only market 1,000 cars. I must have higher prices to offset the losses on selling a less number of cars.

Mr. LONGWORTH. Where you raise the price, do you call that a falling market?

Mr. REEVES. That does not necessarily follow. You might raise the price on a rising market.

Mr. LONGWORTH. Let me ask you another question: We are getting very impatient with gentlemen who come here and say that these taxes are taxes and expenses on their business, taxes on gross receipts. It has been the invariable rule that they have passed them on without a single exception, so we do not take very much stock in that sort of argument; I will be frank with you on that. Let me ask you another question. I suppose it is true, as I have heard stated—I do not know of my own knowledge—but I suppose it is true that 60 per cent of the steel which is absolutely necessary in the manufacture of war munitions is used in the manufacture of pleasure automobiles. Don't you think that the product should be cut down to some extent?

Mr. REEVES. I think that in a case of that sort the Government should take what steel is needed without question. If there is any left over, let them have it for automobiles.

Mr. LONGWORTH. In answer to Mr. Garner you said it was inadvisable to curtail the production of pleasure automobiles. If they are taking 60 per cent of a war necessity, don't you think it would be advisable to do that?

Mr. REEVES. I do not think there would be any question about that. It would be very bad to cut down the number of passenger cars, but if the Government needs the steel they should take it.

Mr. LONGWORTH. I think you said specifically to Mr. Garner we ought not under any circumstances to cut it down.

Mr. REEVES. I did not say under any circumstances.

Mr. LONGWORTH. I observe that you gave a list of things necessary in the manufacture of automobiles, which have very largely increased in price. I presume they have increased very much more in price. Among them aluminum castings which has increased 50 per cent, leather which has increased 30 per cent, steel which has increased 400 per cent. Now tungsten steel is an absolute necessity in the manufacture of aeroplane motors, isn't it? Therefore if there is a demand continuous and rising for pleasure automobiles, don't you think it would diminish the available supply and increase the cost to the Government of a war necessity?

Mr. REEVES. I think the spirit was when we were over to the War Industries Board, not long ago, that the War Industries Board should indicate their needs for steel. They said they would be obliged to take great quantities of it, and the attitude of the manufacturers was that you should take all the steel you need, and if there was any left over we may be able to get it, and if there is not we won't.

Mr. DICKINSON. What proportion of the automobiles manufactured are pleasure cars?

Mr. REEVES. I think the gentlemen figured out about 90 per cent of the motor vehicles made in the country are passenger vehicles, and about 10 per cent are trucks. I think this year that will vary some. I think the number of trucks will run up.

Mr. DICKINSON. Ten per cent of the cars are what you call pleasure cars?

Mr. REEVES. No; 90 per cent.

Mr. DICKINSON. That is what I thought; and then I thought you said the other way. Now, you have about 800,000 men engaged in this industry.

Mr. REEVES. In all angles of the industry; yes, sir.

Mr. DICKINSON. Now, if the number of pleasure cars manufactured were stopped in a measure, couldn't a fair per cent of these men be released for the purpose of war machines, aeroplanes, and things of that kind?

Mr. REEVES. No question about it; and they are working on that now.

Mr. DICKINSON. They are all engaged in the construction and manufacture of 90 per cent pleasure cars that are purely pleasure cars.

Mr. REEVES. We call them passenger cars.

Mr. DICKINSON. Well, passenger cars, partly used for pleasure and partly for business.

Mr. REEVES. Many for utility.

Mr. DICKINSON. When you say pleasure cars you mean passenger cars?

Mr. REEVES. Yes, sir. Any other questions, Mr. Chairman?

Mr. O'SHAUNESSY. Prof. Sprague, the other day, submitted an idea to tax employers \$10 a month for chauffeurs that they employ. Are there any statistics or figures upon the number of chauffeurs employed?

Mr. REEVES. They are registered in every city in the country.

Mr. O'SHAUNESSY. Could you furnish that to the committee?

Mr. REEVES. I would be very glad to.

Mr. O'SHAUNESSY. That is, he suggested from \$10 to \$50 a month.

Mr. REEVES. That is more than some of them get.

Mr. SLOAN. You spoke about trucks and pleasure cars, pleasure cars being 90 per cent. Would you want to divide them into passenger cars that are simply utility cars and then the other cars that may be more properly called pleasure cars?

Mr. REEVES. You can see that this blue print shows that of the passenger cars investigated in Livingston County 73½ per cent were used by the farmers as a necessary part of the equipment of their farms. Such motor cars are bound to be used for a certain amount of pleasure. That is bound to be. But all of these cars that you see in the city of Washington are registered as pleasure cars or passenger cars, yet everyone is on a useful errand. Nobody rides on the street cars if he can help it.

Mr. SLOAN. "Pleasure" as used there is not a scientific term.

Mr. REEVES. It is a wrong term, and it does an injustice to the great industry. In this country there are 2,340,000 cars which sold for less than \$500; 556,000 which sold from \$500 to \$750; and 956,000 cars which sold between \$750 and \$1,000; 3,700,000 are in use which sold for less than \$1,000, but we are judged unfortunately by the Packard and such cars which catch the eye as they go by.

We forget that Henry Ford made 781,000 last year, half of the automobiles registered in this country, and as Senator Simmons says, "Nobody ever rides in a Ford for pleasure." Above \$3,000 there are only 69,000 cars, and a very small percentage of the cars in the country are above \$1,000.

Mr. SLOAN. I think that answers my question.

Mr. REEVES. We ought to keep in mind in connection with this passenger-car business that in the last five years the buggy business of the country fell from 1,250,000 horse-drawn buggies until it is now less than 250,000, and the buggy's place has been taken by the motor car, and we forget many times that the motor car serves its most useful purpose not in the city, where they have trolley cars but in the country, where time should be conserved. The greatest increase in the registration of motor cars last year was in the State of Florida, and the year before was in Oklahoma, where it had increased by 119 per cent; and the big increases in States—which figures I will be glad to give you—are in the States of North and South Carolina, Georgia, Arkansas, where the farmer has been getting a sufficient amount of money to enable him to make use of the motor car.

Mr. MOORE. What State shows the largest percentage of use per capita?

Mr. REEVES. Iowa.

Mr. MOORE. What percentage?

Mr. REEVES. One car for every six.

Mr. MOORE. Mr. Reeves, if we had to depend on the street cars in the city of Washington just now to get employees back and forth to their work the war work would be extremely impeded, would it not?

Mr. REEVES. I think so.

Mr. MOORE. You have studied the situation. What would be the effect of closing down on the automobiles in the city of Washington?

Mr. REEVES. I think it would break down your street car system entirely.

Mr. MOORE. Have you looked into it sufficiently to know that you can defend that statement?

Mr. REEVES. I think I can show the number of cars used every day and the additional passengers that the street cars would have to haul if we discontinued the use of motor cars.

Mr. MOORE. The cars are undoubtedly very crowded during the work hour.

Mr. REEVES. And the peak is where the automobile could take care of it. The jitneys are used at the peak hours.

Mr. MOORE. The peak in the morning is about 9 o'clock?

Mr. REEVES. From 8.30 until 9.30, and in the middle of the day they are very crowded, and in the afternoon.

Mr. MOORE. Do you know how many cars are in use in the District of Columbia—how many registered?

Mr. REEVES. I haven't the exact figures. I am convinced that what they ought to have in Washington on the streets are bus lines during this war period, at any rate, to enable people to get around the city.

Thank you very much, gentlemen.

Mr. MOORE. If Members of Congress had to depend on the street cars here, they would not get through with their business.

**STATEMENT OF HON. WILLIAM E. COX, A REPRESENTATIVE  
IN CONGRESS FROM INDIANA.**

Mr. Cox. Mr. Chairman and gentlemen of the committee, to myself it seems presumptuous that I should appear before a committee which all its life has been developed along economic lines. Some of you are members of this committee to-day that were members of the committee when the Payne-Aldrich bill was passed. The vast majority who are members of the committee were members of the committee when the so-called Underwood bill was passed. So you have all had vast and varied experience on the question of taxation.

I do not come before you, gentlemen, with any panacea whatever. I have no cure-all for the aches and ills of the Government, but in casting about for some subject to be taxed, it has struck me very forcibly that the automobile industry itself is a thing that should bear considerable of a burden of taxation. I have no enmity against the automobile whatever. I own myself a little Dodge machine from which my wife and little girl get a tremendous amount of pleasure. But I know, gentlemen, there are two things in this country outside of the income tax and the excess-profits tax which in my opinion could bear a tax better than the automobile itself can bear. I recognize, and I think every member of this committee recognizes, that the automobile is both a necessity and a luxury. If I am willing or if I persist in enjoying the luxuries of life when this world-wide war is on, I feel that I ought to be compelled to pay the bill.

I was very much struck with what I saw in a paper recently that a gentleman from Massachusetts proposed to put a tax on gasoline. I will discuss that. I notice here a flat tax on automobiles, and I want to say to each member of the committee that I do not think that there is a single idea in the bill that is mine. It is a Senate proposition, as I understand, introduced in the Senate last year, which the conferees between the two bodies failed to agree upon. The principles set out in the bill are substantially the Senate proposition. From my investigation in the Internal Revenue Department, I do not think that it is practicable. I doubt very much whether or not it could be administered. So I am going to discuss in the brief time allotted to me the principle of taxing automobiles on a different basis entirely.

I asked Mr. Roper to prepare some data for me, and on his behalf I have to state to the committee that the data that I have from him is not authentic—that is, that it is not absolutely accurate. It is as authentic and accurate as he could give it under present conditions.

Now, with your permission, I will read a part of his letter and at this point I will insert the whole of it in my statement, with your permission.

(The statement is as follows.)

Complying with your instructions, I have endeavored to determine the number of passenger automobiles and motorcycles in use in the United States for the purpose of estimating the tax that would be collected under H. R. 12310, introduced by Representative Cox.

I have called upon the various automobile agencies in the city, including the American Automobile Association and the National Automobile Chamber of Commerce, and I find there is no accurate data available upon which to estimate the tax proposed under the above bill. In order to make an accurate estimate it would be



necessary to determine the number of cars of each make in use and the average cost. I find that such data has never been compiled and is not available. Even with such information, it would be hard to make an estimate based upon the retail selling price of the different makes for the reason that prices available are as of December 1, 1917, and owing to unusual conditions created by the war, all prices have been subject to numerous advances.

However, a rough estimate is made based upon statements and data furnished by the American Automobile Association and the National Automobile Chamber of Commerce.

Statistics compiled by the automobile industries show that there were approximately 4,000,000 passenger automobiles and 280,000 motorcycles in use in the United States on January 1, 1918.

It is shown that cars are divided into six classes according to retail prices, and upon that basis a rough estimate of the proposed tax is shown as follows:

280,000 motorcycles, at average tax of \$5.....	\$1,400,000
1,200,000 passenger cars, not over \$500, at average tax of \$10.....	12,000,000
800,000 passenger cars, between \$500 and \$750, at average tax of \$20..	16,000,000
800,000 passenger cars, between \$750 and \$1,000, at average tax of \$30.	16,000,000
600,000 passenger cars, between \$1,000 and \$2,000, at average tax of \$60.	36,000,000
400,000 passenger cars, between \$2,000 and \$3,000, at average tax of \$100.....	40,000,000
200,000 passenger cars, over \$3,000, at average tax of \$175.....	35,000,000
<hr/>	
4,280,000	156,400,000

The above estimate is based upon cars in use on January 1, 1918. Of course, there will be a considerable increase in the cars in use by July 1, 1918, even after allowing for the cars which have gone out of use since the first of the year. It will be noted that the greatest number of cars, or about 70 per cent, come within the class below \$1,000, which seems to agree very well with all available data. The higher priced cars are divided into three classes, as follows: Fifteen per cent between \$1,000 and \$2,000, 10 per cent between \$2,000 and \$3,000, and 5 per cent between \$3,000 and \$5,000.

It would seem, in accordance with your suggestion, that a more staple basis for computing the tax would be to use for a basis the horsepower of a car, rather than the retail selling price. It is shown by available data that the average horsepower of a car is 25 horsepower. It has been suggested by you that a tax of 60 cents per horsepower be levied up to and including 25 horsepower, \$1.20 per horsepower up to and including 30 horsepower, and \$2.40 per horsepower for each horsepower over 30 horsepower. The tax estimated on this basis would be as follows:

280,000 motorcycles, average tax \$5.....	\$1,400,000
2,000,000 cars, 25 horsepower, average tax \$15.....	30,000,000
1,200,000 cars, 25 to 30 horsepower, average tax \$36.....	43,200,000
800,000 cars, over 30 horsepower, average tax \$96.....	76,800,000
<hr/>	
4,280,000 Total.....	151,400,000

You have also suggested that the tax be based upon a flat rate of 50 or 60 cents per horsepower. Using the average rate of 25 horsepower for the total number of cars in use the tax would be estimated as follows, not including motorcycles: 25 horsepower, at 50 cents, makes an average tax of \$12.50; 25 horsepower, at 60 cents, makes an average tax of \$15; 4,000,000 cars, average tax, \$12.50, \$50,000,000; 4,000,000 cars, average tax \$15, \$60,000,000.

The data available also shows that the percentage of cars in use is governed by horsepower, as shown below: 50 per cent under 23 horsepower, 20 per cent between 23 and 28 horsepower, 15 per cent between 28 and 33 horsepower, 10 per cent between 33 and 40 horsepower, 5 per cent over 40 horsepower.

Taking all the information at hand, it is hard to arrive at a fair equitable and staple basis upon which to base this tax. The prices of cars have been subject to so many changes in the past few years that it will be hard to make the tax anywhere near uniform. While the horsepower basis would be staple and uniform, it must be understood that in the case of a great many makes of cars the horsepower is low and the price is high, and vice versa. However, in general the price of a car increases with the horsepower, except in cases where the cars are equipped with limousine sedan, landaulet, coupé, coupelet, and special bodies.

I want to state that the bill which I have introduced undertook to put a tax upon the automobile based upon its retail price.

I asked Mr. Roper to figure on a horsepower basis, and he informs me, and I think that is true on reflection, that most of the States impose a tax upon automobiles based upon horsepower, and not upon the selling price of the machine.

The CHAIRMAN. That is a graduated tax?

Mr. Cox. Yes. Then I asked him to figure out for me a 50-cent tax on each horsepower without any graduation about it. He estimates on 4,000,000 cars at \$12.50 per car \$50,000,000, and on 4,000,000 cars on a 60-cent flat basis \$60,000,000. So there is not much difference between imposing a tax upon the selling price of the car as outlined in my bill and the tax based upon the horsepower, a difference of only about \$5,000,000. But I want to repeat, in my opinion, after talking with Mr. Roper, the question of administration comes in, and I think it would be very difficult to administer it on a flat tax rate.

Now, gentlemen, I am almost willing to take the position that there are too many cars in this country, entirely so. I had the Bureau of Mines furnish data on the question of gasoline, and the Trades Commission, and I am not going to say that we are fast approaching a shortage in gasoline, but we are driving into it with breakneck speed. I think the committee is aware of the fact that we are short on leather and that all the steel is going to the Army. Now, I do not know that this would be a popular tax, but I do not know that this committee cares whether it would be or not. I take the position, gentlemen, that a man who wants to have an automobile in times of war ought to pay for it and never whimper while he is doing it. I go up and down the Avenue here, and you see hundreds of automobiles parked in front of hotels and the various war industries, charging from \$2 to \$3 an hour. Every one of those men, in my opinion, ought to be in the war or producing something that would support the war.

Now, if they persist in running their automobiles, either as a taxicab or otherwise, let them pay the bill. In my opinion, the tax ought to be framed up along this line, that if a man wants to run his automobile for pleasure, let him pay the tax, but if a man don't want to pay the tax and is willing to garage his machine during the war, let him do that. So my idea would be to frame up a bill along the lines that every passenger car that is run and operated for pleasure should have a Government tax upon it, or its owner or operator should have a Government receipt in his pocket showing that he has paid for the pleasure ride.

The CHAIRMAN. How much does your little Dodge pay?

Mr. Cox. It is 32 horsepower, and I think it pays about \$18 or \$20.

The CHAIRMAN. How much does the Longworth Packard pay?

Mr. Cox. I do not know what horsepower it is.

Mr. LONGWORTH. It isn't that much, I think.

Mr. DICKINSON. You are speaking about gasoline. The more car used the more gasoline is used.

Mr. Cox. Absolutely true.

Mr. DICKINSON. Now, referring to the tax that we were discussing, would you tax a car or the use of the car, or both.

Mr. Cox. Very likely tax both. It would be results that I would be after.

Mr. DICKINSON. Well, now, when you speak about the extent this gasoline is used, what about a tax on gasoline?

Mr. Cox. I incidentally touched upon that a moment ago, Judge. What I saw in the paper was that the gentleman from Massachusetts thought we ought to tax gasoline 25 cents. I think we ought to have two considerations in mind when levying a tax. We should levy it primarily for the purpose of raising a revenue. That is the first and foremost consideration with the committee. But if in the raising of revenue at the same time we can bring about economy in the way of conserving these resources, we ought to do it, in order to save war material. A tax on the use of the automobile would bring an economy and at the same time help conserve the resources of this country in the way of gasoline, crude oil, etc., and I would rather raise it that way than under the man's proposition from Massachusetts, for two or three reasons. In the first place, I think a graduated tax on the horsepower of an automobile would bring in more revenue into the Treasury of the United States, and I think ultimately such a tax would bring about economy in the use of these natural resources. While the other proposition, putting a tax directly on gasoline, I doubt very much whether that would bring very much revenue, especially if the tax is very high. I would gladly and willingly support it.

Mr. DICKINSON. You speak about pleasure cars. To the extent that the cars were used for business, that would be a tax on business.

Mr. Cox. But if I had the writing of the bill, gentlemen, I would not give any man any loophole on this case at all. If a doctor owned a pleasure car that he could take the family out riding in, I would not let him escape by saying that it is a business car and not a pleasure car. I would put the tax right on him.

Mr. MOORE. You wouldn't curtail the manufacture of cars?

Mr. Cox. That is what I am driving at. No; I would not for more reasons than one.

Mr. MOORE. That is what the gentleman from Massachusetts suggested.

Mr. Cox. I would not. I would let the manufacturers make automobiles as much as they could under present conditions in order to keep those men employed until the time comes that the man thus engaged in making automobiles could be shifted to various points and places for the manufacture of war materials. We will have to come to that, but until we get to that point, let the men in these organizations work right along, and then I would let the man who wanted to buy a machine buy it if he wants it, if he will pay the tax on it.

Mr. MOORE. If we should put a tax on a machine, so as to practically put it out of business and stop manufacture, then we would be killing the goose that laid the golden egg.

Mr. Cox. I can not conceive of any man, even owning a Ford, refusing to run his machine, and I can't conceive of any man owning a machine costing from \$3,000 to \$5,000 refusing to pay the tax, even if it is \$150 to \$175.

Mr. DIXON. Would you repeal the manufacturers' tax?

Mr. Cox. There is one thing, I would not increase the tax on the manufacturer.

Now, I don't know, here's an idea that occurred to me. It is crude, it is not developed in my mind at all, but now supposing there is legislation passed here to tax the manufacturer, but sup-

posing the committee should report a bill to impose a tax on automobiles that are sold after the bill becomes a law. Now, of course, if that tax is put on the manufacturer, he is going to shift it onto the consumer. There is no use of denying that. It is foolish to try to convince an intelligent man that that is not true, but here comes a man who buys a machine and the bill becomes a law, and there is a tax on it which he is compelled to pay. But many machines were bought a month before the bill becomes a law. It looks to me like the way around that could be avoided by providing a separate tax on all the machines that are now in use or will be bought and put in use between now and the date of this law going into effect, along some of these lines that I have discussed. Let it apply to all machines. I think it would be constitutional, perfectly legal. You would collect revenue on machines already bought, then for another class of machines that were sold after the bill becomes a law, you could levy a tax on the machine or the manufacturer.

Mr. OLDFIELD. You would favor a tax based on horsepower. Have you considered particularly applying it to owners of machines of different horsepower, five or six years ago?

Mr. COX. No, I have not; but, in my opinion, in the framing up of a bill, it could probably be framed in such a way that it would take care of that horsepower through the depreciation of the machine, so many per cent per year.

Mr. OLDFIELD. Have you figured out in your own mind how you would differentiate whether a car is used for pleasure or business? We all agree that many cars are used jointly for business and pleasure, and I should like to know if you have figured out any way in which that use can be differentiated.

Mr. COX. My little car is sometimes used as a pleasure car and sometimes as a business car.

Mr. MOORE. Your bill does not propose to differentiate. It proposes levying a tax on the car wherever found of any kind?

Mr. COX. But I am getting away from the bill which I introduced because, as I said, the Internal Revenue Department says it was not capable of being administered.

Mr. MOORE. This is the first word, first real suggestion we have had as to how we might increase the revenue, and I would not care to see you go until you tell us how you would put it into effect.

Mr. COX. My ideas are crude. If I tried to tell you how to differentiate between pleasure and business cars, I should be getting into deep water. My little car is most all the time used for pleasure, part of the time for business. When it runs out to our farm, it goes on a business proposition.

Mr. OLDFIELD. I was interested in your argument. I understood you to say that you would tax cars whether for business or pleasure.

Mr. COX. Absolutely.

The CHAIRMAN. You have, no doubt, read the President's message, and read his views in regard to a special tax on luxuries. You have suggested that these automobiles are luxuries.

Mr. COX. They are necessities and luxuries, Mr. Chairman.

The CHAIRMAN. The idea was that there would be restriction. Instead of putting a reasonable tax on luxuries so as to raise a reasonable amount of revenue, the price would go high and they

would not buy, say for instance, a new automobile, and they would have that money. The tax would cause restrictions on the articles, and they would have that much more money to put into bonds, and thrift stamps. Didn't you catch that as the President's idea on taxing luxuries?

Mr. COX. Surely, I did.

The CHAIRMAN. If you remove the tax from the manufacture of automobiles, don't you induce people to take their money and buy automobiles, but if you put a tax on automobiles and other luxuries, and on the fellow that has already gotten his, don't you necessarily compel him to take his money out of his pocket and spend his money in keeping it up, when he could put it in thrift stamps, whereas if you put it on the manufactured article, say a tax of \$250 on a Cadillac, the fellow before he bought that would say, "I will have to pay \$250 more on this," and he decides whether to risk it or not. He considers whether he is willing to pay this extra \$250, and may decide that it is more than it is worth, as he would have to pay \$3,000 or \$3,100 besides, and he might put that \$3,100 into liberty bonds and help the Government. Don't you think that it was the President's idea that the war tax should be on the manufacturer of luxuries before the fellow gets it so as to keep him from getting it?

Mr. COX. If we are able to draw a clear line of distinction between what are luxuries on the one hand and necessities on the other, I would answer yes. I do not classify the automobile as a luxury at all. It is both a luxury and a necessity.

The CHAIRMAN. I thought you put it in the luxury class?

Mr. COX. A luxury and a necessity.

The CHAIRMAN. To anybody who had money to drive an automobile, it would be a luxury.

Mr. COX. There are millions of instances where he is using his passenger car as a necessity, but I suppose he can use it as a luxury.

Mr. OLDFIELD. You don't think Pierce-Arrow cars and Packards are necessities?

Mr. COX. I do not know where to draw the line.

The CHAIRMAN. The only line that has been drawn is between the Ford and the other cars. The Ford is not a luxury, and the other cars are. Now, Mr. Cox, I believe with the exception of one case and possibly two in the history of the Government this suggestion which is made by others, who are very wise men, of putting a tax on the thing in the consumer's hand, in the owner's hand, with the exception of one or two, it is the first time in the history of the Government that has been suggested. Now, if you put a tax on the automobile in the hands of the owner, let us pursue it further and tax all luxuries, similar luxuries in the hands of the owner, not the manufacturer, but in the hands of the owner.

Mr. COX. I will go right with you.

The CHAIRMAN. All right, let's take——

Mr. COX (interposing). Let us take diamonds.

The CHAIRMAN (continuing). Yes, diamond rings costing \$300 or \$400, brooches, scarf pins. They are about as useless as automobiles.

Mr. MOORE. And a few packages of cigarettes.

The CHAIRMAN. And we get a tax from them, or the use of them, and pianos and organs, because they can be done without during the war. Now, if you do that, you would get practically as much tax as

you would out of the automobiles for the reason that in the month of March on those three luxuries, or necessities as some people may claim, we collected \$2,039,000, while on automobiles we collected only about \$2,589,000. Now, I am not fixed in my mind that that would not be a good thing. What would you say of going that far? If you do not think that we should do so, why start out on the automobile?

Mr. COX. I will answer you in a minute. If it is necessary to raise \$2,000,000,000 as I am informed over and above the excess profits and income tax, I would say go to it, and tax every one of those luxuries in every home in the United States.

The CHAIRMAN. You are not really, on the idea of thrift and economy, in favor of repealing the manufacturers' tax?

Mr. COX. No.

The CHAIRMAN. Because that is the real thing that tends to make him give it up. He knows that he will have to pay it before he buys it.

Mr. COX. But, as I said a moment ago, the manufacturers' tax would be put on the man that buys the machine, but the day before the bill became a law, the tax was on the manufacturer. Here is a man that bought a machine from the same man and he doesn't have to pay any tax.

The CHAIRMAN. But in order to avoid the tax, they will hesitate before they rush and buy. There is something in your proposition.

Mr. COX. I am serious in this for the reason of raising revenue, but secondly I do think that something ought to be done to economize along these essential lines.

The CHAIRMAN. What do you think of the tax on chauffeurs?

Mr. COX. Oh, I introduced a bill for that last December.

The CHAIRMAN. Prof. Sprague suggested that.

Mr. COX. I do not know what he proposes. I do not know how well the bill was written, but I introduced a bill to that effect. And why shouldn't we put a tax on them, when men like Herbert Hoover disposed of his big car and bought a little car and runs it himself.

The CHAIRMAN. Dr. Sprague suggested putting a tax of 25 cents a gallon on gasoline. What do you say to that?

Mr. COX. As a second alternative proposition to the proposition of taxing the horsepower of automobiles, I would urgently support it. I do not think you would get the revenue out of that that you would out of taxing the horsepower of automobiles, but I do think you would get economy in the things we have to economize in.

The CHAIRMAN. That is what, I think, Mr. White suggested. If you tax horsepower, here is, say, a man who has paid \$400 or \$500 for an old 40-horsepower automobile, that may have originally cost \$2,000, and here is another man that has a 40-horsepower car that is worth \$4,000 or \$5,000. Do you think it is right to make the little fellow pay as much as the other one who has the \$4,000 car?

Mr. COX. I will answer that by saying that it might be taken care of along the lines of depreciation in value. Another way that might be taken care of would be that if he did not want to pay on the horsepower, he could garage his car.

The CHAIRMAN. But if a man had a \$4,000 machine he would be able to pay and you would shut up the little fellow.

Mr. COX. Not under the plan outlined by Mr. Hoover. Under that plan Mr. Fairchild would pay \$2.40 per horsepower, while I would pay about 50 cents.

Mr. GARNER. You could levy a very heavy tax, say from \$50 to \$250, according to the value of automobiles, and somewhat restrict the purchase of them by the people in the future. But a mere 3 per cent, such as is levied now does not tend to restrict it whatever. So you have a double purpose there, to get revenue, and tend to restrict labor and material that is going into these pleasure cars. But how would you tax a chauffeur?

Mr. COX. Under a license.

Mr. GARNER. Do you mean that every man who has a chauffeur would have to have a Federal license?

Mr. COX. Absolutely. And I was told by a man in the Federal Trades Commission, a man that I regard as the best political economist in this city, that there are upwards of 500,000 licensed chauffeurs in the United States.

Mr. GARNER. But suppose the Constitution did not permit us to provide a license for a man in an occupation. How would you get around it?

Mr. COX. With all due deference to you, I am not going to enter into a constitutional argument.

Mr. GARNER. I was just bringing that to your attention because it has been suggested by very good lawyers—Mr. Hull called my attention to the fact the other evening that the Supreme Court has decided in one case, not about the license but about the question of levying a tax on chauffeurs.

Mr. COX. The Supreme Court does not stand very much in the way of a war measure.

Mr. HALL. The question might arise as to the tax on the owner with respect to the individual that he had in his employ. If you put a license tax on the chauffeur himself, that might be all right.

Mr. COX. I think I would do as Senator Simmons suggests, vote for the proposition and consider its constitutionality afterwards.

Mr. GARNER. You would levy a good large tax on gasoline?

Mr. COX. I would. I am going to quit in a minute. In response to a part of your question, Mr. Garner, if I can make myself plain, I think that all these men that are working in automobile factories ought to be kept at work as much as they possibly can until they are ready to be shifted into war work.

The CHAIRMAN. You believe that about every industry.

Mr. COX. Yes.

The CHAIRMAN. Keep everybody to work.

Mr. COX. Until they can be shifted. That is all I have to say.

Mr. SLOAN. Do you not think that if you desire to curtail the manufacture of the high-priced pleasure cars, the basis for your taxation should be the value, their retail cost rather than the horsepower, because the large expense is not in the horsepower arrangement, but in the equipment otherwise.

Mr. COX. That was my first idea, but in talking to two or three men down here at the Internal Revenue Department, that are pretty well advised, they thought that that would be rather hard to administer, to put the tax upon the value of the machine, because it varies so often, while the horsepower never varies. A machine that is made with 32 horsepower or a 60 horsepower to-day, ten years ago was the same.

Mr. SLOAN. The method of determining the horsepower differs in different States, does it not?

Mr. COX. It may be.

Mr. MOORE. Indiana has a good motor car record. I see it has about one car to every fifteen people in the State.

Mr. DIXON. It is limited in one respect only.

Mr. MOORE. These may be high priced or low priced.

Mr. COX. I do not know.

Mr. MOORE. Suppose you were to make a practically prohibitive tax on gasoline, and was to put a tax on chauffeurs and put a direct tax that you propose on the car, wouldn't the effect of all that be to prejudice the small owner who could not bear the prohibitive tax and force him to scrap his car in favor of the well-to-do car owner who could stand it?

Mr. COX. I would not be in favor of doubling up all of those taxes. If you put a tax on the automobile or its use, I would not tax gasoline.

Mr. MOORE. I understood you to say you were in favor of a high tax on gasoline.

Mr. COX. As a secondary proposition, following the proposition of taxing horsepower of machines.

Mr. MOORE. Suppose there is a man in your State who says, "If you are going to put a tax of 25 cents a gallon on gasoline, a tax on the car, and a tax for the chauffeur, I am going to put my car in the garage."

Mr. COX. That is just what he ought to do.

Mr. MOORE. The fellow is going to be at a decided disadvantage compared with the well-to-do man who can keep running his car.

Mr. COX. I am told that we are wonderfully short of rubber—I do not know whether I ought to say that or not—in the trenches of France to-day. We haven't enough rubber to make the masks.

Mr. MOORE. You know very well the argument goes over the country now that the automobile is not only a help to good roads, but it is a help, a benefit, to the farmer; bringing the farm to the city. You state that the automobile is a necessity and a luxury. It may be used to-day for joy riding but used to-morrow in business. It might be used by a farmer to send to town to bring the doctor back for his wife or children. You certainly would not deprive a man of the right to use his car by an excessive taxation.

Mr. COX. Now, Mr. Moore, my observation has been out in Indiana that the man who owns a little Ford or a Dodge is as much able to own and operate that as the man is who owns and operates a Packard.

The CHAIRMAN. How much horsepower has this little Ford?

Mr. COX. Twenty-eight.

Mr. MOORE. Twenty-two.

Mr. COX. The Dodge, I think, is 32.

Mr. MOORE. Moreover, if we were to put that small fellow out of business—make him throw his car into the scrap heap—we would get no revenue.

Mr. COX. To put him out of business voluntarily under the plan I have suggested, taking the horsepower, his tax would not be more than \$12 or \$15. That is not a high tax and he would pay that by the price of half a hog. If he does not want to pay it, he can garage it.

Mr. MOORE. If he garages it and does not use it, he would have to pay the tax just the same.



Mr. Cox. No; if anything is done along this line, it should be done along the line that it shall only apply to a person who uses his car, and the man who is willing to garage the car and thereby economize in gasoline and in rubber and in leather, let him garage it without paying a tax.

Mr. MOORE. Then, if I have a small car and want to save the tax, I can put it in the garage until the war is over. But we have to pay a garage rent.

Mr. Cox. We can carry out these questions indefinitely. You live in the great city of Philadelphia. In most of the cities such as we know, we have our garages in the rear of our lot.

Mr. MOORE. In looking over the statistics, I find that we are not burdened with automobiles in Pennsylvania. We have 360,000 cars in Pennsylvania.

Mr. Cox. Indiana?

Mr. MOORE. Indiana has 192,000. Iowa—that is the State that is supposed to have a great number of cars—has 254,000 cars. So the farming State of Iowa has substantially as many cars as the great industrial and populous State of Pennsylvania. If so, the city man hasn't any advantage over the country man.

Mr. Cox. Except in the price of cars.

Mr. MOORE. So, in the proportion of population, the average poor man of the country has the advantage over the city man.

Mr. GREEN. Under your plan, the owner of a small car would pay only a small tax in comparison with the owner of a large car.

Mr. Cox. It would be only \$12.50 while the tax on the owner of the large car might be \$150.

Mr. MOORE. Indiana had 1 car in 1917 to every 15 of the population, Pennsylvania 1 car to every 27 of the population, and Iowa and Nebraska in 1917 had 1 car to every 5. So that the great State of Pennsylvania has no large amount of joy riding.

The CHAIRMAN. Of course, you would apply this same tax to the carriage and pleasure horses?

Mr. Cox. I do not believe I would, Mr. Chairman.

The CHAIRMAN. They are used for pleasure. You know we did that once.

Mr. Cox. I recollect that we did, but if you go out on the country roads and see the thousands upon thousands of cars all wearing out rubber, you would say that they ought to be taxed.

The CHAIRMAN. The Government can commandeer as much rubber and gasoline as it needs. Much obliged, Mr. Cox.

Mr. Hedges, we will be glad to hear from you now.

#### STATEMENT OF HON. JOB E. HEDGES, NEW YORK CITY.

The CHAIRMAN. Whom do you represent?

Mr. HEDGES. The Association of Life Insurance Presidents.

I have had prepared, if the committee please, just on a single sheet, a skeleton analysis of the life insurance business of the United States, and that is the single point on which I shall address myself.

I take it, if the committee pleases, that the problem of the committee and the problem of anyone who approaches the subject, is sentimentally the same, and that is a common purpose to make this country efficient in the war, and to help contribute, through the

machinery of this committee, the means and at the same time do it in such a way, as has been reiterated here so often, that there will be a general feeling of entire equality of contribution. No one can appreciate more keenly than I, after listening to some of the suggestions that have been made, that the last deduction is always left to the committee, and whatever theories may be advanced, the responsibility of it is left entirely to the committee, which has to be the superman in the way of knowledge, so I shall not attempt, even with my own limitations, to give any general advice to this committee.

I want to propose myself to the subject of a ruling of the Treasury Department which denies the fact that insurance reserves are capital. And just by way of preliminary, there are some 46,300,000 insurance policies in existence in this country, representing \$24,500,000,000 of assets. I take it that 50 per cent of all the citizenry of the country have directly or indirectly, through a community of interests, even where their policies are duplicated, contributed of their savings and the home cohesion of effort toward the creation of this fund. I take it that these companies, differing in many particulars from other business, go directly to the warp and woof of the whole civic life of the country.

There would be a number of inequalities which would creep into operations of the business of the country. I do not raise those. In the proximity of the submarine, it is not essential. I take it our main problem is to furnish the men who will fight the war, the money which will supply them with necessities, and further than that, what to my mind—and I am not a sentimentalist—is most important, the morale behind that money and those soldiers that make a common cohesive country. And in my judgment anything that Congress could do which left out of consideration the final cementing into a single cohesive affirmative force of the spiritual thought of the country, plus its material thought, would be a drag on the process of the war.

Therefore I do not come asking exemptions, nor do I come asking exceptions. I do not come asking any differentiation or anything of that kind, nor ask this committee to change its policy. I do not and could not be brought to do it.

The main point here is the question of whether the organization of these insurance companies and mutual organizations, whether these great funds are bearing their proper proportion in dollars toward the expenses of this Government. Therefore, to insure accuracy, knowing exactly how annoying it is to have something read to you, when the record will inform you later, I will say that my brief notes are only a half page in length, and I hope you will bear with me for a very brief period.

I believe that as a part of the civic life in this country the insurance companies contribute not only materially, but substantially in morale, and I would by way of illustration call an insurance company a partnership, I should say, of all its members, where some of the dividends declared are that freedom of effort and abandon, against the mere necessity of support of a man's succeeding family which frees his mind and makes his efforts an absolute asset to the country. It is therefore not academic to say that life insurance in this country is an institution that is founded upon scientific principles, and that it performs a highly important social and economic service, and

that economic service, as well as the social service, is the atmosphere in which I ask this committee to consider the main point on which I will dwell, and what I am saying is important to fix the deduction that I hope to draw.

Its economic function is to meet in some degree the pecuniary loss due to untimely death. Its social function is to promote patriotism, which goes at once to the function of the government and brings in direct contrast the theory of government which this war is opposing. It is not fantastic to say that most of the new theories that we have gotten from the other side and subconsciously advocated here of a concentration of authority so that the State shall do everything is antipodal of the theory where the State shall express through its functionaries in government the will of the average opinion of the average citizens. Therefore, my own belief is wherever we militate against or derogate from the initial moral responsibility of a citizen, we therefore lose the moral force, the moral responsibility, and it is not a governmental question speaking for the country at large, and it is that very thought to the contrary which marks the difference between these contending people on the other side of the water and ourselves, and that is not an academic proposition, on reflection, either.

The importance of insurance in its private aspect is that it provides a means by which every man may testify by personal sacrifice his wish to make certain provision for his dependents. Not a daily press goes out but what every citizen is directed, as well as argued with to conserve his own physical resources, his financial resources, and his mental resources for the benefit of the Government. That we put in the comprehensive words, "thrift" and "save." There is no agency which has led up to this more carefully than the requirements of the life insurance business. The response that the country is getting now is largely from habits gained through the necessities of self-protection, as exemplified by this very insurance.

It is thus at once one of the greatest incentives to and manifestations of individual thrift which modern civilization has developed. The importance of life insurance in its public aspect is that it relieves the Government from the cost of maintaining the widows and orphans whose future support has been provided thereby. Making again a contrast work of the agencies to clarify the inequalities of citizenship and social life in this country, when they find one Government on the other side of the waters leading to that kind of conditions which made a decree to handle the affairs of the world, ourselves included.

It is needless to say that thousands of men die every day who leave no other estate than their life insurance, and this insurance, in cases where it is sufficient to make adequate provision for their dependents, at least serves to tide them over until they can attain a self-sustaining status.

The principle of life insurance received the most effective indorsement from this Government when it went into the insurance business, and as it well might, where the contributions furnished come through the payment of premiums to meet the cost of insurance from the soldiers and sailors. The United States assumes all the expenses of administration and the entire burden of the war hazard plus the added unnatural losses that otherwise would fall upon a company.

because that company itself has to predicate its existence upon a scientific computation of length of life of people of certain ages under certain conditions, and it is entirely proper that the Government should do that, but while the Government is doing it there are in existence a few million of policies without any restrictions in them whatever, so that when these losses come back and come on these companies this very reserve which I will ask you gentlemen in a moment to consider as a part of the capital of these companies will be depleted in an unknown ratio for conditions not assumed, although in August, 1914, the companies could well take precaution, and did, and provided for certain additions to premiums, and yet in the Army no one knows how many there may be outside of the more recently insured who bear policies which will reverse that rate. That is a thing at least to be taken into consideration.

The soldiers and sailors, as I said, furnish the funds and without the aid of any governmental subsidy, and relying solely upon private support and the mathematical principles which make life insurance possible, the life insurance companies have established what has come properly to be regarded as a national institution. This institution consists in a system of voluntary cooperation by policyholders for their mutual protection, of which the companies are merely the administrative agencies. All life insurance is inherently mutual in its character. Its object is insurance so nearly as possible at cost to the insured. The character of the organization of the company affording the insurance is practically of no consequence.

In round figures, 87 per cent of the level premium or legal reserve life insurance which is in force is written on the mutual or participating plan. Not all of this insurance is carried by mutual companies. About 60 per cent of the insurance in stock companies is participating insurance. The mutual, or participating, plan of insurance involves the deposit by the policyholder annually in advance of the estimated cost of the insurance for the ensuing year, with the obligation on the part of the company to refund to him any excess over and above the cost of the insurance as ascertained from the company's actual experience. Nonparticipating insurance, which is furnished by stock companies, and constitutes only about 13 per cent of the amount outstanding, differs from participating insurance only in respect to this readjustment of premiums upon the basis of the year's experience. The company in this form of insurance makes a more exact estimate of the probable cost of the insurance (any deficiency in which, in case of adverse experience, is supplied out of stockholders' funds). The aim and the result under either plan is insurance so near as humanly possible at cost to the insured.

But one of the anachronisms of business which are sometimes new to me, we use words we don't know what they mean till they are adopted into statutes and judicial decisions. When these companies contribute more than is necessary for the year, for the requirements of their business of that year, based on their scientific computations, what is not used is turned back, which is called a dividend. The law governing incomes provided for that and also made a deduction and it is called a dividend. It doesn't happen to be a dividend but happens to be a return, but has a very great value in computing.

The CHAIRMAN. The law or statutes read dividends as "returns." The public call it dividends.

Mr. HEDGES. Exactly, because when they give in their money in the beginning they figure that is what they were willing to stake on the life insurance.

The CHAIRMAN. Perhaps one reason for that common understanding of the term of dividends is on account of what the agents tell them. "Look, our dividends are so and so." These fellows have got that sentiment scattered among the people.

Mr. HEDGE. Yes, sir; and Mr. Chairman, in the administration through the States it is a part of their common policy, to do that. It is a system of nomenclature, though it is a little Axtec.

Statistics for the year 1916 show that only nine stock life insurance companies, the aggregate capital and surplus of which amounted to \$5,157,726, earned and paid to stockholders dividends in excess of the minimum rate authorized by the excess-profits tax law (Title II of the revenue act of Oct. 3, 1917). Such dividends amounted to \$436,373 and the average rate per cent of dividends to capital invested in the business was 8.45 per cent. Only three of these companies, whose combined dividends amounted to \$106,915, exceeded the maximum rate of 9 per cent recognized by the act as exempt from excess profits.

As I have already indicated, the funds which support private life insurance are contributed by the policyholders. The ordinary premium (with which you are familiar) is at a fixed level rate for a definite period or for the period of the policyholder's whole life.

That is, a man could insure himself if he could at one instance of time put up enough money which at the regularly authorized rates and interest added to it, at his death, would bring that amount of money named in the policy.

This premium is derived by a process of commutation from the so-called net single premium, which is the present value of the future benefit payable under the policy at the death of the insured. To put it another way, this net single premium is the mathematical equivalent of the benefit under the table of mortality and at the rate of interest assumed. It is thus the capital sum which is technically called the reserve, required to furnish the corresponding insurance under a paid-up policy.

Since the payment in advance of the relatively large amount necessary to provide for whole life insurance would generally prove burdensome, this single net premium has, in practice, been commuted into equal annual payments distributed over the period of the life of the person insured, or over some specific period such as 10, 15, or 20 years in the case of limited payment policies. Under this level premium plan of insurance, however, the same reserve must be accumulated by degrees. Accordingly, after deducting the policyholders' share of the current death cost, the balance of the annual premium as set aside to be accumulated at interest as the reserve to the credit of the policyholder.

Therefore, these reserves or these surpluses by whatever specific phrase they are denominated, naturally have been taken over in their administration by the various States having jurisdiction. In other words, these States say in substance, We recognize this business. It is a good thing. It is a substantial thing, but it is so important and it is so desperately necessary that the man who takes out a policy shall know that at the conclusion of his life his beneficiary will receive

the full value. That unlike most any other business, the State in its rightful authority says you shall invest only in this or that security only here or there as we judge it. There are exemptions in the statutes, of course, for Federal bonds and State and municipal bonds, but primarily and absolutely and finally the handling of this money in its investment for ultimate securities is made a matter of State regulation.

Now, it also happens that in the computation of the interest required from the original sums on which this theory of this policy is based is handled by a rate of interest, we will say,  $3\frac{1}{2}$  per cent. These funds, on the average, yield 4,  $4\frac{1}{2}$ , or a little over. Therefore, there is a margin of 1 per cent. But in the very computation and under the very theory on which each State permits the continuance of business and the amassing of capital and this building up of reserves is contemplated and included the rate of interest computed as a mathematical necessity by the companies. Therefore, in intentment, that interest or whatever these funds bear, is just as much a part of the principal as the indication of the bond from which the coupon is cut, because without it the mathematical certainty and theory of the policy vanishes.

The aggregate of these reserves which are thus contributed by the policyholders constitutes the principal item in the capital of a life insurance company. In a mutual company the reserve is the only capital until a surplus or contingency reserve to meet unexpected losses can be accumulated from savings in expenses or favorable mortality experience. The capital of a stock company includes, in addition to the reserves and surplus, the capital stock which merely affords a further guarantee for the payment of the outstanding insurance.

Every gentleman on this committee who holds a policy of old-line insurance is a part proprietor of such company. If the company is a mutual one, the policyholders are the only proprietors. If it be a stock company, their interests preponderate.

As I have just indicated, the life insurance companies do not earn excess profits. As a matter of fact, they are, under the State insurance laws, absolutely incapable of excess profits. The character of the securities in which their capital and surplus funds may lawfully be invested is strictly limited and defined by statute. These securities include only Federal, State, and municipal bonds, corporate bonds secured by mortgages upon real estate or adequate collateral, real estate bonds, and mortgages with ample margin for security, and such real estate as may be acquired for the reasonable accommodation of their home or branch offices or bought in on foreclosure of mortgages to avoid loss. Generally speaking, they are not permitted to invest in or hold corporate stock or other speculative securities. Safety, not profit, is the aim; and the average rate of return upon the aggregate of these investments is low. During the 25 years since 1893, this average rate has been less than 5 per cent.

In other words, the one business that can be brought before you gentlemen that doesn't permit of profiteering, were it desired, and can not take advantage of the war in increase of rates is life insurance, because they have not raised their rates. They have no option over their securities. They may buy when the market lowers on their securities; they have to see that they are kept up.

Mr. CAREW. You say they haven't raised their rates?

Mr. HEDGE. Not on the old rates. They have made a new policy for the war purposes.

Mr. CAREW. Of course, they charge more for policies with the war risk?

Mr. HEDGE. Yes; but the great bulk of their business was written before the war began.

Mr. DICKINSON. Your new policies will have some raise in them?

Mr. HEDGE. Only the war risk.

Mr. DICKINSON. That is the soldiers?

Mr. HEDGE. That is the soldiers. That is the companies have not taken advantage of the war as such, but they have added a surplus, added an amount for war risk.

Mr. DICKINSON. But by reason of the war coming, on account of certain policies which they did not anticipate, soldiers going across holding these policies and losses are coming, will not insurance companies in their new contracts hereafter raise somewhat their rates?

Mr. HEDGE. They can't.

Mr. DICKINSON. When they issue new policies?

Mr. HEDGE. When they issue new policies, quite so; but those will be necessarily a very small fraction.

Mr. GARNER. The Government is quite a competitor with you now?

Mr. HEDGE. A very substantial competitor on war risks, and what I want is not for the Government to add another effort to it and make the burdens unduly heavy in other instances.

Mr. MOORE. Let us get that clear, please. If I applied for insurance 10 years ago and had not in any way incurred war risk and would again apply, the rate for me now would be the same during the war as it was before the war?

Mr. HEDGE. Not if you are going abroad in the war now. You would be charged an added premium on account of it, but you would collect your other policy and you would continue to pay the same rate on the other policy, because there was no provision against war.

Mr. MOORE. You made a broad statement that rates had not been advanced.

Mr. HEDGE. Your correction is quite correct, sir. The rates on the general run of policies has not been increased. It is only on the new policies issued since the war was declared.

Mr. HAWLEY. Does that apply to the policies outside of for soldiers?

Mr. HEDGE. No, sir.

Mr. MOORE. Suppose we leave the war risk out altogether.

Mr. HEDGE. Yes.

Mr. MOORE. Would the rates for me at a given age be the same now as they were before the war?

Mr. HEDGE. They would be exactly on the same theory as before the war.

Mr. MOORE. And we would have exactly the same rate so far as I am concerned since I do not involve a war risk.

Mr. HEDGE. No, sir. That is right.

Mr. STERLING. How does a company determine whether a man is going to ask for war insurance?

Mr. HEDGE. The question is asked directly.

Mr. MOORE. If he goes to war without knowledge of the company he runs the risk of invalidating the policy, doesn't he?

Mr. HEDGE. I take it so. This policy would be issued with other restrictions with regard to the probabilities of the insured going to war. The question will be asked, the age would be considered involving the liability to draft, and further than that the so-called line of insurance or the amount allowed to the individual man would be limited though he perhaps has an entire lack of intention to go to war.

Mr. MOORE. Mr. Hedge made a statement that there was no intention to raise rates.

Mr. HEDGE. I was talking about general insurance.

Mr. MOORE. Rates have been increased so far as war risks are concerned?

Mr. HEDGES. Only.

Mr. MOORE. But so far as risks in civil life there has been no increase on account of age and life as they apply now except as to war risk?

Mr. HEDGES. No, sir.

Mr. STERLING. Suppose a man is of draft age, between 21 and 31, he says in his application he is not liable to military service, do you lessen the amount of the policy on that account?

Mr. DUNHAM. I am not an underwriter. I don't know the precise treatment which a company would accord that particular man. If he isn't liable to draft he may be ineligible to the insurance by reason of that same physical, if it be a physical, defect.

Mr. STERLING. Leaving out his word, would you just take his word for it and put in the policy in case he violated his policy the insurance is void?

Mr. HEDGES. As a matter of fact most of the companies put in a provision if the insured goes into the war there shall be an extra premium for that purpose.

Mr. SLOAN. Why did, prior to the war, some of the companies have this provision and others didn't say anything about it?

Mr. HEDGES. Some of the companies maintain an old war-time clause. He has to put them all on the same plan as regards the war risk.

Mr. SLOAN. Did some of the companies waive that?

Mr. DUNHAM. Yes, sir.

Mr. GARNER. I want to ask you this question: The Treasury Department, if I understood it, has ruled that where a man's policy matures we will say this year, a policy of \$25,000 taken out on the old plan 20 years ago, and where he dies, that income of that policy is subject to the income tax. Do you think that ruling is justifiable under the present law?

Mr. DUNHAM. If you please, sir, in the first place I think your reference to the rule is not quite exact. The Treasury Department holds and the law as a matter of fact provides that a refund to a living policyholder of any amount more than he paid by way of premium is considered an income and is taxable as such, but up to that amount it is not income. It is a return of capital.

Mr. THEO. W. BLACKBURN, of Omaha, Nebr. The policy as issued does generally contain a restriction against war service, and the provision of the policy is that in event of death while in active service or in the Army and Navy the surrender value, the reserve of the premiums paid are returned, but it doesn't void the policy. This



contract is that the man's premium will be returned if he is called after he takes this policy or his surrender value is given to him or his reserve is paid to him, according to the terms of the contract.

Mr. SLOAN. There is quite a difference, is there not, where the old policy taken years before war was declared, some of them having no war-risk reservation, and some of them having war-risk reservation. Now those that didn't have the war-risk reservation go right on and pay out as if they died natural deaths, the same as though they died outside of the service, and others take advantage of the war risk if they see fit?

Mr. BLACKBURN. And pay the reserve on the policy.

Mr. SLOAN. They diminish the amount on account of the increased risk?

Mr. BLACKBURN. Yes, sir.

Mr. DUNHAM. Unless they waive that right, and a large number of the companies have done so in order to equalize all of their old policies.

Mr. BLACKBURN. Eighty per cent of all the policies in force are incontestable for any cause, but not 80 per cent of all the other policies issued since we have become at war.

Mr. MOORE. Does it void an ordinary civil-life policy to go up in a flying machine?

Mr. BLACKBURN. It would not if it is an incontestable policy, but the companies now as a rule protect themselves by a restriction with reference to submarines and aviation very generally.

Mr. MOORE. A man had better inquire as to restrictions in his policies before he goes up in an aeroplane?

Mr. BLACKBURN. I should advise him to; yes, sir.

Mr. HEDGES. If you will look on that sheet I gave you, you will see on the left side of the lower half of the page the ruling of the Treasury Department we seek to controvert. "Legal reserves not capital because the net additions to reserves required by law are not taxed." Therefore, the theory is somewhere, somehow there gets into that fund some money that hasn't borne its part toward the contribution of Government expenses. If you will look right opposite that for the reasons we have set forth, we hold that that is not logical or consistent, and you will see just ahead of that we have put the definition of capital—

The CHAIRMAN (interposing). What net additions to legal reserve are taxed and subject to income tax?

Mr. HEDGES. Mr. Kitchin, if you will look into that second subdivision of the second main definition:

Legal reserve is surplus, and surplus we hold is part of the invested capital under definition of statute.

And up to the top of that page.

Net addition to reserve is not the income from the reserve. It is the difference between the value of the outstanding insurance at the beginning and at the close of the year. You may have a negative quantity academically resulting in legal reserve transferred to free surplus, called gain from reserves, which is taxable as income.

It merely anticipates the deduction of the same amount as part of the payment of death benefits, matured endowments, or surrender value.

It is made up of additions from renewal premiums, and first-year premiums, plus interest on the reserve at assumed rate (3½ per cent). Less reserve on policies terminated during the year by payment of death benefits, matured endowments, surrender

In other words, before this net addition to reserve occurs from a mechanical advantage and ease of doing business, they take a period of time from January 1 to December 31, and suppose if that is worked in the multiplication and duplication it could be done every 60 or 90 days. As a matter of absolute ultimate conception, that thing occurs every second of time, as a result of new premiums coming in and others going out, but they take a fiscal year as the unit of time to determine this thing. This addition, therefore, is made at the end of the year and is carried tentatively for the purpose of computation. And this other part, the receipt, results in a transfer from free surplus to gainful reserve and that is taxable. In other words, that has already been taxed, but the theory of the Treasury Department—I can see how they rule it. They look through these things. They find that bonds not exempted as State or municipal bonds, the incomes from them as such means subject to income tax, but due to destruction of business during these 12 months in a fiscal year, they do get in there in just the same way it is thought they are made theoretically, and a part of them might bear tax.

Therefore, insurance companies are presented with this dilemma. We pay our income tax. There is no discussion made about it. None over here. No argument is made, or suggestion even as to the rate of that. That is in the good judgment of this committee and the Congress based on the necessities of the Government. Now, it isn't our fault that we can't earn an excess profit. We are compelled to do business in a certain way. Our funds are segregated. Morally those funds are pledged with a trust just as much as any kind of trust fund can be. Not as a matter of so-called bookkeeping with each individual, but they are pledged as a trust for a specific thing with the option to remove with officials of the company. Certainly, so far as inherent advantage to the company comes and everybody must bear his suggestion as to that, if any burden is imposed on it, when you talk about loans and real estate, buying of securities, loans on mortgages, developments, they are naturally the best of plans. It temporarily affects the holding of other bonds, the loans on the policies secured by these surpluses, the company has borne a burden which it should, sometimes quite to its advantage, which is more than made up by any question of alteration to any condition, or involved in new plans of an income tax and war-profits tax. Therefore, I submit to the wisdom of the committee that section 2, an amendment to the act of October 3, 1917: Section 207, paragraph A, subdivision A, after the words "paid in or earned surplus," that there shall be added these words, "including the reserves required by law to be accumulated and maintained by life-insurance companies."

The CHAIRMAN. Let's see, Mr. Hedges; your argument is very interesting and instructive. Let's see if I understand how they are taxed.

Mr. HEDGES. In other words, we don't go to the point where we would be in the war-profits tax.

The CHAIRMAN. All mutual companies, here is what they do with their income, as I understand it, from premiums and all other sources. First, out of that they pay their expenses, including salaries and taxes?

Mr. HEDGES. And provision for death losses during the current year.

The CHAIRMAN. And second, all claims, death claims, endowments, and surrender taxes or values?

Mr. HEDGES. Yes, sir.

The CHAIRMAN. Third, the legal reserve, what the law requires you to carry as a legal reserve?

Mr. HEDGES. Yes, sir.

The CHAIRMAN. Fourth, dividends or returns of premiums. After all of that those four items are paid out of your gross income from all sources, then you have a surplus. Now, take that surplus, that you carry to what you call a contingent reserve?

Mr. HEDGES. Whole contingent reserve to meet conditions which might arise.

The CHAIRMAN. You can do what you please with that?

Mr. HEDGES. Oh, no; that is carried by the same statutory conservatism that the reserve is carried with.

The CHAIRMAN. It is not set aside. That is for your general business?

Mr. HEDGES. Yes; but it is investment.

The CHAIRMAN. And you can invest that as you see fit?

Mr. HEDGES. Oh, no.

The CHAIRMAN. In that contingent reserve controlled by the statute of a State exactly like legal reserve is controlled?

Mr. HEDGES. Absolutely. You might just as well use the word "reserve" and think of them both at the same time.

The CHAIRMAN. Is that true in all States?

Mr. HEDGES. Yes, sir.

The CHAIRMAN. I might have had a different idea of it. I thought the law absolutely controlled your investment of your legal reserve and that which was required to be carried as legal reserve, but as to the contingent reserve you used it yourself, you had a free hand.

Mr. HEDGES. Your mathematics may be very good, your actuaries may be very wise, and your presidents very cunning, but we won't even take a final chance on your theory of full protection through a reserve. This is just a boot.

The CHAIRMAN. In thinking about contingent reserve and legal reserve you can think about them as one?

Mr. HEDGES. You can think about reserve.

Mr. MOORE. Just good measure?

Mr. HEDGES. Good measure is a good definition.

Mr. GARNER. In other words, if I understand you, take the State of New York—in the State of New York you can only invest your funds in certain securities outlined by the statutes of New York?

Mr. HEDGES. Exactly.

Mr. GARNER. And outside of that you can't place any class of securities?

Mr. HEDGES. You can buy office furniture.

Mr. DUNHAM. You can't own them. If you own them you have to get rid of them.

The CHAIRMAN. In levying this tax you say you have a contingent reserve; you separate that on your books?

Mr. HEDGES. Oh, yes, sir. It has to be kept that way.

The CHAIRMAN. You say you have a contingent reserve of \$5,000,000; you have a legal reserve of, say, \$50,000,000. Your net income, that is, the income after deducting the four items in the four

classes which I have mentioned, your expenses, salaries, taxes, legal reserves, dividends returns, then when you have a surplus at all, a net income, say you have a net income of that of \$2,000,000, say. Now, how does the Treasury Department hold in the excess-profits tax there? What does it hold is your capital invested under the statutes for the purpose of deduction?

Mr. HEDGES. It tries to hold the income on the investment other than those specifically exempted by the statute and calls that their net addition to reserve, whereas the net addition, as a matter of fact, is the business at the end of the year compared with the business at the beginning of the year. In other words, you can't, Mr. Kitchin, take and segregate that feature of it.

The CHAIRMAN. This contingent reserve of five million, legal reserve of \$50,000,000 and your net profit there, or suppose—supposing it \$2,000,000—they would only allow you a deduction of say—before the war, prewar period—a deduction of only \$5,000,000?

Mr. DUNHAM. A deduction of 9 per cent on the two million.

The CHAIRMAN. Four hundred thousand dollars on the \$2,000,000 and you pay this excess-profits tax on the \$1,600,000?

Mr. HEDGES. Yes, sir.

The CHAIRMAN. Now, I can't exactly understand the ruling. I will ask what it means, "plus legal reserves net additions to which are subject to the income tax." I can't understand that. I want you to explain it. I have understood it to be just as you said awhile ago.

Mr. DUNHAM. Did you ever hear of the advice or response of the mother given to her daughter, who asked: "Mother, may I go out to swim?" "Yes, my darling daughter, hang your clothes on the hickory limb, but don't go near the water." There is no such thing as legal reserves in net additions. There is no such thing.

The CHAIRMAN. They undoubtedly had in their minds in talking with insurance men these representatives of insurance men within the last two years—

Mr. HEDGES (interposing). The business of the company is to look for a thing that will bring in income.

The CHAIRMAN. That is our business now.

Mr. HEDGES. Yes; they stretch themselves. They find among these reserves some 3½, 4, 4½ per cent bonds; they find State and municipal bonds, but they are found in other bonds not specifically referred to.

The CHAIRMAN. Other securities?

Mr. HEDGES. Yes.

The CHAIRMAN. Not exempted from tax?

Mr. HEDGES. Yes, and they don't figure out that those securities masticated for a year with all the others help to make up the general income.

The CHAIRMAN. You contend that the Treasury Department ought to consider not only the \$5,000,000 contingent reserve, and so written on your books, but also the \$50,000,000 legal reserve?

Mr. HEDGES. Yes, sir. I endeavored to ascertain the meaning of that rule from the Treasury Department as soon as it came out, and finally reached Dr. Adams, who told me that if I substitute the word

“other” for the word “legal” it would more nearly express the word intended.

Mr. SLOAN. Let me ask you a question. You concede there is no excess-profits tax, especially as applied to mutual life insurance companies. Do you intend to include also these stock companies?

Mr. HEDGES. There are very few of them that would. The stock companies with which I am familiar, the same rules would apply. It is the capital with which they do business.

Mr. SLOAN. Isn't it true that some of these stock companies that are not mutualizing—I understand that many of them are mutualizing—that a stock company may have an excess profit even under your theory?

Mr. HEDGES. I take it that is possible.

Mr. SLOAN. Now, there are many of these companies.

Mr. HEDGES. Mr. Blackburn knows more about that than I do. But the argument that I wanted to produce was that it applied to the stock companies the same as to the mutual companies.

Mr. SLOAN. Yes; I got the drift of your contentions.

Mr. MOORE. Mr. Hedges, I have heard you on many occasions when you brought good cheer to your audience. I would like to know whether, at the close of this brilliant argument of yours, you can tell us where we can get revenue up to \$8,000,000,000 to run this Government?

Mr. HEDGES. I haven't any suggestion, Mr. Moore. I haven't been able to keep up all my payments on the Government bonds I bought.

Mr. MOORE. We didn't intend to get it out of you, but wanted your suggestion.

Mr. GARNER. The difference, Mr. Hedges, in the program under the present law and what you are proposing now and the suggestions you are bringing, would do what? What would the Treasury lose by adopting the suggestions you make?

Mr. HEDGES. I couldn't answer that question, sir.

Mr. GARNER. Our object here is to get some money, and so many exceptions are—

Mr. HEDGES. I assume what would happen; it is a silly thing to mention it, but the motive will not be misunderstood; the effect on these reserves and the effect on the companies and their policy-holders would have to be tested somewhere in court.

Mr. LONGWORTH. I was going to ask the same question Mr. Garner asked. Do any of you gentlemen know how much excess-profits tax has been paid?

Mr. DUNHAM. I don't believe there are any figures in the country on that subject, Mr. Longworth. The ruling of the Treasury Department was probably not accepted by the companies, and none was paid, as an excess-profits tax.

Mr. STERLING. I would like to ask a question. I wish you would tell us just what constitutes an old line insurance company, what constitutes its assets? Where does it get it?

Mr. DUNHAM. The income of the insurance company consists of the premium income and the return from investments.

Mr. STERLING. That constitutes its income?

Mr. DUNHAM. Yes, sir.

Mr. STERLING. Now, what it has left at the end of the year, after paying death losses and surrender value and matured endowments, and so forth, what it has left at the end of the year constitutes net income?

Mr. DUNHAM. Do you mean to include in the other items the additions to reserve?

Mr. STERLING. No; it wouldn't include anything except what you have mentioned. Your gross income is made up of premiums and interest on your investments, and you pay during the year death losses and surrender values.

Mr. DUNHAM. And matured endowments.

Mr. STERLING. And what you have left at the end of the year, after paying that out, do you call that a net income for the year?

Mr. DUNHAM. No; an addition to the net reserve also comes out.

Mr. STERLING. Now, what do you mean by an addition to the net reserve?

Mr. DUNHAM. The net reserve is the difference between the reserve at the beginning of the year and the reserve at the end of the year.

Mr. STERLING. Does the law we passed last year allow you to take that out?

Mr. DUNHAM. Yes, sir.

Mr. STERLING. It does?

Mr. DUNHAM. Yes, sir.

Mr. STERLING. Then I don't know what this gentleman, Mr. Hedges, is complaining about.

Mr. DUNHAM. He is complaining about the excess-profits tax—

Mr. HEDGES. We do not complain about the income tax; but we do complain about the excess profits tax.

Mr. STERLING. It is inherently capital?

Mr. DUNHAM. Yes, sir.

Mr. STERLING. And you use it as a part of the capital when you come to claim exemptions in estimating your profits? Is that it?

Mr. DUNHAM. That is substantially it. Not only these additions, but the net reserve itself we can claim. We begin with a reserve at the beginning of the year of \$50,000,000, and we place during the year \$5,000,000, so at the end of the year we have \$55,000,000.

Mr. STERLING. And that is the capital you are allowed?

Mr. DUNHAM. Yes, sir.

Mr. STERLING. Now, in the illustration you have made, the \$55,000,000, it would make a difference of \$55,000,000 in your exemption?

Mr. DUNHAM. No, sir—

Mr. STERLING. Unless you would deplete your exemption.

Mr. DUNHAM. Yes; it would make a difference of \$55,000,000 which was compared with the net income, for the purpose of estimating the tax.

Mr. STERLING. I get your idea. Would that make much difference to the old line insurance companies?

Mr. DUNHAM. In some companies it would make a great deal of difference and in some not any; depending on the contingency reserve.

Mr. STERLING. Would it make enough difference to hazard their resources to meet obligations to their policyholders?

Mr. DUNHAM. Yes; particularly with reference to our war losses in prospect; it would make a difference, not to wipe out their reserves,

but to impair them. And it would extend over the entire history of the company until it had become a new company through many new lines.

Mr. STERLING. What company do you represent?

Mr. DUNHAM. I represent the Association of Life Insurance Companies.

Mr. STERLING. Any particular company?

Mr. DUNHAM. Our association has 29 companies, having 50 per cent, or thereabouts, of the volume of old-line insurance business in the United States.

Mr. STERLING. Are you familiar with the operation of any particular old-line company—one of the leading old-line companies, take the Mutual Life—are you familiar with that?

Mr. DUNHAM. The Mutual Life of New York?

Mr. STERLING. Yes.

Mr. DUNHAM. Not with the figures, but in a general way and on general principles I am.

Mr. STERLING. Are you acquainted in particular with any old-line company? What I am trying to get at is this: I would like to have you illustrate, if you can, by taking some old-line company and illustrate to us how much difference it will make between the taxes you pay under the law as it is now and the amendments which Mr. Hedges suggests.

Mr. DUNHAM. I suggest you take the Equitable; it has an income tax of \$98,000. I don't know what the taxable income is.

Mr. STERLING. Has it an excess-profits tax?

Mr. DUNHAM. That I don't know, because of the fact that they did not return under the ruling. But the Equitable is credited in this tabulation with surplus to policy holders of \$91,000,000, which is the amount that the Treasury ruling would allow as the basis of the computation of the 9 per cent, to compare with the taxable income, instead of its assets, consisting of capital reserve and surplus, the capital being \$100,000 and surplus \$576,000,000. Now, the surplus to policyholders of the Equitable as compared with the total of assets is larger than some other companies; take, for example, the Metropolitan.

Mr. STERLING. Going back to that, as I understand it, the department has construed the law so as to require a tax on the surplus—

Mr. DUNHAM. On this \$91,000,000.

Mr. STERLING. Plus the \$100,000 capital?

Mr. DUNHAM. That is in there. The surplus to the policyholders is included in the \$91,000,000.

Mr. STERLING. Let me see; the department says that that company is exempt on 9 per cent of \$91,000,000 and \$100,000, does it?

Mr. DUNHAM. Yes, sir.

Mr. STERLING. And the company wants 9 per cent on that, and also the \$576,000,000?

Mr. DUNHAM. The \$576,000,000 includes the \$91,000,000.

Mr. STERLING. Well, it would make some little difference, wouldn't it, in the exemptions? I don't think we would get much tax out of the insurance companies on that theory.

Mr. DUNHAM. You will get all the income tax; the question is, excess profits.

The CHAIRMAN. Mr. Dunham, this is true, that the company should be allowed to count their legal reserve as a part of their surplus; none of that would pay a cent of income tax?

Mr. DUNHAM. That is true, I have no doubt.

The CHAIRMAN. The question we have talked about before, Mr. Hedges, is the question whether insurance companies should be taxed at all.

Mr. HEDGES. Yes; the question is whether we shall—

The CHAIRMAN (interrupting). If your contention is proper, we get practically no excess-profits tax as a matter of policy or justice or right, but rather to some of us it is a question of whether we shall have any excess-profits tax on insurance companies.

Mr. HEDGES. Well, if you do that it is not the fault of the insurance companies. It is a question of policy or business or regulations, and outside of any question of equities at all it would be a disturbing of business and capital, and everything else, and I don't think it is justifiable. It has to be done by way of a general principle, anyway.

Mr. STERLING. What do you think of this to get some tax: You know now the tax doesn't reach the man who has his money loaned on mortgages, or anything of that kind, because the exemption is greater than the rate of interest. Now, give insurance some bulk exemption and then fix some rate of taxation, 2 or 3 or 4 per cent. Don't call it an excess-profits tax; call it a tax in lieu of an excess-profits tax; that is, fix some rate on their investments?

Mr. HUGHES. I don't know how that would work out.

Mr. STERLING. The same as you would with a capitalist. He loans his money out and doesn't pay anything in taxes. I think a good many of the committee thinks he ought to pay something. The man who earns a salary of \$10,000 has to pay something, and the man who has his money loaned and gets \$10,000 should pay something, it seems to me. What do you think of a tax in lieu of that excess-profits tax?

Mr. HEDGES. There is a tax now of that kind.

Mr. DUNHAM. A tax on new business.

Mr. STERLING. In the revenue law?

Mr. DUNHAM. Yes, sir; 8 cents on new business issued.

The CHAIRMAN. A stamp tax?

Mr. DUNHAM. Yes; that is probably larger than the income tax.

Mr. STERLING. Is it?

Mr. DUNHAM. Yes; I have the figures here for practically five months on 26 of our companies, and the 8-cent tax on new business for those five months is \$100,000 more than the income tax for the whole year 1916.

Mr. MOORE. What are the figures?

Mr. DUNHAM. The income tax is \$476,000 for 12 months for the business of the year 1917 paid this year; for the 5 months covered by the tax on new business the tax is \$574,000.

The CHAIRMAN. Of course, some insurance companies pay no tax at all.

Mr. DUNHAM. I have two zeros here.

The CHAIRMAN. For instance, you find some companies that carry very little in contingent reserve and carry it back.

Mr. HEDGES. You will find 23 out of the 26 there.

Mr. DUNHAM. And the largest paid \$136,000 for income tax.



The CHAIRMAN. Take the Metropolitan, how much income tax does it pay?

Mr. DUNHAM. \$132,000.

The CHAIRMAN. It does a business of how much? The total assets are how much?

Mr. DUNHAM. \$704,000,000.

The CHAIRMAN. You see, they pay practically no income tax. You say they pay more stamp tax?

Mr. DUNHAM. Their stamp tax is \$129,000.

Mr. GARNER. A tax like Mr. Sterling suggested would get into the Treasury a good deal of money. The one he suggested based upon the same principle that you would tax a man who had \$10,000 from interest on notes, 6 per cent, say, basing that on the same principle that you tax insurance companies on their investments and you would get a good deal of money.

Mr. STERLING. Give the insurance companies an exemption.

Mr. GARNER. Suppose, on these investments of millions of dollars, they paid 4 per cent; if you paid 4 per cent on all you get in you would pay right smart of taxes.

Mr. HEDGES. Yes; right smart of taxes, and you go right to the function of these reserves while you are doing it.

The CHAIRMAN. What I understood Judge Sterling was, that in addition to that income tax rate, say 6 per cent, we make a corporation income tax of 6 per cent, but in lieu of an excess-profits tax add on 1 or 2 more per cent income and not tax excess profits. That is section 209.

Mr. HEDGES. You mean, add an income tax to that?

The CHAIRMAN. Yes; add a little to the income tax and not have an excess profits tax.

Mr. DUNHAM. We are assuming the income tax is to be increased.

The CHAIRMAN. I think your presumption is about right. We regret to do it, but I suppose the business men and corporations recognize that we must have larger revenue from taxation, and perhaps larger still as the expenditures of the war increase and inevitably will increase. We are going to try to get the money as equitably as we can and with the least burden to business and to the people.

Mr. HEDGES. It was with entire deliberation that I didn't say anything about an increase in the income tax. You gentlemen have that problem. We wanted to get the other position logically before you if we can, and then what we have to pay we have to pay.

The CHAIRMAN. I had occasion to look into this when the excess-profits tax of 1917 was up, and the one we did pass in March, 1917, and then there were some of the larger companies paid nothing and some of the others \$200,000 or \$300,000; and some that had \$5,000,000 or \$6,000,000 paid none and some of the little companies paid more.

Mr. STERLING. I wonder whether Mr. Dunham would do this for the committee—

Mr. MOORE. Mr. Dunham, you are not yet officially on the record; are you the Mr. Dunham who was formerly with the State Insurance Commission of the State of New York?

Mr. DUNHAM. Yes, sir; formerly with the State Insurance Commission of New York, Frederick G. Dunham.

Mr. STERLING. Would you have the data on which you can compute for the committee what the tax would be if we would impose,

say, a 3 per cent rate on the income which these insurance companies derive from their investments?

Mr. DUNHAM. Yes, sir.

Mr. STERLING. You could tell what their investments are and their income?

Mr. DUNHAM. Yes, sir; we have that.

Mr. STERLING. And how much tax would a 3 per cent rate produce from the income on their investments?

Mr. GARNER. How would it compare with the excess profits levied under the present law?

Mr. DUNHAM. I couldn't give you that.

Mr. STERLING. You will do that?

Mr. DUNHAM. Yes, sir.

The CHAIRMAN. Mr. Dunham, I want to ask you a question I have asked a great many insurance companies: In mutual companies the policyholders are considered the stockholders?

Mr. DUNHAM. Yes, sir; they are the proprietors. There is no other holder of stock.

The CHAIRMAN. Now, when you get from them all the expenses, including the tax, and everything else, the salaries, and all the expenses to maintain their company and settle all claims, death claims, matured endowments, etc., and then out of that income carry all to the legal reserve that the law requires, and who does the balance of that money belong to?

Mr. DUNHAM. To the policyholders.

The CHAIRMAN. Now, if you would pay your stockholders, after paying all the expenses, salaries, and all claims, death losses, matured endowments, and everything else, and after what the law requires is to go to the legal reserve, if you paid your stockholders the balance, which really belongs to them in return of dividends, you wouldn't have to pay any taxes at all?

Mr. DUNHAM. If we returned it all?

The CHAIRMAN. You wouldn't have to pay any taxes?

Mr. DUNHAM. That is so, but—

The CHAIRMAN. Doesn't that money belong to them, in good morals?

Mr. DUNHAM. No, sir; if you mean in hand, no, sir.

The CHAIRMAN. Why doesn't it? You have enough to pay all expenses, and you have enough to protect them in their legal reserve; now, why?

Mr. DUNHAM. Mr. Kitchin, since the interposition of the United States in the war there has been a horizontal decrease in the value of the assets in which these companies—in the securities in which they have their funds invested, of from 8 to 10 per cent, and that decrease has to be taken up in this surplus. If there were no increase, when that occurs at the end of the year, the company's reserve is impaired.

The CHAIRMAN. In other words, you continue it as an additional reserve?

Mr. DUNHAM. An additional guaranty.

Mr. HEDGES. Something to boot.

Mr. DUNHAM. A margin which as good business men would not allow them to reduce more than they had to reduce.

The CHAIRMAN. I might suggest to the insurance companies that the more they return to their policyholders the less tax they will have to pay.

Mr. DUNHAM. That is true, but the difference to the individual policyholder would not be great, because the amount per policy would be slight, but the difference in the solvency of the company would be enormous, and it is these surplus funds which will meet this war loss for which we have no premium whatever and because of that the companies will withhold the utmost of dividends for the good of the whole company.

The CHAIRMAN. Now, in the State of New York, in this reserve contingent, could you loan to the Bethlehem Steel Works—the Bethlehem Co.—could you loan to them out of this reserve contingent?

Mr. DUNHAM. We could loan on a mortgage.

The CHAIRMAN. On a mortgage?

Mr. DUNHAM. On a mortgage, or on a bond adequately secured by collateral. And the collateral in New York could not comprise more than one-third of the security.

Mr. GARNER. That is all fixed by the statute of New York?

Mr. DUNHAM. Yes, sir.

The CHAIRMAN. Just so it is adequately secured?

Mr. DUNHAM. Yes, sir.

Mr. MOORE. Are the words "adequately secured" the words the statute uses?

Mr. DUNHAM. Yes, sir.

The CHAIRMAN. And you can't use any of this contingent reserve?

Mr. DUNHAM. No, sir; mortgages must be secured by real estate, and you may not loan more than 50 per cent of the value of the property on which it is loaned, and the collateral, as I have explained. It is all subject to the supervision of the superintendent of insurance.

Mr. SLOAN. Will you also state from the figures you have the amount contributed by these various organizations to the Government, whether by way of income tax, stamp tax—the amount they contribute to the Federal tax funds?

Mr. DUNHAM. Yes, sir. And I may include also other items that it seems are illuminating?

Mr. SLOAN. Yes; so far as I am concerned.

The CHAIRMAN. Mr. Dunham, how about any regulation as to what banks that you can deposit these reserves; deposit the money of the insurance companies?

Mr. DUNHAM. No; there is only a strict provision and supervision of the relative amount of money on deposit in banks to their investment; that is, an inordinate amount of money on deposit would be subject to immediate criticism and order.

Mr. MOORE. Your connection with the insurance department of New York?

Mr. DUNHAM. Special deputy superintendent of the State of New York.

Mr. MOORE. How long?

Mr. DUNHAM. Seven years.

Mr. MOORE. And now are you connected officially?

Mr. DUNHAM. I am the attorney for the Association of Life Insurance Presidents.

The CHAIRMAN. We are glad to have had you gentlemen before us. The discussion has been very helpful.

The CHAIRMAN. Gentlemen, both your statements have been very instructive to the committee, I am sure. I know they have been to me.

Mr. MARTIN. Thank you.

The CHAIRMAN. I am glad you came.

**STATEMENT OF MR. THOMAS W. BLACKBURN, SECRETARY  
AMERICAN LIFE CONVENTION, OMAHA, NEBR.**

The CHAIRMAN. Please state to the reporter, so that we may have it, your full name and whom you represent.

Mr. BLACKBURN. Thomas W. Blackburn, Omaha, Nebr. I am secretary of the American Life Convention. My remarks will be very brief, because I think you have gone quite extensively over this matter.

The American Life Convention is an organization of 111 legal life insurance companies in 34 States, all but 1 west of New Jersey. I represent what are more generally referred to as the younger companies, the western and southern companies.

About 95 of these are stock companies, and the remainder are mutual companies. We come, Mr. Chairman and gentlemen, from a section of the Union that is loyal, as every other section of the Union is loyal to-day, and we come to-day to say that we want to pay our share of the taxes, and if they must be increased we are ready to pay our share of the increase without any murmuring.

Mr. MOORE. That is the patriotic section of the country which sent Mr. Sloan to Congress, is it not?

Mr. BLACKBURN. I do not live in Mr. Sloan's district, but he is insisting that we send him to the Senate.

Mr. SLOAN. And I hope you will do that.

Mr. BLACKBURN. He has intimated to me that it would please him to be called Senator.

Mr. MOORE. With this interesting prelude, which I hope is satisfactory to Mr. Sloan—

Mr. SLOAN. It meets with my unanimous approval.

Mr. MOORE (continuing). Mr. Chairman, we will proceed.

Mr. BLACKBURN. I am not intending to discuss in detail any part of the subject that is here. I did want to say, however, that the capital stock of life insurance companies is merely a guarantee fund and that it must be maintained. A company whose capital stock becomes impaired, in most of the States is called to account and required to repair itself: so that the capital that is put up by the stockholders or the insurance companies is put there to stay, and put there as a guarantee that the company will carry out its contracts. A very large number of the stock companies, but not all by any means, write nonparticipating insurance, and they have a paid in surplus—it is required in many of the States to be paid in and is very generally paid, whether it is required or not—that is an additional guarantee that the nonparticipating contract can be carried out, and the difference between the nonparticipating and the participating company is simply that the nonparticipating company pays no dividends, and our capital and surplus is used to guarantee the payment of our obligations as they may mature.

The thing I wanted to say, which is not quite clear to the committee, I am afraid, is that this capital and the surplus of that capital must be invested in exactly the same way that reserves are invested, with very slight modifications. For example, in one State that I think of, the surplus and capital may be invested in drainage bonds, bonds that are secured by the property where the drainage district is; but with the exception of an occasional side issue of that sort, inserted by some legislator for specific conditions, the capital stock of the company and its surplus must be invested in exactly the same form of securities as the reserves, and must be carried so, and in Nebraska, as Mr. Sloan well knows, every stock life insurance company is obliged to deposit \$100,000 of the securities that are stipulated in the law, before it can enter upon the doing of business in the State.

In Iowa and Indiana, in Texas and Missouri, and in several of the other States, not only does the law require that the capital and the paid-in surplus shall be deposited with the insurance commissioner or some other governmental official, but the reserves on all the policies must also be deposited. In other States that is optional. In some States there is no such requirement at all. But the point I am trying to make is that we are restricted in all these forms of investment, both as to capital and as to surplus.

I do not think there is anything else that I need to add to what Mr. Hedges has said. I believe that a more equitable method of levying the tax upon life insurance companies can be devised, and possibly this committee will in its wisdom discover a more equitable method. Just at this time I am not prepared to make any suggestion along that line, but only wish to add in closing that we are expecting the tax to be raised, and expecting to pay it, although such a thing as excess profits of life insurance companies, in time of war, is unthinkable.

Mr. STERLING. Have the life insurance companies bought a good many Liberty bonds?

Mr. BLACKBURN. Yes, sir; a great many of them. I think the average of purchases by the companies I represent is 5 per cent of their assets. I think that is a higher average rate than will be found anywhere else. I know of some little companies in the American Life Convention that have 10 per cent of their total assets in bonds, although in the same territory where they have made this investment they are earning from 6 to 8 per cent on their regular investments.

Mr. STERLING. Have some of the old-line companies withdrawn their investments from farm mortgages? I understood some of them are refusing now to lend money on mortgage.

Mr. BLACKBURN. I think not. Some companies, and I think the Southland Life Insurance Co. is one of them, possibly, have discontinued their loan departments, and that company is putting all of its premium, as it comes in, into Liberty bonds.

Mr. DICKINSON. You say that the capital of a life insurance company is merely a guaranty for the payment of its obligations and it can not be impaired. I am not sure that that is your exact language.

Mr. BLACKBURN. Yes.

Mr. DICKINSON. What would you say about the capital stock of a bank? Would you consider that a guaranty? That is not permitted to be impaired.

Mr. BLACKBURN. No. They could liquidate the company and take down their capital. They can pay off their depositors and they can take their money, but we can not pay off our policyholders.

Mr. DICKINSON. But the capital of a bank is a guaranty fund?

Mr. BLACKBURN. Yes.

Mr. DICKINSON. And undoubtedly it is not to be impaired?

Mr. BLACKBURN. Yes.

Mr. DICKINSON. But in the one case, the bank can wind up its business.

Mr. BLACKBURN. Yes; and in the other case a liquidation would require a reinsurance of all our business, or a continuation of the business until every obligation was paid; and inasmuch as the Mutual Life Insurance Co., for instance, recently paid a policy holder who was 96 years of age and who carried the first policy issued, 72 years ago, it would be a long process.

Mr. DICKINSON. A bank can wind up more quickly than an insurance company.

Mr. BLACKBURN. Yes.

Mr. GARNER. Would you mind, if it is not too much trouble, putting in your record your theory of taxing insurance companies, so that we might get a basis upon which we might levy a tax so that it might be equitable and easy to understand?

Mr. BLACKBURN. Probably later I might do that. I would not like to do it on my feet.

Mr. GARNER. I say, later, do it? I realize there is quite a difference between the new companies in the West and South and the old line companies in the East.

Mr. BLACKBURN. There is quite a difference between the ordinary commercial institution and a life insurance company, too.

Mr. GARNER. Yes, I understand that; but I think there is quite a difference, especially as regards the excess profits tax, under the present law, as applicable to the old line companies and to the new companies. Now I would like you, representing the 111 companies you speak of, to give us some idea of what you think we should use as a basis in levying the tax, representing the companies that you represent.

Mr. CRISP. Did you say all your companies were old-line companies?

Mr. BLACKBURN. Not all of them.

Mr. CRISP. The companies that were recently organized are required to have their stock full paid?

Mr. BLACKBURN. Yes; that was particularly for the reason that they might have a guarantee back of their contracts, in order to be able to compete with the older and established companies, which already had their funds intact.

Mr. GARNER. A good many of these stock companies have combined, absorbed each other, within the last three or four years, have they not?

Mr. BLACKBURN. Not a great number, but a considerable number.

Mr. GARNER. Does that tend to make them stronger?

Mr. BLACKBURN. Absolutely; that is the purpose.

Mr. CRISP. Have there been many new companies organized in the last few years?

Mr. BLACKBURN. Not very many. Half a dozen would probably cover it.

Mr. CRISP. There are practically none at all being organized now?

Mr. SLOAN. The different States fix the amounts of the dividends that these companies can distribute among their stockholders?

Mr. BLACKBURN. Not necessarily.

Mr. SLOAN. They do not?

Mr. BLACKBURN. No, sir.

Mr. SLOAN. They do in a great many cases.

Mr. BLACKBURN. No; I do not believe there is any State that fixes that absolutely by law. The charters of a number of companies fix it, and the by-laws in other instances, and the conditions upon which—for instance, in one case a company was permitted to change over from the mutual to the stock plan, and fix not only the percentage that they would be allowed to pay on the capital, but the salaries they would be allowed to pay to the officers.

Mr. SLOAN. What is the tendency toward mutualization or toward stock companies now, generally, in the insurance business?

Mr. BLACKBURN. Well, in the vicinity of New York City there seems to be a tendency to mutualize, but elsewhere the stock companies are outnumbering the mutual companies.

Mr. MOORE. I understood you to say that the companies which you represent were expecting that they would have to pay more taxes next year?

Mr. BLACKBURN. Yes.

Mr. MOORE. I am glad that you are anticipating that fact.

Mr. BLACKBURN. Yes; I think I could say they are willing to, too under the circumstances.

Mr. MOORE. Your only reason for appearing here to-day is to endeavor to obtain some correction of the law, which you think is unequal as it bears on insurance companies now?

Mr. BLACKBURN. Yes, that is all.

Mr. MOORE. So that you are not appealing for any reduction in the rate of taxation or in the aggregate?

Mr. BLACKBURN. No, sir.

Mr. MOORE. The President told us lately that it would be absolutely necessary for us to raise more revenue for 1919 to carry on this war, and Mr. Secretary McAdoo has indicated that we must raise at least eight billions by taxation. Now, can you make any suggestion as to where we may go for new sources of revenue?

Mr. BLACKBURN. No; I am not in a position to make any suggestion as to that. I expect you to go to the life insurance companies for some of it. I would suggest, however, that you do not increase the policy tax, which is now a very heavy draft upon the resources of the companies and comes out of the first year's premiums where the heaviest expense is sustained, and whatever, of course, should be made under the present stock year should be made under the income tax provision.

Mr. MOORE. Leaving aside your obligations to the various States in which these various companies do business, would you indicate just what taxes you pay now to the Federal Government?

Mr. BLACKBURN. Yes; I have a memorandum of that. First, we pay the net income tax upon corporations.

Mr. MOORE. That is the corporation tax?

Mr. BLACKBURN. Yes.

Mr. MOORE. Do you think that could stand any increase so far as insurance companies are concerned?

Mr. BLACKBURN. Well, Mr. Moore, I feel as if the companies I represent are expecting that will be advanced.

Mr. MOORE. That is the corporation tax. Now, what is the next one?

Mr. BLACKBURN. The next one is on the stock companies, the capital tax of 50 cents per thousand above \$99,000.

Mr. MOORE. What comment would you have to make on that, if we found it necessary to make an advance there?

Mr. BLACKBURN. That is a comparatively trifling item. I think all of the stock insurance companies in the United States pay not exceeding perhaps \$200,000 on that 50 cents tax.

Mr. MOORE. That would not help us very much in the matter of raising eight billions.

Mr. BLACKBURN. No; it would not help you very much so far as the life insurance companies are concerned, although I note in Mr. Roper's report that it amounts to a considerable sum for corporations generally.

Mr. MOORE. I am asking you to get at those that will bear least heavily on your companies, if we find it necessary to increase the tax.

Mr. BLACKBURN. Oh, yes. Next is the 8-cent tax on the policies. That is a very heavy, burdensome tax.

Mr. MOORE. That is the new business tax you refer to here?

Mr. BLACKBURN. Yes; the new business tax.

Mr. MOORE. That bears very heavily.

Mr. BLACKBURN. Yes; very heavily. That amounts to \$8 on a thousand dollar policy, and on the average life insurance company the first premium is \$30; so that you can see there, there is about 2½ per cent of that first premium. Out of that first premium the companies I represent, being on what is known as the preliminary term form of valuation, pay the commission to the agents; they pay usually about \$5 for medical examination and \$2 for inspection, and then a percentage tax to the State of all the way from 1 to 3 per cent, according to the State they are doing business in.

Mr. MOORE. I wanted to keep away from the States altogether.

Mr. BLACKBURN. I mentioned that to show what a heavy tax that is, because it means \$8 on a thousand dollars, and the average premium is \$30.

Mr. MOORE. Is that against the company or the policy?

Mr. BLACKBURN. The companies very generally have assumed that on the theory that it was an emergency tax and might be eliminated shortly. I do not think that the companies ought to pay it, because I do not think they can afford to pay it, myself.

Mr. MOORE. Is it one of the reasons for the company assuming the tax, to encourage business?

Mr. BLACKBURN. Yes; and of course the participating companies must pay it.

Mr. MOORE. If the committee should deal with this tax in the new bill, what would you say as to increasing or decreasing that tax?

Mr. BLACKBURN. We are willing to stand it as it is, because we feel that we have to, but any increase would be very, very burdensome, and particularly upon the young companies, because the ratio



of their new business to their total volume of business is so much larger than it is in the old companies.

Mr. MOORE. Would you rather have an increase in the corporation tax than in this one?

Mr. BLACKBURN. We certainly would.

Mr. MOORE. That is what I am getting at. Now, the next item of tax?

Mr. BLACKBURN. I have estimated that the tax of 8 cents probably produces \$3,200,000 annually. Then we have the war-stamp tax, and the postal rates, and the 10 per cent surplus tax, as the other people have, and that is all.

Mr. MOORE. Have you any comment on any one of these items, presuming that the committee should raise any one of them or all of them?

Mr. BLACKBURN. No; I believe not. We have not gone into that, because we felt that so far as that tax was concerned we ought to pay what the others pay.

Mr. MOORE. You could best have the corporation tax raised and next the new-business tax? Those are the ones you have enumerated.

Mr. BLACKBURN. Yes. I have purposely omitted the excess-profits tax, because I think there are no insurance companies that are caught by the excess-profits tax, and very few of the younger companies would be caught.

**STATEMENT OF MR. EDWARD M. MARTIN, OF OMAHA, NEBR., REPRESENTING THE MUTUAL ASSESSMENT LIFE COMPANIES.**

The CHAIRMAN. State what company or association you represent and your name in full.

Mr. MARTIN. Edward M. Martin, of Omaha, Nebr.; my company is the Guaranty Life Insurance Association of Omaha, and I represent the Illinois Bankers' Life Association of Monmouth, Ill., and the Life Association of Des Moines, Iowa, and about 20 other smaller companies. Those are the three largest assessment life companies. There are about 20 smaller life companies situated throughout the country, but largely in the North and East, although there are some in the South.

I want to say that I listened with interest this morning to the various inquiries of the chairman from men who appeared here, as to what suggestions they had, if any, as to how this tax should be raised. I will endeavor to show this committee very briefly that our class of companies should be classified with the exemption pertaining to fraternal societies, mutual savings banks, etc., and then I will gladly show the committee how we think you could fix a tax which I firmly believe will net the Government at least double what we are paying now.

Primarily, though, I want to discuss the subject, first, of why I believe that we should properly be classed as exempt. The mutual life associations are an entirely different branch of insurance from the kinds of insurance to which you have just listened, represented by Mr. Hedges and Mr. Blackburn. We have practically 250,000 citizens in this country carrying our insurance and approximately \$350,000,000 of protective insurance in force in this country—a very

small item, as you will see, compared with the old line legal reserve companies.

The corporation excise tax law of August 5, 1909, subjected corporations to annually pay a special excise tax equivalent to 1 per cent upon the entire net income over and above \$5,000, with a proviso that fraternal beneficiary societies, domestic building and loan associations, mutual savings banks, and similar corporations should be exempt when and because no part of their net income inured to the benefit of any private stockholder or individual.

The income tax law of October 3, 1913, in addition to the normal tax, levied an additional graduated tax upon individuals and corporations, and by the provisions of section 33, fraternal beneficiary societies, building and loan associations, mutual savings banks, and kindred institutions were exempt, practically as provided in the law of 1909.

The income tax law of September 8, 1916, in section 10, part 11, of Title 1, provided for a tax of 2 per cent upon the net income of corporations. Section 11 (a) of said Title 11, provides that there shall not be taxed under this title, any income received by mutual savings banks without capital stock; fraternal beneficiary societies operating under the lodge system; domestic building and loan associations and cooperative banks without capital stock; and mutual organizations of local character the income of which consists of assessments and dues collected from its members; and other associations, no part of the net income of which inures to the benefit of any private stockholder or individual.

Now, I want to say to this committee, primarily, that we gather from those words, repeated time and time again in practically 14 subdivisions, that you intend to exclude from the operation of the 1916 tax any corporation having an income no part of which inured to the benefit of any stockholder, individual, or member. We have never been represented before this committee before. There are not many of our associations, and a number of them down East, the smaller ones, partake of the nature of fraternal societies; that is, they insure just Masons, or just those in certain kinds of business, such as railroad men, for instance.

In our section of the country we have a general business assessment life association. My company takes in 23 States, including the District of Columbia here, and we insure men the same as the mutual legal reserve companies; that is, we take anyone.

We have felt all along that in the first place we were really included in the list of exemptions by the Ways and Means Committee—by Congress; and, secondly, we have felt that we had no net income upon which to pay any tax, and generally speaking, that is true; but the policy tax is now levied and collected from us, and that brings us before this committee.

Our associations have not any capital stock, have not any net income which inures to the benefit of any individual or policyholder, and plan of the mutual benefit life associations is identical with that of the fraternal associations, except that we have no lodge system. My company has \$92,000,000 of insurance in force in these various States, and the demand for the insurance is increasing daily. We are furnishing the business man and the farmer the same kind of

insurance that a man gets in the fraternal society, minus the lodge system.

Mr. MOORE. How large an amount do you insure for?

Mr. MARTIN. We issue policies from \$1,000 to \$10,000. That is not true of most of the other associations. Most of them run only from \$1,000 to \$2,000.

Mr. SLOAN. And your funds are raised by assessment?

Mr. MARTIN. Yes. I will explain that afterwards.

Mr. SLOAN. Preceding or following the death?

Mr. MARTIN. No; prior. Our policyholder pays his dues quarterly, annually, or semiannually, and upon lapse his contract terminates. He can not borrow from the association a dollar; he can not surrender his policy and receive any reserve; and when he lapses there is no extended insurance. In other words, there is no element of profit or saving to the member himself. Our members must die before there is any obligation on the part of the association, and that money is paid to the beneficiaries. We are in what we term the pure life insurance business—pure protection. We furnish no surrender values, no loan values, no extended values. Our insurance runs from year to year, and the man pays during that year and—

Mr. CRISP. Is there any difference in conditions in the States?

Mr. MARTIN. There are some States that do not permit us to operate in them.

Mr. HAWLEY. Is that because of the schedule of rates?

Mr. MARTIN. Yes. I will come to the rates in a moment. Some of the Government departments hold that our rates are inadequate, and others are beginning to hold that they are a little too high. To illustrate, we say that the experience of all life-insurance companies in the United States shows that their loss for death purposes only is an amount equal to 70 per cent of the expectancy. No well regulated life-insurance company has more than 70 per cent on the 100 per cent of the expected mortality. We collect on that basis of 70 per cent, and the amount our policy holder pays, with 5 per cent compound interest, carries that loss.

Mr. MOORE. Your companies are much different from the old-line companies, and somewhat different from what we understand in the East to be mutual companies?

Mr. MARTIN. Yes.

Mr. MOORE. I wish you would explain just how a man becomes a member and how he obtains his policy, and in what proportion.

Mr. MARTIN. He obtains his policy by making regular application the same as to a legal reserve company. He pays no extra dues or membership dues or anything of that kind. He pays his premium quarterly or annually or semiannually.

Mr. CRISP. Are the premiums fixed, or do you have extra assessments?

Mr. MARTIN. No; we say: "Mr. Chairman, you are aged 40. We will charge you \$19.50 per thousand." This reserve fund that we have accumulated and are accumulating from year to year is a guarantee that that contract will be fulfilled. Should that reserve fund become depleted, we have the reserved right to assess, to ask him for a larger premium, or for more premiums.

Mr. MOORE. Then your funds for the payment of the death benefits are derived from premiums which come in substantially in the same form as the policy holders pay their premiums in any other company?

Mr. MARTIN. Exactly.

Mr. MOORE. It is not a system of dues?

Mr. MARTIN. No, it is not.

Mr. MOORE. And you have an age table?

Mr. MARTIN. Yes.

Mr. MARTIN. It is quite clear from an examination of these laws that Congress did not intend to tax corporations or associations having no net income which inures to the benefit of any private stockholder of individual, and that we were not included in this list of 14 exemptions in the 1916 law.

Mr. MOORE. Do you not have central headquarters and officers under salary and use your paraphernalia for insurance purposes?

Mr. MARTIN. Yes.

Mr. SLOAN. Are they paid out of the premium?

Mr. MARTIN. Out of the premium.

Mr. MOORE. And some allowance is made out of that for the expenses?

Mr. MARTIN. For the expenses.

In construing these laws, the Federal courts have held that there is no specific exemption in the income-tax laws in favor of mutual assessment life associations, other than fraternal beneficiary societies, operating under the lodge system, and our redress, therefore, lies with the Congress.

Mutual assessment life associations have no capital stock, no shareholders; and have not net income which inures to the benefit of any stockholder, policyholder, member, or individual. The plan of mutual assessment life associations is identical with fraternal beneficiary societies except that we have no lodge system. The policyholder or member of a mutual assessment life association can derive no profit whatever from, and has no interest in, the income of the association. He pays his premiums or assessments upon a quarterly, semiannual, or annual basis, and upon lapse his contract terminates and he has no extended insurance, loan, or surrender value or reserve to his credit. He can not borrow from the association upon his policy while it is in force and can receive no consideration whatever upon its termination either by lapse or surrender, as all payments he has made are for the sole purpose of enabling the association to make payment of a death benefit to his beneficiary.

Not only are the above facts apparent from the articles of incorporation, by-laws, and policies of mutual assessment life associations, but the statutes of many of the States governing these associations specifically prohibit us from making any return, giving credit, or passing any consideration to the insured. Owing to the fact that there are comparatively few mutual assessment life associations that our collections for expense purposes are limited, and that it was generally believed that we were exempt under the income tax laws to the same extent as fraternal and savings banks, these associations have not been represented before this committee when the laws were prepared.

In view of these facts it must be apparent that the framers of our present income tax laws overlooked mutual assessment life associations, and it should only be necessary to mention the wrong to obtain an adequate remedy. In the preparation of the list of proper exemp-

tions, the only logical and equitable course to pursue is to include mutual assessment life associations with the societies, banks, and associations above mentioned.

The laws above mentioned, after failing to properly classify and exempt us, provide that the accumulations and additions to our reserve funds, which are actually deposited with State departments, pursuant to law, may be deposited.

The requirement that these funds be actually deposited with State departments is not a proper test of honesty of management or of solvency. All associations would gladly deposit these accumulations were they permitted to do so. The laws of Illinois do not provide for the deposit of securities by our associations, while the laws of Iowa require such deposit to be made. Of two associations exactly similar in plan, with like incomes from the same sources and like expenses, the one located in Illinois must return a part of its income for taxation, while the Iowa association does not.

The Iowa law requires our Iowa company to invest in mortgages, municipal bonds, liberty bonds, etc., and deposit them with the State department. The Illinois law requires those funds to be invested in the same manner, but makes no provision for their being deposited with the State department. Therefore the Illinois association can not legally deduct from its income the reserve that is created in the same manner as the Iowa reserve is created, because the Illinois statutes do not cover deposit of securities with the State department. Some departments will not permit insurance companies to deposit their securities. They have not any safety deposit vaults, they have not any clerks and they do not permit that to be done, while the State of Iowa requires the insurance companies to deposit every dollar of their securities, and our State is the same. So we invest our securities in farm mortgages. We have a law specifying the kind of securities in which we can invest. We have to invest the securities and deposit them. Under the present law that may be deducted in Iowa, while the Illinois company, doing the same thing, can not deduct.

Mr. MOORE. Could your Iowa company, being authorized under the laws of Iowa, do business in Illinois?

Mr. MARTIN. Oh, yes.

Mr. MOORE. Would you not have to make a deposit of securities there and qualify before the insurance committee of the State?

Mr. MARTIN. No.

Mr. MOORE. You would not have to make a deposit in any of the other States?

Mr. MARTIN. No, because we deposit our securities in our own State?

Mr. MOORE. You say you invest very largely in farm mortgages?

Mr. MARTIN. Practically 80 per cent of our investments are farm mortgages.

Mr. MOORE. The recovery would be slow if you had a sudden call for funds in that instance?

Mr. MARTIN. That is true, and that is the reason we obtain a larger refund interest than the average company, because we are not called upon for anything except death losses. We have no loans to pay; a man can not surrender his policy and ask for a loan; he has nothing but a death benefit. Therefore we are apt to get a larger rate.

Mr. MOORE. You have indicated you have no capital, but you do have these accumulations on which you are prepared to pay losses. In the event of an epidemic you would therefore have trouble, would you not?

Mr. MARTIN. In the event of an epidemic we would have our investment and reserve of two and a half millions with our particular company.

Mr. COLLIER. You have the power to assess members?

Mr. MARTIN. We have the right to assess members.

Mr. COLLIER. I would like to know just what your regulations are before you can assess a member.

Mr. MARTIN. Our articles and by-laws provide that we can not collect more from a member than the amount specified in his policy unless our reserves are exhausted.

Mr. COLLIER. And in the case Mr. Moore supposed, where you had an epidemic, and you could not realize on your farm mortgages, you could come in then and make a special or extra assessment on your members?

Mr. MARTIN. Well, that is hardly a contingency that we have figured on or thought of, but the class of securities we take should be readily salable.

Mr. COLLIER. I am not attacking your securities in any way.

Mr. MARTIN. I mean the farm mortgages should be readily saleable and should be readily convertible into cash. We have been in business 17 years and have never had a foreclosure and never had but one payment past due, and that was in the case of a widow who had a mortgage and wrote she was on a wedding trip to Honolulu and had not sent it in.

Mr. DICKINSON. The State of Iowa requires certain securities to be deposited.

Mr. MARTIN. Yes, sir.

Mr. COLLIER. Is your headquarters in Iowa?

Mr. MARTIN. One of the three companies I represent has its headquarters in Des Moines.

Mr. DICKINSON. But you do not have to deposit the securities except in one State and then certify that those securities are deposited?

Mr. MARTIN. To the other States, exactly. Every year we have to get a certificate from our insurance committee and send it to the 22 other States, certifying that our association has so many securities, describing them rather generally, and, of course, attached to them is a minute exhibit that we prepare ourselves, giving the name and the legal description of the property, of every farm mortgage and its appraised value and the rate of interest, and the insurance commissioner certifies that we have those securities on deposit for the sole purpose of carrying out our contracts.

Mr. MOORE. Under the law of the State of Illinois you are required to put up \$20,000 in securities?

Mr. MARTIN. Oh, we are glad to do that.

Mr. MOORE. It makes no difference as to the others, you have got to have that fund?

Mr. MARTIN. Yes; we would be glad to have \$100,000 of our securities in Illinois, and in all the States we do business in.

Mr. MOORE. I was not questioning your method of doing business, but merely trying to ascertain the difference in your method of doing business and the method of the other insurance companies which are taxed.

Mr. MARTIN. The laws of the State of Nebraska and the laws of certain States in which we do business require us to have a certain reserve. If we did have a legal reserve we would have to give cash surrender values, etc., but the law in each State says that the reserve you do have you must invest in this or that, and our Nebraska law is very specific as to how we must invest our securities; and then it says you must deposit all those with the State department and they are all out of our control. There is not any way on earth, in fact, in which we can use those securities except to replace them with another, unless the company needs that money to pay death losses. In other words, it is a reserve guarded by the State, cared for by the State, and the kind of securities are prescribed by the State.

Mr. HAWLEY. That money can not be used for the business?

Mr. MARTIN. Absolutely not. Of the \$40 we collect from the chairman, for instance, as an annual premium or a quarterly or other assessment, a certain per cent of that is available for expenses, \$5, we will say. The other \$35 goes right in the reserve; it must be invested, and there it must remain, in the custody of our State department. That \$5 we have for expense purposes.

I say that with that class of associations, then, in all good conscience and logic, we should be named as exempt among these 14 items in the 1916 law, but we have not any profit or net income, any more than a savings bank, nor any more than a fraternal company. I do not want to hide under the skirts of the fraternal or a savings bank, or a building and loan association, but I am saying we are in that particular class that has the approval of Congress in being exempt from all these laws. We should have been, in the first place, and we would have been in there had we been represented. In the second place, the law now governs us. We do not pay any net income; we do not have any net income upon which to pay a tax, but the law now discriminates between a company in Illinois and a company in Iowa, because of an Iowa State law over which the company has no control. Next year the Iowa Legislature may repeal its deposit law and Illinois may enact one; then the Iowa company must take out its securities, and in Illinois they will be required to put them in the State Department. Then the conditions would be reversed, and the Iowa company would pay a tax and the Illinois company would not.

Mr. MOORE. Has there been a ruling by the department in your case?

Mr. MARTIN. Yes. The law is very plain, and the ruling has been practically in the words of the statute.

Mr. MOORE. And you have been held for the 8 per cent under the business tax?

Mr. MARTIN. I am coming to that now.

Mr. MOORE. And that is what you object to?

Mr. MARTIN. Yes; and also on behalf of the Illinois company paying on their reserve income, because they can not deposit it with the department.

Mr. MOORE. Is your company like the companies for which Mr. Black appeared?

Mr. MARTIN. Yes; the Illinois company is in its net additions, because Congress does not recognize the net addition to the reserve unless it is a deposit with the State Department and the Illinois company can not deposit their securities there.

Mr. MOORE. I am speaking of the majority of the companies you referred to.

Mr. MARTIN. In the majority that is not true.

Mr. MOORE. Are they held for a corporation tax?

Mr. MARTIN. No.

Mr. MOORE. Under those circumstances you are held only for the 8 per cent on new business. The other taxes to which Mr. Black referred are not charged up against your companies except in the Illinois case.

Mr. MARTIN. That is all. But I am illustrating the unfortunate case of the Illinois company, due solely to a law over which they have no control.

Mr. MOORE. What is the total risk of your companies?

Mr. MARTIN. Three hundred and fifty million.

Mr. MOORE. For which policies are written and passed out to members?

Mr. MARTIN. Yes. We have policies ranging from \$1,000 to \$10,000. We have been in the insurance business 16 years, operating in 23 States, and we have that amount of insurance in force.

Mr. MOORE. I am going to ask you the same question I put to Mr. Black and other gentlemen representing insurance concerns, whether you can make any suggestion, in view of the large business that is done by these companies, as to how we can respond to the President's call, as detailed to us by Secretary McAdoo, for \$8,000,000,000 additional revenue.

Mr. MARTIN. I am glad you mentioned that. I was just coming to that. There is a serious question as to whether we are liable for the policy tax. We are paying it, but our company and the larger companies have filed a claim for refund on Form 46.

Mr. SLOAN. How much is that tax?

Mr. MARTIN. Eighty cents a thousand; 8 cents a hundred. We do not issue any policy less than \$1,000. Every \$10,000 policy—of which we sell a great many—pays \$8 policy tax.

Mr. MOORE. You have paid that?

Mr. MARTIN. We have paid that and filed a claim for refund.

Mr. MOORE. Would you mind stating the amount?

Mr. MARTIN. On our policy tax we have paid \$3,800 up to the first of this month. Our policy tax runs \$600 a month.

Mr. MOORE. In lieu of that you are going to make some suggestion?

Mr. MARTIN. Yes. The reason I say there is a controversy about the policy which undoubtedly can not be decided by the courts prior to the enactment of this law is this, that in the income-tax law of October 3, 1917, Congress says that this tax of 80 cents a thousand shall be levied on policies, but in section 504 of this act, in title 5, it says: "All associations exempt from taxation under title 1 of the 1916 act shall be exempt from the payment of the tax." Under title 1 of the 1916 act we are exempt; we do not have to file any returns.

Mr. MOORE. Because of what language are you exempt?



Mr. MARTIN. Because section 504 levying this policy tax says all associations exempt under title 1 of the 1916 law shall not be liable for the policy tax.

Mr. MOORE. Do you claim you come under that title?

Mr. MARTIN. Under title 1, yes. So there is a serious question whether we are liable for the policy tax at all or not, but we are paying it and putting in a claim for refund. Eliminating the policy tax we are not paying any tax on our net income, because we have not any. With the burden of the State taxes we are just about able to play even. We have a certain restricted amount for expenses. We can not use more than the \$4 out of the \$40 you pay; we can not under any circumstances touch that \$36. That must go into the reserve. That is a contract between you and ourselves, in our policy, in our articles, in our by-laws, in the State law. We have just the \$4 to carry on our companies. Now, everything must be paid out of that \$4, that 10 or 12 per cent of the gross premium. We must pay our State taxes and expenses of management.

Mr. MOORE. May I ask what those State taxes amount to?

Mr. MARTIN. Our company paid \$22,500 in State taxes.

Mr. MOORE. On what pretense were they levied?

Mr. MARTIN. I declare I wish you would ask the legislature that. We pay all the way from 1 per cent on the gross premiums to 2½ per cent. My recollection is that Texas is the greatest offender. It is an utterly absurd and illogical tax. Notwithstanding that 95 per cent of the money we get from Texas is put into the reserve fund, yet Texas levies a tax. That is true of a few other States, but not very many.

Now, our contention is, briefly, that we should be classed with the 14 classes subject to exemption in the 1916 law; then the policy tax would not affect us, nor any of these taxes affect us, and I think from the wording of the other sections it was intended that we should be so classed. Second, I contend that it is extremely doubtful whether we are liable for the policy tax. If we are liable for it, it is entirely, and I say it honestly and fairly, too burdensome. We can not pay it. In the third place, I say that associations of our kind ought to pay a tax, and neither myself nor the boards of directors of these three associations would permit us to come here and have this hearing without offering to pay a tax, and we want to pay a tax just as large as we possibly can because we know what burdens the American people are bearing. But with our class of insurance, and I leave it to you gentlemen to say whether other classes should be treated the same, you should tax on the amount we collect for expense purposes. If we collect from the chairman \$40 and put \$36 of that amount into a reserve, that remains in the reserve, in the case of our State, with the State Department, and we ought to pay a tax based on the other \$4, because that is the money we will expend for salaries and to agents and for advertising and all the multifarious things that go to make up the insurance business.

Mr. COLLIER. What did it cost you per thousand to do business last year?

Mr. MARTIN. I can not answer that. Our expense collections are approximately 12 per cent gross of the premium.

Mr. COLLIER. You said \$4; you meant 10 per cent, then?

Mr. MARTIN. Yes; it is a little more; it is 12 per cent, I would say, of our gross premiums for expenses.

Mr. COLLIER. Do you not have a paid-up policy of any kind?

Mr. MARTIN. Never.

Mr. COLLIER. For instance, some of the fraternal companies do at the age of 70 years; but if a man has been in a company and paid for 40 years he has lost everything?

Mr. MARTIN. You speak of a paid-up policy at 70 years. We have a provision in our policy that when a man arrives at 70 and by reason of old age or infirmity is not able to carry his premiums, we begin to pay him the death loss in 10 equal annual installments, and he pays the premiums during that period.

Mr. COLLIER. In other words, they pay him his policy in installments?

Mr. MARTIN. Yes; so much a year. Our plan provides, and our policies require us to turn into our reserve any increased expense, but notwithstanding that provision and notwithstanding the hope we have had for years that at the end of some year we might have some money in our expense fund to turn over to our reserve, we think we ought to pay a tax. I will be glad to offer a short amendment which will cover our views.

It is now uncertain whether we are properly classified, or it is uncertain whether we should pay the policy tax or not. I say we ought to pay a tax on the gross collections, for expense, and I say now it ought to be 1 per cent; out of every \$100 we collect from that source let us pay \$1 to the Government, and in the case of my company it would mean between \$500,000 and \$600,000 a year now, and as our business increases it will be more, and not taking into account the policy tax it would then net the Government three times the amount that is now being paid by assessment levy fixed on the company.

Mr. SLOAN. How would it compare with the present tax?

Mr. MARTIN. My amendment would have that tax based on what they collect for expenses, and it would be a tax that would net the Government more than it is now getting.

The CHAIRMAN. Suppose you present such an amendment and state how much taxes you think we could get with such an amendment.

Mr. MARTIN. I could do that in five or six lines.

The CHAIRMAN. And estimate the amount of tax, based upon the gross receipts in all of the companies, which it would produce?

Mr. MARTIN. I would be glad to do that with reference to our company.

The CHAIRMAN. I thought you meant for all companies.

Mr. MARTIN. I said I did not know what the committee will do with the other class of companies, but any theory of taxing insurance companies of all kinds and classes is based on the amounts they collect for expense purposes.

Mr. SLOAN. Suppose we adopt your views about this policy tax, and you suggest 1 per cent of your expense account, how much money has your company loaned out on farm mortgages?

Mr. MARTIN. Two million dollars.

Mr. SLOAN. That draws 6 per cent?

Mr. MARTIN. We have earned more than 6 per cent since our organization.

Mr. SLOAN. Why not put a little tax on the income from that?

Mr. MARTIN. For the reason that the \$40 we collect from you per annum is required to be invested, and the compound interest on that from year to year.

Mr. SLOAN. You have that \$36 out?

Mr. MARTIN. Yes; but the \$36 is not enough. The \$36 does not begin to cover the cost of insurance. It is the \$36 plus the accumulations we can get on that.

Mr. SLOAN. That money you have got invested is property that is bringing in an income; it is an unearned income, the same as with the individual who loans out his money and draws back 6 per cent. I think we ought to get a tax on that income.

Mr. MARTIN. Unquestionably.

Mr. SLOAN. Not an excess-profits tax, because it would not amount to an excess profit, but would it not be fair to your company to pay some tax on the interest you derive from your investment?

Mr. MARTIN. That would leave some doubt as to our ability to carry out the policy to meet our contracts.

Mr. SLOAN. You have the power to assess in case your fund becomes exhausted. It must be taken into consideration that this committee is not levying taxes because it likes to do it. It is doing it because it has got to have the money for the Government. Would you think it a fair proposition that you should pay some taxes?

Mr. MARTIN. I wish I could answer that in the affirmative, but I can not, because we need every dollar of that for the accumulations to carry out the contracts.

Mr. HAWLEY. If they began levying extra assessments their business would go to pieces very soon.

Mr. MARTIN. We can not levy an extra assessment; we are absolutely limited as to the amount we can collect from our own members. We have 45,000 policyholders—more than that—and we have a solemn agreement in every one of those contracts that we will not collect one penny more than the amount designated in the contract until our reserves are gone. So we can not collect any part of this policy tax from our present members, not one dollar. Now, I will put for your information in the hearings the entire amount of money we can collect from our members only for expense purposes, which should be taxed. Do not allow us any deduction even if our expenses eat up every dollar, but make us resort to some economy and save that 1 per cent, and we will do it.

Mr. DICKINSON. You include salaries as a part of the expenses upon which you levy?

Mr. MARTIN. Yes, sir. Another thing is that we have 11 men from our home office in the service of the Government, and we are paying those men the difference between the salaries and what the Government pays them. The only part of the premium that we have any control over or any right to use, I say, ought to be taxed, and I will suggest an amendment that will cover that.

Mr. MOORE. Do you pay the State taxes out of that \$4?

Mr. MARTIN. Yes.

Mr. COLLIER. You have only one kind of policy that you issue?

Mr. MARTIN. We have a 10-year term and an ordinary life policy.

Mr. COLLIER. Would you object to filing with the committee a schedule of the rates?

Mr. MARTIN. I would be glad to do so.

Mr. COLLIER. What are the rates of your company now in case a soldier in France should be killed; what have you in your policies as to the war?

Mr. MARTIN. Prior to the enactment of the war-risk bill by Congress we charged \$25 per year per thousand. Upon the enactment of that law we suggest now to our men, and require them, in fact, to take Government insurance. We do not keep our policies in force when they leave this country. We do not consider service in this country as war service, but we consider a man surrenders his policy, no matter how long he has had it, when he goes to France, and we return to him the entire amount he has paid. We have done that with men who have had insurance for eight or nine years. We have one man who had his policy nine years, and he wrote and said he was going to take Government insurance. We told him to send in his policy and we would return every dollar he paid. We came to this conclusion, that no matter how much we might want to do so, we could not assume that extra hazard owing to our low rates, and we also figured that any amount we would charge would practically confiscate the policy. So we ask our men to take Government insurance, but in spite of that \$25 charge we have about 80 policy-holders who insist on keeping our insurance and paying the \$25.

Mr. SLOAN. Will you give a statement showing what taxes might be collected under the policy you propose?

Mr. MARTIN. I am going to submit that amendment and hand it to the clerk.

The CHAIRMAN. Base your estimates on what you are receiving under the present system.

Mr. MARTIN. Some of the organizations that I represent as an officer of the largest of the companies may object or criticize my statement to this committee, but I am here to say that we want to pay a tax, and I think this theory of mine is equitable and fair and it is easily ascertainable.

Mr. MOORE. You are going to submit a plan in connection with your statement?

Mr. MARTIN. I will.

Mr. SLOAN. How much do you pay to the State?

Mr. MARTIN. We pay to the State \$22,000.

The CHAIRMAN. How much do you pay now to the Federal Government?

Mr. MARTIN. We do not pay anything but the policy tax.

The CHAIRMAN. You want to be relieved of the policy tax and then pay the 1 per cent tax?

Mr. MARTIN. One per cent of our entire expense collections.

The CHAIRMAN. And that would be about \$400,000 or \$500,000?

Mr. MARTIN. For my company it would be between \$500,000 and \$600,000, and for our class of companies it will double the amount the Government gets.

Mr. MOORE. The class of taxation you suggest would pay more?

Mr. MARTIN. We all understand that, and would be willing to do it.

Mr. MOORE. You think it would be fairer?

Mr. MARTIN. Yes, sir; and it is easier to ascertain.

(Thereupon, at 5.40 o'clock p. m., the committee adjourned until to-morrow, Thursday, June 13, 1918, at 10 o'clock a. m.)

# REVENUE BILL

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No. 6

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## HEARINGS

BEFORE THE

## COMMITTEE ON WAYS AND MEANS

HOUSE OF REPRESENTATIVES

WITH REFERENCE TO

## THE NEW REVENUE BILL

[THIS PRINT OF THE HEARINGS IS SUBJECT TO REVISION  
BEFORE THE FINAL PRINT]

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JUNE 13, 1918



WASHINGTON  
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1918

**COMMITTEE ON WAYS AND MEANS.**

**HOUSE OF REPRESENTATIVES.**

**SIXTY-FIFTH CONGRESS, SECOND SESSION.**

**CLAUDE KITCHIN, North Carolina, *Chairman.***

**HENRY T. RAINEY, Illinois.**

**LINCOLN DIXON, Indiana.**

**CORDELL HULL, Tennessee.**

**JOHN N. GARNER, Texas.**

**JAMES W. COLLIER, Mississippi.**

**CLEMENT C. DICKINSON, Missouri.**

**WILLIAM A. OLDFIELD, Arkansas.**

**CHARLES R. CRISP, Georgia.**

**GUY T. HELVERING, Kansas.**

**GEORGE F. O'SHAUNESSY, Rhode Island.**

**JOHN F. CAREW, New York.**

**GEORGE WHITE, Ohio.**

**JOSEPH W. FORDNEY, Michigan.**

**J. HAMPTON MOORE, Pennsylvania.**

**WILLIAM R. GREEN, Iowa.**

**CHARLES H. SLOAN, Nebraska.**

**NICHOLAS LONGWORTH, Ohio.**

**GEORGE W. FAIRCHILD, New York.**

**JOHN A. STERLING, Illinois.**

**WHITMELL P. MARTIN, Louisiana.**

**WILLIS C. HAWLEY, Oregon.**

**ALLEN T. TREADWAY, Massachusetts.**

**JOHN E. WALKER, *Clerk.***

# REVENUE BILL.

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COMMITTEE ON WAYS AND MEANS,  
HOUSE OF REPRESENTATIVES,  
*Thursday, June 13, 1918.*

The Committee met at 10 o'clock a. m., Hon. Claude Kitchin (chairman) presiding.

There were also present Representatives Rainey, Dixon, Hull, Garner, Collier, Dickinson, Oldfield, Crisp, Carew, White, Moore, Green, Sloan, Longworth, Fairchild, Sterling, Martin, Hawley, and Treadway.

## STATEMENT OF DR. JUR. JAK. A. SCHWARZMANN, REPRESENTING SCHWARZENBACH, HÜBER & CO., NEW YORK, N. Y.

The CHAIRMAN. Give your full name to the committee, and your address and business, your occupation, and whom you represent.

Mr. SCHWARZMANN. Dr. Jak. A. Schwarzmann, of the Schwarzenbach & Hüber Co., New York.

The CHAIRMAN. All right; proceed.

Mr. SCHWARZMANN. Mr. Chairman and gentlemen, I thank you very much for the privilege of appearing before your committee. Although I was given authority by the Silk Association of America to speak in their behalf, I prefer to talk about a few general topics, especially for the reason as there at the present time is not very much to say about the silk industry, as we are up against a very much more important problem at the present time, and that is curtailment of our industry; but nevertheless, I shall be ready at the end to answer any questions so far as the silk industry is concerned, and so far as I can do it. We certainly recognize the necessity of heavier taxes, and we fully trust that this committee and Congress, generally, will give us a just law, and that is all any business can expect.

I decided to call your attention to a few points of the present income and excess-profits tax law which should and we hope will be eliminated, because they are partly unjust and partly unworkable. Above all, I suggest that the basis of prewar earnings should be eliminated, and in place thereof straight extension created, the way this committee has already done in their first proposition of the present law. I suggest this for the simple reason because our prewar earnings were abnormal. We borrowed the principle of prewar earnings from England, like different other principles. England put up an excess-profits tax which taxed heavily the profits above prewar earnings. They took 50, 60, and even 80 per cent. We thought the principle could be well applied to our prewar earn-

ings, but forgot to compare our prewar earnings with nonprewar earnings. As I said, they were abnormal.

I propose to represent the Schwarzenbach-Huber, Co., the biggest silk manufacturers in the United States, and probably the biggest manufacturers in the world. We have factories in Switzerland and Italy. Our prewar standard was 1.9 per cent. We have tried in 1911 and 1912, and had small earnings in 1913 which put the average to 1.9, without deducting the losses of 1911 and 1912. Now, I have already, last year, worked out a table which I took the privilege to lay before you. Senator Simmons in the Senate has already made use of this table. I ask you to kindly give your attention to a few explanations. You see a line here, X-Y. This line is the normal line, or the minimum earning line. Now, I have read in previous articles of the hearings that you are very anxious to get good authorities for the figures. These tables are taken from Babson, and I have no other authority, but I think Babson is sufficient authority. He is the recognized statistician in the whole United States. I may mention that Bradstreet's charts and Babson's charts agree.

The CHAIRMAN. What are those red marks up there; what is that red space "United States, X-Y"?

Mr. SCHWARZMANN. X-Y is the normal or minimum earning line.

The CHAIRMAN. The 1916 red marks and "The United States"; what does that mean?

Mr. SCHWARZMANN. I will just explain it. Now, I have only for the United States, England, and France. You will see that the name is below, of the respective countries, on the chart.

Mr. STERLING. You mean Canada and England?

Mr. SCHWARZMANN. No; the United States, England, and France. The name is below the chart.

Mr. STERLING. Oh, yes.

Mr. SCHWARZMANN. England had an average earning in the prewar period of 13.3 per cent in connection with this chart. The United States has average earnings of the minimum returns on the money invested, which they state as either 5 or 6 per cent.

Now, in order to explain the injustice of taxing in accordance with the prewar earnings, I had to state average earnings for the present time—for the war. I took 25 per cent. I may mention that if I take 25 per cent; this is only relative applied to each country the same way. It is not an absolute figure, and therefore, as a statistician, it must be correct.

Now, you see England taxes the two best years out of three years, whereas the United States taxes the three years of prewar earnings. You see now the space above the black field in England is very small. These are the earnings above the prewar earnings—the earnings which are taxed. These earnings are taxed with 80 per cent.

Now, the United States. You see that the field is much larger. I may mention that the black lines—the black fields—are both the line X-Y. The black fields below these lines are just balancing. In other words, we have above all just a minimum reserve. What is above this black line is business prosperity and what is below is business depression.

We have figured out—at least, it has been stated so in the Senate—that our present taxes run up to, in the average, about 32 per



cent. In other words, we tax about 32 per cent of this red square, whereas England taxes 80 per cent of the red square. You will easily see that 32 per cent here may nearly reach 80 per cent of England, because England covers with 80 per cent of present excess-profit taxes a much smaller area than the United States covers with only 32 per cent. I have worked it out graphically, to explain it a little bit better. You may see here these are the prewar earnings, The United States has very small prewar earnings—the black field above these black lines—and therefore we take for the United States 25 per cent of present average earnings, too. Therefore they have very large war profits—we call it war profits, although they are not all war profits. They are partly just normal returns, which they were not before, and partly they are war profits.

England has a much smaller area of war profits. Now, here is France, too. Here in England we have very little of war profits left, and a very large area of prewar earnings. I have figured it out in a table. I assume now, at the present, that the average application of the present law is 32 per cent. Also I can not control that. I take as authority the statement in the Senate when the law passed.

Mr. GARNER. You make it 38 per cent here, do you?

Mr. SCHWARZMANN. Yes. I will explain you these figures, after a while. We would assume the prewar earnings not as an exemption but simply as a reduction. I will explain this afterwards. I compare only England and the United States, for the simple reason because the present law, which after all is not as bad as it has been made by the newspapers, and ridiculed by the newspapers, because this present law has always been compared with England, and all the newspapers now for a whole year cried that you have let off here easily the corporations, and that England taxes 80 per cent. They never took into consideration that the prewar earnings were more than two and a half times bigger in England than they were in the United States, which is a fact that certainly must be considered. I have tried to approach different papers, but without result, possibly on account of the bad English I speak.

The CHAIRMAN. Do you know what the average profit was on capital invested in Great Britain before the war—whether it was 10 per cent or 12½ per cent?

Mr. SCHWARZMANN. I went down to Boston and we tried to check that up. You know, these tables are exactly the Babson tables, and we found you can take just about one little square that you see here for 1 per cent; that is, one little square represents about 1 per cent.

The CHAIRMAN. I do not exactly understand that.

Mr. GARNER. He contends, if I understand him, that the prewar profits—that is, profits for 1911, 1912, and 1913—in England were a great deal more on the capital invested than they were in the United States—some two and a half times as much.

Mr. SCHWARZMANN. Yes; two and a half times as much.

Mr. GARNER. That is his contention.

The CHAIRMAN. I know your contention. I want to see about the facts. Take iron and steel in Great Britain. What percentage of profits were they making?

Mr. SCHWARZMANN. Babson takes all the English industries.

The CHAIRMAN. I wanted to see if you investigated this from the standpoint of actual facts and were not taking this from somebody else.

Mr. SCHWARZMANN. Yes.

The CHAIRMAN. Have you investigated how much the profits which the iron and steel industry were making were in Great Britain for the three prewar years?

Mr. SCHWARZMANN. No; I have not investigated. I took these charts because they were for everything.

The CHAIRMAN. So that you do not know whether they were making 5, 6, or 10 per cent?

Mr. SCHWARZMANN. No; I do not. But these figures were made up from actual results.

The CHAIRMAN. Yes; he ought to give the figures on the charts.

Mr. SCHWARZMANN. I may be able to get all these figures together yet. It was an awfully short time for me to prepare these matters.

Mr. GREEN. If I understand correctly, these charts may be, if I may use the term, translated into figures?

Mr. SCHWARZMANN. Yes.

Mr. GREEN. That is very easily done.

Mr. SCHWARZMANN. That is very easily done. They are not specified in figures. That is, I can, of course, find out all steel earnings in England, or what the actual returns were, or other things, or other kinds of returns. That is to be found out. That chart is a composite block of all these facts.

Mr. GARNER. Who is Mr. Babson?

Mr. SCHWARZMANN. Babson is the foremost statistician of the United States.

Mr. GARNER. At the present time?

Mr. SCHWARZMANN. At the present time he holds a Government position in the Bureau of Public Information. He is the chairman of a certain branch.

Mr. GARNER. I wanted to attract your attention to this answer. The whole matter depends upon the figures of Mr. Babson, here. You have depended upon Mr. Babson?

Mr. SCHWARZMANN. Entirely.

Mr. GARNER. Now, the question is as to the accuracy with which Mr. Babson has given the information on this subject.

Mr. SCHWARZMANN. Yes.

Mr. GARNER. You claim that he is the foremost statistician in the United States?

Mr. SCHWARZMANN. Yes.

Mr. GARNER. And he is now holding a Government position?

Mr. SCHWARZMANN. Yes.

Mr. GARNER. In the line of his work?

Mr. SCHWARZMANN. In the line of his work; as a return for his accuracy in all his statistical work.

Mr. GARNER. And you say that his reports agree with Bradstreet.

Mr. SCHWARZMANN. Agree with Bradstreet's, all in all. I mean there are small differences, but not to amount to anything.

Mr. FAIRCHILD. Babson, I think, is generally recognized as being the foremost statistician of this country.

Mr. GARNER. That is what I was directing the chairman's attention to, that this whole thing is based on the accuracy with which Babson makes his reports.

Mr. FAIRCHILD. This man comes before us this morning, however, to represent the silk industry, and it seems to me that he might confine himself to the particular line of development that he represents.

Mr. GREEN. This statement that the gentleman has just been making is to myself quite interesting with respect to the prewar earnings.

Mr. GARNER. If his statement is correct, that in England the prewar earnings on capital were two and a half times what they were in America, then I do think it is quite important, if you are going to take England's methods as a basis on which we might levy war-profits taxes, to determine the accuracy of the facts which he has just given us.

The CHAIRMAN. The average percentage of profits in Great Britain in 1911, 1912, and 1913; and then we want to compare them with the average profits of this country. I will state to you that before the Federal Trade Relations Board some time ago charts were shown in several leading industries, which showed in the neighborhood of 11 per cent—iron and steel, rubber, the brewing industry, and several others, and that Dr. Adams and Kramer, the advisory board on the excess-profits tax, thought it would run up about 12 per cent; that those figures were rather low. They took those figures from the London Economist. Now, it is easy to take the Times, and take the iron and steel industry, or the rubber industry, and different industries, and for those three years ascertain the profits in England from the industries, and then compare them. If Great Britain was making 12½ per cent in the iron and steel industry and we were making only 6 per cent, then I know exactly the condition.

Mr. SCHWARZMANN. Yes.

The CHAIRMAN. If Mr. Green is satisfied with the chart and these figures, all right, but I would rather have the figures.

Mr. SCHWARZMANN. Yes.

The CHAIRMAN. You have not gone into the figures?

Mr. SCHWARZMANN. No.

Mr. GREEN. The chairman is mistaken about by being satisfied.

The CHAIRMAN. I will take it back, then. What was the percentage of profit in the silk industry in the prewar years, taking the last three years?

Mr. SCHWARZMANN. Well, take our concern. We are a corporation of over \$8,500,000 invested. We had returns on the average for 1912 and 1913 of 1.9 per cent; not quite 2 per cent.

The CHAIRMAN. Do you know Mr. Jenney of South Manchester?

Mr. SCHWARZMANN. I know him very well.

The CHAIRMAN. Do you represent him?

Mr. SCHWARZMANN. I have been asked by the silk industry to represent them, but there is very little at the present time to say for the silk industry.

The CHAIRMAN. I know Mr. Jenney. I know him very well. My recollection is that when he was down before this committee protesting against any reduction in the tariff, he stated that the silk in-

dustry had been in a very prosperous condition, and was then in a very prosperous condition.

Mr. SCHWARZMANN. Yes.

The CHAIRMAN. But that if we reduced the tariff he would be ruined; and that was in the latter part of 1913. It was in 1913, so that he evidently had a very successful business in 1911 and 1912. It was more than 1.9 per cent.

Mr. SCHWARZMANN. We had a good business in 1913; but in 1913, especially in New Jersey, in the silk business, and in the northern part of the United States, we had strikes, and the industry in the United States had to bear the brunt of these strikes.

The CHAIRMAN. That was the Paterson strike?

Mr. SCHWARZMANN. Yes; all over New Jersey. Now, I do not believe in any such statement—that an industry is ruined so easily. It will always find its way, and the silk industry will find its way.

The CHAIRMAN. What percentage of profit are these companies you are representing making. If we can get at that we will see how it hurts your business. We can take the present standpoint and the prewar standpoint, and see the difference. I understand the concerns you are representing were making 1.9 per cent in the prewar period?

Mr. SCHWARZMANN. No; that is only our concern.

The CHAIRMAN. Your concern?

Mr. SCHWARZMANN. Yes.

The CHAIRMAN. What is your concern? I understood you represented the industry.

Mr. SCHWARZMANN. I have been asked by these others to represent them, but my intention was to talk of the present law; what I think would be wrong; and I thought that was understood this way.

The CHAIRMAN. What is your particular industry?

Mr. SCHWARZMANN. The silk industry.

The CHAIRMAN. What is your corporation?

Mr. SCHWARZMANN. Schwarzmann, Huber & Co.

The CHAIRMAN. You say their percentage of profit was what?

Mr. SCHWARZMANN. 1.9 per cent; not quite 2 per cent.

The CHAIRMAN. 1.9 per cent? Now, say last year—1917—what was their percentage of profit?

Mr. SCHWARZMANN. I could not tell you exactly the percentage, but I can tell you that we went in our excess-profits tax up to the 35 per cent rate. That means that we had returns from between 20 to 25 per cent.

The CHAIRMAN. I do not think it is too high for that if the other industries are making more.

Mr. SCHWARZMANN. Oh, yes; I should say except for the three years, 1911, 1912, and 1913, we would find that we had returns of about 9 or 10 per cent.

Mr. GARNER. You had that low rate on account of the strikes, is not that it?

Mr. SCHWARZMANN. Yes. Now, there are industries who show that if we take a straight rate there will be these premiums in efficiency. We consider ourselves as an efficient concern. Nevertheless, we had no prewar earnings.

May I just call your attention to one other point, and that is, I would wish instead of only a portion of the prewar earnings a real exemption is created. You know that this question was brought up before the Treasury Department after the law had passed.

The CHAIRMAN. What kind of exemption?

Mr. SCHWARZMANN. The low rate is 7, and the maximum 9 per cent should be exempted; but the Treasury Department did not treat it as an exemption, but simply as a deduction; but yet it was taken into computation as soon as you have arrived at the higher rate, and I have figured this out that it makes an additional return for the Treasury Department of on the average 6 per cent; in the maximum 9 per cent, if a corporation earns above 41 per cent. Then you give the Treasury Department a maximum additional return of 9 per cent. Now, I will simply put in the record our claim of abatement that we filed with respect to these simply creating a deduction instead of an exemption.

The CHAIRMAN. Very well.

Mr. SCHWARZMANN. That was Treasury Decision No. 2.602, which said that if a concern has a higher exemption than the first 50 per cent of the capital invested, the difference, the balance between 50 per cent and the exemption, could be taken in the following bracket. That was before our presentation of the case in the Treasury Department.

I may call your attention to the fact that this decision applies only to corporations with \$50,000 or less capital invested, or partnerships with \$100,000 or less capital invested, because every corporation with less than \$50,000 capital and every partnership with less than \$100,000 capital invested has always an exemption, which is in every case smaller than the first 50 per cent of the capital invested, so that this does not influence any corporation above \$50,000. I will simply put that in the record. I wish it would be there.

The CHAIRMAN. It will be put in the record.

(The matter referred to is here printed in full in the record as follows:)

NEW YORK, May 23, 1918.

Hon. D. C. ROPER,

*Commissioner of Internal Revenue,*

*Treasury Department, Washington, D. C.*

SIR: With our excess-profits tax return we filed a claim of abatement on the grounds that the Treasury Department treats the prewar earnings as a mere "deduction" instead of an "exemption" as intended by Congress. We herewith state the reasons why this Treasury decision is not in accordance with the law itself and its intention:

1. The genesis of the law shows that, beyond doubt, an exemption was intended above which only the excess-profits tax should become applicable, to wit:

(a) The original House bill provides an exemption of 8 per cent.

(b) The original Senate bill proposes a minimum exemption of 6 per cent, which was successively amended to a limited exemption of from 6 to 10 per cent.

These propositions define the war profits as the difference between the total net income and the average prewar earnings and only such war-excess profits were intended to be taxed.

(c) The Bankhead amendment, as the predecessor of the present section 201, exempts 8 per cent and gradually taxes above this exemption.

(d) The final bill, as proposed by the conference committee and passed by Congress, provides an exemption of from 7 to 9 per cent.

2. In commending this conference proposal for passage, Hon. F. L. Simmons states:

"In arriving at the taxable income the taxpayer is allowed to deduct from his net income his average net income for the prewar period but not to be less than

7 per cent or more than 9 per cent, plus, in case of a corporation, \$3,000 or of an individual or partnership, \$6,000. (Cf. Congressional Record, p. 8698.)

Thus, it is clearly stated that only the excess profits above the prewar earnings are subjected to the war excess-profits tax.

Further on in his oral explanation of the law in the Senate, Hon. F. L. Simmons speaks of these prewar earnings as of an exemption. (Cf. Congressional Record, p. 8691, second column, fourteenth line from the bottom.)

3. The excess-profits-tax law, in fact, represents a copy of the English law, to which it always refers. The English law is based on the exemption of the prewar earnings and taxes the excess above such prewar earnings.

4. The law itself states that its intention is to tax only the excess profits above normal or prewar earnings. Hence, its name "war excess-profits tax."

5. That the application of the tax to the prewar earnings can not be intended as shown by the anomaly created if applied to such prewar earnings, to wit:

It creates a tax system which eventually omits the lower rates and begins with the higher or even the highest rate. Such system is a slap in the face of every taxation principle.

6. Treasury Decision 2602 is in contradiction to section 209, where a business having only a nominal capital invested receives an exemption of \$3,000—respectively \$6,000—and only the excess of it is taxable at 8 per cent.

In consideration of all the reasons we uphold our claim of abatement, filed with our excess-profits tax return, and beg to ask for a decision and refund accordingly.

Very truly, yours,

THE SCHWARZENBACH HUBER CO.

Mr. SCHWARZMANN. Now, I wish to be understood that I do not speak against a prewar standard, because we want to be let off easier, the straight rate can be 8 or 9 or 10 per cent, but we are up against two kinds of unsatisfied corporation people. The fellow who has large prewar earnings can not see why the other fellow should not get the same treatment he has. The one who has less than 50 per cent can not see why he is given 9. So that a straight rate would work out best, in my opinion.

Mr. GARNER. Suppose we had a double clause in there; suppose we made a tax fixed on the prewar earnings, or an excess-profits tax, and then you levied an excess-profits tax and we should put a clause in the bill that no interest should be less than the war-profits tax—less than the excess-profits tax—then you would do nobody an injustice, and you would get them all?

Mr. SCHWARZMANN. Yes.

Mr. GARNER. That is the kind that has been suggested, I believe.

Mr. SCHWARZMANN. I have a few special points which I have suggested already, in the brief of last year, that the unearned income should be taxed heavier, and this was a protest in a letter from Mr. McAdoo to the chairman. There are two kinds of unearned income—dividends and the interest on bonds. The bonds up to the present time, in the present law, have such a position that they shall be taken care of better. Every income in the present tax law is subject to the excess-profits tax and to the income tax, except the interest on bonds. Bonds of the corporations do not pay any tax. They are deducted before you ascertain your net income, and they are not subjected to the excess-profits tax of section 209, of 8 per cent. In other words, interest on bonds is the only income which is not subjected to this principle: That every income has to pay the excess-profits tax and the income tax.

Mr. GREEN. You understand that above \$5,000, if the corporation owns bonds, except of the first series, which were exempt from all,

taxes whatever, they will have to include the interest from the bonds in their receipts in order to ascertain the amount of excess profits?

Mr. SCHWARZMANN. Yes; and especially in the case of the individual, if the interest on bonds gets down to the individual; that is, the unearned income of the individual should be taxed. Now, in connection with that I want to call your attention to one injustice of the law, and I think that I can state it best by a case which I know of, a case where a man had invested in gilt-edged railroad shares. His wife got sick and had to go through an operation for appendicitis, and he had to have that money. He had to sell his shares in order to get the money.

The shares went down about one-half on the value for which he bought them. He was not allowed to deduct such a loss. He lost about \$500 when he sold the shares, but he was not allowed to deduct this loss, because there were no gains from which he could deduct it. Your law at the present time means that such losses on financial transactions can only be deducted from gains in the same transaction, and not from any other income. I thought that it was a big injustice, and that losses should be allowed to be deducted from the income.

The CHAIRMAN. In other words, if I made as a lawyer—to get your point—\$50,000, or as a merchant if I made \$50,000 in business, if I should lose it gambling—

Mr. SCHWARZMANN. You always take the extreme.

The CHAIRMAN. If I should lose \$45,000 of it gambling—

Mr. SCHWARZMANN. Yes.

The CHAIRMAN. If I would take out my \$45,000 and come on to Washington, or if I took \$45,000 of it and burned it up—just threw it away—and would only have \$5,000; is that your proposition?

Mr. SCHWARZMANN. It is the extreme of the proposition.

The CHAIRMAN. But if you have a proposition you have to go to both extremes, because you will have cases of that kind.

Mr. SCHWARZMANN. I think there are always ways and means to take care of extremes.

The CHAIRMAN. Your suggestion, I will say, is, and will continue to be, under the consideration of the committee. There is something about it that perhaps needs a limit on it.

Mr. SCHWARZMANN. If one is a professional gambler, then, he probably has earnings, too; he has net gains, and he can deduct his losses from these net gains. But if he is just a man who invests his good, earned money in gilt-edged bonds, as we call them, or in shares, and he is forced to sell, although he would keep them and wait until they are up again in price, but he is forced to sell them and has a certain loss, he simply can not deduct it.

Mr. SLOAN. Incomes represent what men get in a lawful way and not in an unlawful way, like gambling or things of that description.

The CHAIRMAN. Well, a man may play the stock market. Very genteel gentlemen play the stock market, and that is gambling.

Mr. SCHWARZMANN. Now, I will ask you just please to hear one more point. I can work out, I think, one from experience to take into consideration the experience under the present law. I do not know whether somebody is compiling figures from which you can learn, or from what source you learn, the income. In other words, it would be good to find out what earnings we have from, and what

capital invested from, ten to twenty, from twenty to thirty, from thirty to forty, and so on—each individual income—brought against all the returns in the individual income tax. I came down here with the intention of offering my services to compile such figures, but I have heard that it is already under way.

The CHAIRMAN. Is there any other suggestion, Mr. Schwarzmann?

Mr. GREEN. I want to ask a question or two with reference to these charts now. I said something about the charts being easily translatable, but I meant if we had a key, without which we can not unlock them. If you will kindly take in your hand this chart, similar to this one I hold. I will ask you some questions in relation to it.

In the first place, who prepared this chart?

Mr. SCHWARZMANN. I prepared them, myself—I mean, my statistical office. I simply work them out.

Mr. GREEN. You prepared them from Mr. Babson's statistics?

Mr. SCHWARZMANN. Yes. This is the exact translation of what you see here.

Mr. GREEN. This chart, which, so that we can get it identified in the record, I might speak of as the Schwarzmann chart, is a translation of the Babson prosperity chart?

Mr. SCHWARZMANN. Yes; a translation without the lines.

Mr. GREEN. Let us see if I have really got the features of it. Under the heading of "The United States," and the side heading, "Prewar earnings," I find them marked as 6 per cent.

Mr. SCHWARZMANN. Yes.

Mr. GREEN. Does that mean that the average prewar earnings of the corporations in the United States were that?

Mr. SCHWARZMANN. Corporate bonds, shares, and everything counted together. It is the minimum return of the capital invested. That is what I have from Babson's chart.

Mr. GREEN. I am speaking simply of corporations subject to the United States profits tax, or as to which the excess-profits tax applies. Does that mean that their average earnings were 6 per cent?

Mr. SCHWARZMANN. It means the income of the whole country; from the money invested of the whole country.

Mr. GREEN. The income of the whole country?

Mr. SCHWARZMANN. Yes.

Mr. HAWLEY. Do you mean minimum return or average return?

Mr. SCHWARZMANN. The average return.

Mr. GREEN. Now, above this 6 per cent, under the side heading of "War profits," I find a block of blues and whites together, marked "19 per cent."

Mr. SCHWARZMANN. Yes.

Mr. GREEN. Just exactly what is that?

Mr. SCHWARZMANN. I took, to make a comparison between the United States and England, as average returns for both countries, 25 per cent. We have to figure on equal returns from both countries, if you want to make a comparison.

Mr. GREEN. Yes; you mean—

Mr. SCHWARZMANN. Nineteen per cent is the balance left from 25 per cent, if I have 6 per cent prewar earnings; 6 and 19 are 25.

Mr. GREEN. Yes; I see. I made a little error in my question as to what the figures applied to, but you have straightened it out. Now,



the average tax in the United States you have marked as 38 per cent?

Mr. SCHWARZMANN. Yes.

Mr. GREEN. Do you mean that as 38 per cent of the whole earnings?

Mr. SCHWARZMANN. Of the whole earnings; because, in putting up our excess-profits tax and income tax—especially for the excess-profits tax—we took all the earnings into consideration, even the prewar earnings, notwithstanding the exemption.

Mr. GREEN. Under the heading "England" and the subheading "Prewar earnings," I find that marked as 13.3.

Mr. SCHWARZMANN. Yes.

Mr. GREEN. The prewar earnings in England, then, were larger than in the United States?

Mr. SCHWARZMANN. Two and a half times as large, nearly.

Mr. GREEN. It would be nearly two and one-sixth.

Mr. SCHWARZMANN. Well, this has given very good measure. It is between 5 and 6.

Mr. GREEN. Yes. You mean that the earnings are invested capital?

Mr. SCHWARZMANN. Yes.

Mr. GREEN. That seems to several members of the committee to be a very large return.

Mr. SCHWARZMANN. Which, the 13.3?

Mr. GREEN. Some of us did not suppose that the earnings were so large as 13 per cent.

Mr. SCHWARZMANN. Of England?

Mr. GREEN. Yes.

Mr. SCHWARZMANN. I took that Babson's chart. I told you in the beginning that Babson is my authority in these matters. That is an exact translation of these cards [indicating].

Mr. GREEN. What would you say that the average earnings of England since the war are? Do the charts show that?

Mr. SCHWARZMANN. Yes; we have to take, to make a comparison, 25 per cent, all in all; prewar earnings plus war earnings.

Mr. GREEN. What per cent, then, do you say on invested capital England is getting now?

Mr. SCHWARZMANN. Twenty-five per cent, too, like in the United States. We can not make a comparison if we do not take the present earnings, now.

Mr. LONGWORTH. If the increase since the war in England has been only 13 per cent, how can they raise over a billion dollars excess-profits tax?

Mr. SCHWARZMANN. I want to hear your question. I did not hear.

Mr. LONGWORTH. You say they have gone up from 13 to 25 per cent?

Mr. SCHWARZMANN. Yes; about one-half.

Mr. LONGWORTH. Just about one-half.

Mr. SCHWARZMANN. Yes.

Mr. LONGWORTH. England got over a billion dollars last year?

Mr. SCHWARZMANN. Yes.

Mr. LONGWORTH. That was from a tax on the excess profits?

Mr. SCHWARZMANN. Yes, sir; about 8 per cent of about one-half. That would presuppose about three and a half billions of dollars of total earnings. It takes 80 per cent of half of it.

Mr. GARNER. They are taking 80 per cent, in England, of the war profits?

Mr. SCHWARZMANN. Yes.

Mr. GARNER. And that amounts to a little over a billion dollars?

Mr. SCHWARZMANN. Yes.

Mr. GREEN. Then, in any event, this 85 per cent that is levied by England, according to these charts, is levied on a much smaller percentage of the earnings than our taxes?

Mr. SCHWARZMANN. Yes; that is the idea. Therefore we could with a smaller percentage get a bigger return.

Mr. GREEN. A comparison of percentages, then, does not give any indication of how heavily the tax bears—a comparison of percentages between the two countries; that is, I mean the same statement, that one is 80 per cent and the other is only an average of 38 per cent?

Mr. SCHWARZMANN. No; it does not mean anything. It simply means a comparison. But that is the only way in which statistics can work. Statistics do not really work in figures; it works in comparisons and relative proportions. You will see that England really levies a heavier tax than the United States, because that green space is bigger in England than in the United States (indicating on chart).

Mr. GREEN. But not as much bigger as would be indicated by the difference between 38 and 80 per cent?

Mr. SCHWARZMANN. No. Therefore, I say, if we in the United States would levy an average tax of 46½ per cent, we would get exactly the same returns as England gets.

Mr. GREEN. That is just what I was coming to.

Mr. SCHWARZMANN. Yes; 46½ per cent.

Mr. STERLING. May I ask you one or two questions?

Mr. SCHWARZMANN. Yes, sir.

Mr. STERLING. Is your company a manufacturing concern?

Mr. SCHWARZMANN. Yes.

Mr. STERLING. You make silks?

Mr. SCHWARZMANN. Yes.

Mr. STERLING. Where are you located?

Mr. SCHWARZMANN. We are a New Jersey concern. We have mill units, and a unit, you understand, is a complex of parts. We have one in Bayonne, one in Hackensack, one in Altoona, Pa., one in Columbia, one in Hollidaysburg, and one in Juniata, Pa.

Mr. STERLING. They are all mills of the one company?

Mr. SCHWARZMANN. Yes; that is of the Schwarzenbach & Hüber Co. Then we have six mills in Switzerland, five mills in France, and three mills in Italy.

Mr. STERLING. Before the war did you have any connections with Germany?

Mr. SCHWARZMANN. Yes; we had mills there, which we simply had to give up. The Government took them over.

Mr. STERLING. Those foreign mills, did you own them yourselves, or just buy the output?

Mr. SCHWARZMANN. We are a parent concern. There is a parent concern called the Oktiengesellschaft für Unternchinungen der Textilindustrie. That means "corporation for enterprises in the textile industry." That is in Switzerland. They are the holding concern

of this concern here and of the concern in Switzerland and in France and in Italy and before the war broke out of the concern in Germany.

Mr. STERLING. All of these units in America, are they subsidiary companies?

Mr. SCHWARZMANN. No; we are units for ourselves—we work for ourselves; but I mean that the shares are all held by the Swiss concern.

Mr. STERLING. Do you handle any silks except those made by your own factories?

Mr. SCHWARZMANN. No.

Mr. STERLING. How much capital have you invested here?

Mr. SCHWARZMANN. We have invested here \$8,500,000.

Mr. STERLING. Here?

Mr. SCHWARZMANN. Yes.

Mr. STERLING. How much tax did you pay under the law of 1917—the Federal tax, I mean?

Mr. SCHWARZMANN. The Federal tax?

Mr. STERLING. Yes.

Mr. SCHWARZMANN. We have a fiscal year different from the calendar year, so that we get returns up to now only for the first four months of 1917. Our fiscal year starts May 1 and runs to April 30.

Mr. STERLING. Then take it from May 1, 1917, to May 1, 1918. Have you made returns on that?

Mr. SCHWARZMANN. No; not yet. We have the time until the end of this month.

Mr. STERLING. How is that?

Mr. SCHWARZMANN. We have the time until the end of this month. We have 60 days after the closing of the fiscal year.

Mr. STERLING. Can you give the committee some idea of what it will be?

Mr. SCHWARZMANN. I can give you an idea of the first four months of 1917. You simply have about to triplicate it, and you will find the exact figures.

Mr. STERLING. What were your earnings for these four months?

Mr. SCHWARZMANN. For these four months our earnings were about \$600,000.

Mr. STERLING. Your net earnings?

Mr. SCHWARZMANN. Our net earnings.

Mr. STERLING. How much tax did you pay?

Mr. SCHWARZMANN. We paid about \$75,000 excess-profits and income tax.

Mr. STERLING. Then for the year it would be about \$525,000?

Mr. SCHWARZMANN. For the year we figured it would be about half a million dollars.

Mr. GREEN. I want to go a little further with reference to the key to the Babson chart. Will you please take the Babson chart for a moment? Now, on this Babson chart I find certain portions in deep black, and the remainder in small sections. Turning to the top of the Babson chart, I find that these deep-black parts thereon sometimes project above and sometimes below a certain line, and turning to the left-hand column marked "1905." I find certain percentage figures, and I find that this line that I have been speaking of

coincides with the 4 per cent figure. Does it mean that that line is the line of 4 per cent profit?

Mr. SCHWARZMANN. You see a line running through each chart and this line is the money rate, and these percentages here are just indicating the money rate. I took this chart exactly from Babson but could not bring this out, that is all. It has nothing to do with this matter, at all. It is simply the money rate; these black line that run through each chart.

Mr. GREEN. Then this heavy-black part, which projects above here a certain amount, what does that mean?

Mr. SCHWARZMANN. That means that it is prosperity—above the normal.

Mr. GREEN. Is it expressed in returns, in capital, or in dollars, or in what?

Mr. SCHWARZMANN. Well, of course, you will see very easily by just counting each one of these squares for 1 per cent; we have figured it out and it covers nearly exactly 1 per cent for each square or the returns. It is the returns in percentages.

Mr. GREEN. When this heavy black part goes below the line, what does that mean?

Mr. SCHWARZMANN. That means a depression; that our business loses.

Mr. GREEN. Yes. Well, in 1911 and 1912 in the part marked "United States," I find that some of the deep black part is below the line, and also there is quite a depression marked in 1914 and in the early part of 1915.

Mr. SCHWARZMANN. Yes; that is when the war broke out. You see this black line which I drew through the whole chart, that is the prewar period; and you see where in 1914 there is for each month a square. I mean, you take for this, here in 1914, you see where the war starts, that is general business depression, in the first of August, 1914.

Mr. GREEN. But when we turn to England, we find that in 1911 the deep black is somewhat above the line.

Mr. SCHWARZMANN. Yes.

Mr. GREEN. And very largely above the line in 1912 and 1913.

Mr. SCHWARZMANN. Yes. Therefore, they had much larger earnings. It was a condition of prosperity.

Mr. GREEN. I do not get just how you translate that into figures of per cent upon capital. I understood you to say that each square represented approximately 1 per cent.

Mr. SCHWARZMANN. Yes.

Mr. GREEN. Of the returns upon invested capital?

Mr. SCHWARZMANN. Yes; of all capital invested.

Mr. GREEN. What does this part in red mean [indicating]?

Mr. SCHWARZMANN. Well, I took it for the present earnings—that is, for 1913—myself, or had it done by my office. This indicates 25 per cent earnings.

Mr. GREEN. Those blocks represent 25 per cent?

Mr. SCHWARZMANN. Yes; from the line here up to the top of the red line, this represents 25 per cent earnings. You will see it is all only relative.

Mr. MOORE. Then the red lines are hypothetical?

Mr. SCHWARZMANN. Yes; they are hypothetical; exactly. If the Chairman wishes, I can bring more exact figures for your committee.

Mr. HAWLEY. This line from which you make the black indications of profit or loss, is that the line of no earnings or of average earnings?

Mr. SCHWARZMANN. Of minimum normal earnings.

Mr. HAWLEY. Now, in this quadrilateral ruling, the squares in the horizontal direction are month to month?

Mr. SCHWARZMANN. Month to month.

Mr. HAWLEY. Then the squares in the perpendicular direction each indicate 1 per cent of earnings?

Mr. SCHWARZMANN. One per cent.

Mr. HAWLEY. So I am taking a line here on the base line, the normal earnings and count 15 to the top. That means 15 per cent above the normal?

Mr. SCHWARZMANN. Yes; but you have to add 5 which makes it 20 per cent.

Mr. HAWLEY. So if one of these black spots extends, for instance, 15 points or squares above this normal line, that would mean a gain of 20 per cent?

Mr. SCHWARZMANN. Yes.

Mr. HAWLEY. And if it extended 15 squares below the line it would be 10 per cent less?

Mr. STERLING. Mr. Schwarzmann, your tax is a little less than 30 per cent of your net earnings?

Mr. SCHWARZMANN. Yes.

Mr. STERLING. Well, now, you were increasing the price of silks when the law was passed?

Mr. SCHWARZMANN. We not only did not increase the price, but we had to go down with the silks.

Mr. STERLING. The tax did not require a reduction in the price, did it?

Mr. SCHWARZMANN. But the situation in the market required it. We had overproduction.

Mr. STERLING. Had overproduction?

Mr. SCHWARZMANN. Yes.

Mr. STERLING. Was the demand lessened when the war began?

Mr. SCHWARZMANN. Yes. When the war began, especially I mean, the whole market was down, but I mean to say along about 1917 the price went down. 1916, probably, was the best year, and from January, 1917, the price was very, very low, although raw silk went up.

Mr. STERLING. That is what you handle; that is what you make?

Mr. SCHWARZMANN. We buy raw silk and manufacture finished silk.

Mr. STERLING. What do you mean by raw silk?

Mr. SCHWARZMANN. Silk which we import from Japan in the raw state.

Mr. HAWLEY. In the cocoon?

Mr. SCHWARZMANN. No.

Mr. HAWLEY. In the thread?

Mr. SCHWARZMANN. Yes.

Mr. STERLING. Then, didn't you increase the price of your output at all?

Mr. SCHWARZMANN. We increased the price in 1916, because the demand was very great.

Mr. STERLING. And you still have those prices?

Mr. SCHWARZMANN. Oh, yes; we have normal prices now, but there is now the question of curtailment. We know that we are probably placed in the semiessential, although our concern has contracts—we manufacture neckerchiefs for the Navy and manufacture parachutes for shooting stars, or whatever it is.

Mr. MOORE. Are your mills all running now?

Mr. SCHWARZMANN. Yes.

Mr. MOORE. Your competition comes principally from Japan, does it not?

Mr. SCHWARZMANN. It will come. It is on the way.

Mr. MOORE. Are you protected against Japan in any way now?

Mr. SCHWARZMANN. No.

Mr. MOORE. What kind of goods?

Mr. SCHWARZMANN. Finished silk.

Mr. MOORE. I am speaking of silk—the Japanese silks are coming into this country?

Mr. SCHWARZMANN. Yes.

Mr. MOORE. Hasn't the demand for silk increased this year; I mean for fashions?

Mr. SCHWARZMANN. Of course, the demand for silk has increased according to the fact that cotton and wool are mostly used for Government uses. Therefore, it will never be possible to put silk in the list of nonessentials.

Mr. MOORE. I think it is fair to you to state that the question is being raised that silk is more of a luxury than an essential, and that some advices have come from some of the members of the committee that silks might be put in the nonessential class. Silks are sold very largely to those who follow the fashions. I suppose your designs are shaped very largely to satisfy the popular taste?

Mr. SCHWARZMANN. Yes. My opinion is that silk never will be placed on the nonessentials. It will be placed on the semiessentials. It is a fact to-day that you can buy for \$5 a bigger shirt waist of silk than you can buy one of cotton and the shirt waist of silk will wear twice as long, and the more the Government uses cotton and wool the more silk will be essential. It will never go on the nonessentials; it will be semiessential, and we will probably have to curtail production.

Mr. MOORE. Then you would account for the increased demand for silk in the fact that the Government is rather encouraging the use of cotton and woolen goods and that gives you a larger field?

Mr. SCHWARZMANN. The Government is using cotton and woolen goods for their own purposes, so it is natural that people have finally got to go to silk. Silk is not an expensive article to-day any more.

Mr. HALL. Did I understand you to say that the average corporate earnings in this country on capital were between 5 and 6 per cent before the war.

Mr. SCHWARZMANN. Yes.

Mr. HALL. Now, in getting at that basis of earnings was taken the capital stock at its par value or the capital stock at its market value, of the actual capital invested?

Mr. SCHWARZMANN. The answer is that there is no question that the real capital invested was the basis.

Mr. HALL. The capital originally invested or the value of the assets at the time?

Mr. SCHWARZMANN. I do not think the value of the assets, but the capital originally invested.

Mr. HALL. Does that include good will, which is often included in this country, not so much in England?

Mr. SCHWARZMANN. That is not included.

Mr. HALL. For instance, a great many experienced capitalists include good will, and publish a statement of earnings with respect to good will as well as the actual capital. The firm of Woolworth & Co. includes \$50,000,000 of good will, and publishes its statement of earnings on that basis as well as the basis of actual capital. All of those items are included, are they not?

Mr. SCHWARZMANN. You can capitalize good will only if you pay for it, and only for 20 per cent of the capital.

Mr. HALL. The estimates that you speak of are based on the elimination of this class of items?

Mr. SCHWARZMANN. Not so long as there was payment for the good will.

Mr. HALL. During the prewar period in this country often a great many big capitalized concerns were going through recapitalization and in the hands of receivers, not that they were insolvent, but simply going through reorganization, and then there were a great many that were temporarily embarrassed, but not insolvent, highly capitalized concerns, and the aggregate of insolvent businesses themselves going through reorganization, those in receivers' hands for other purposes when they were not insolvent, that capital amounted to a great deal. Was that capital included in this general average?

Mr. SCHWARZMANN. Of course.

Mr. FAIRCHILD. Mr. Schwarzmann, tell me, if silks have gone down what happened to make silk shirts to-day approximately twice what they were a year ago?

Mr. SCHWARZMANN. I don't believe that they cost twice as much as they did a year ago, except where the retailer, maybe, where the retailer is making a profit. If you have paid twice as much as before the war, that's very reasonable, because raw silk is at least twice as high as before the war, and our manufacturing costs have increased, wages have increased, and have approached nearly a 100 per cent over the prewar standard.

Mr. FAIRCHILD. Does the advance in price include the advance in raw silk, and not the profit?

Mr. SCHWARZMANN. You have to take into consideration the advance in raw silk, but it is not that so much which makes the market, but the demand.

Mr. SLOAN. You import large amount of raw silk, and other concerns, do they not?

Mr. SCHWARZMANN. About 80 per cent of the raw silk is imported from Japan.

Mr. SLOAN. And there is considerable silk imported in a more or less finished condition?

Mr. SCHWARZMANN. Yes; from Japan, again.

Mr. SLOAN. Silk, raw, and in a more or less finished condition, is imported into this country, and has been for the last 12 months?

Mr. SCHWARZMANN. Yes; very much silk in the semifinished, but I may say even in the finished state, has been imported from Japan.

Mr. SLOAN. And that is increasing constantly?

Mr. SCHWARZMANN. Yes.

Mr. SLOAN. Wouldn't you state to the committee that that is a very fruitful source of revenue to the Government to help make a part of that \$8,000,000,000, if you put a respectable duty on it, of course?

Mr. SCHWARZMANN. There is no question about the Silk Association of America desiring that manufactured silk should be very much increased in its duty because we can not produce against the Japanese silk. We simply can not compete, and sooner or later we will have to come before you and ask for an increased tariff.

Mr. SLOAN. I was not referring to that part of it, but especially to bringing in revenue into the Treasury. It could comfortably bring in a large sum to the Government.

Mr. SCHWARZMANN. Yes; there simply would be no objection at all if it be made a source of revenue.

The CHAIRMAN. What is a sufficient protection to you and allow us to get sufficient revenue at the same time? What rate would you say ought to be imposed upon finished silk—25 per cent?

Mr. SCHWARZMANN. The increase, or the total amount?

The CHAIRMAN. I mean the total amount.

Mr. SCHWARZMANN. It is now 45 per cent.

The CHAIRMAN. Forty-five per cent is not enough?

Mr. SCHWARZMANN. No; by no means.

The CHAIRMAN. We have 45 per cent now. How much revenue did we get last year from all the importations of silk at 45 per cent?

Mr. SCHWARZMANN. Mr. Chairman, I could not answer that.

The CHAIRMAN. You really do not know whether the importations of silk in amounts, not in value—because everything has gone up in value—you do not know whether the importation of silk has increased last year over 1913 and 1914?

Mr. SCHWARZMANN. Yes; I know that.

The CHAIRMAN. You would say increasing the import tax on silk, say 25 per cent additional on the dollar? We could get revenue from that?

Mr. SCHWARZMANN. Oh, yes.

The CHAIRMAN. Then, we could, if you paid 25 per cent more on the silk that we make here, we could get \$10,000,000 more, couldn't we?

Mr. SCHWARZMANN. Yes.

The CHAIRMAN. And still leave you in the same situation you are now in, with the same percentage of protection you now have, 45 per cent?

Mr. SCHWARZMANN. Of course, if you increase the rate on raw silk, and the rate on finished goods was the same, we would be in the same point as we have been before. We are not protected against the importation of finished goods.

The CHAIRMAN. If we levied 10 per cent advance on raw silk, would we get more revenue than if we levied 100 per cent on the imported finished product?



Mr. SCHWARZMANN. Yes. We imported \$300,000,000 worth of raw silk.

The CHAIRMAN. The real source of revenue, as far as silk importations are concerned, would be on the raw silk?

Mr. SCHWARZMANN. On the raw silk, and then eventually a consumption tax on the finished silk. If, for instance, every silk transaction from the raw silk product to the manufactured you charge, say, 1 per cent, to be put on the bill in stamps from the revenue office, and then from the manufacturer to the wholesaler, and 1 per cent from the wholesaler to the retailer, which leaves out the jobber, and 1 per cent from the jobber to the retailer, and then to the consumer 1 per cent. That, of course, would eliminate the jobber, probably.

The CHAIRMAN. Would you favor that proposition?

Mr. SCHWARZMANN. Well, I think that would be a good solution.

Mr. MOORE. Are you getting raw silk from any other country than Japan?

Mr. SCHWARZMANN. We get raw silk from China in small percentage. We got some last year from Italy.

Mr. MOORE. Can you give us a comparison of the cost of the production of raw silk in Japan and in the United States?

Mr. SCHWARZMANN. We have no raw silk in the United States.

Mr. MOORE. You have no means of comparison?

Mr. SCHWARZMANN. No; but we can find the difference between the raw silk production and the finished, and as between here and Japan.

Mr. MOORE. You have the difference between the cost of production here and in Japan?

Mr. SCHWARZMANN. Yes.

Mr. MOORE. How great a difference is that, referring to the finished product?

Mr. SCHWARZMANN. Well, we have to figure that we pay about three times as high wages here in the United States as they pay in Japan.

Mr. MOORE. If you had a protective tariff duty which covered that difference of three times the cost of wages, you would not adopt Mr. Kitchin's proposition to increase the duty?

Mr. SCHWARZMAN. Certainly not.

Mr. MOORE. That is the whole question, that you are unable to compete with Japanese cheap labor and that was the method of protection that you suggested?

Mr. SCHWARZMAN. Yes: I tried to work out a certain system of protection for silk goods, according to different countries. We will have to compete after the war with Switzerland again, with France, Italy, and with Germany eventually, with Japan, and with China.

Mr. MOORE. You are willing that the prices shall go up in the United States, and that the prices shall keep up if you are able to meet the foreign competition?

Mr. SCHWARZMAN. Yes.

Mr. LONGWORTH. I would like to go back to the question which Mr. Hall asked you. I understood you to say that you figured this 15 per cent return, in England, the prewar return, on the actual invested capital at par?

Mr. SCHWARZMAN. Yes.

Mr. LONGWORTH. Well, now, what do you mean by actual invested capital? Do you mean in going concerns? You include real estate, bonds, and everything?

Mr. SCHWARZMAN. Everything; that is supposed to include everything.

Mr. LONGWORTH. Textile works?

Mr. SCHWARZMAN. Everything.

Mr. LONGWORTH. What industries in England before the war were making as much as 50 per cent?

Mr. SCHWARZMAN. I could not tell that.

Mr. LONGWORTH. There must have been a very large number making 50 or 100 per cent to bring up that average so high.

Mr. SCHWARZMANN. As I said, I am perfectly willing to get these figures together for the committee.

Mr. LONGWORTH. I wish you would, because it seems to me inconceivable that there could have been an average return for three years before the war.

Mr. SCHWARZMANN. It was not for three years; it was only for two years. England takes its two best years.

Mr. LONGWORTH. I wish you would bring those.

Mr. SCHWARZMANN. I certainly will do that.

Mr. GREEN. I would be glad also if you would give us the additional figures.

Mr. SCHWARZMANN. I will work out the whole system so that everybody can understand it.

Mr. HALL. Referring to Mr. Moore's question about the Japanese labor costs, Japanese labor in the silk industry, will turn out a greater amount of the finished product than the American labor, will it not?

Mr. SCHWARZMANN. Very probably, because they have now much bigger looms on which they can make bigger pieces. The output probably will be increased compared to the United States output, too. We have to compete in every respect with Japan.

Mr. HALL. I understand; but you say, I understand you, that a common laborer there will turn out a larger amount of a given product than an American laborer doing the same work.

Mr. SCHWARZMANN. Not the man himself, but the mechanical means and the facilities there are above the standard of ours. They have power looms which they can operate with one man and turn out a larger quantity.

Mr. HALL. We have them, too.

Mr. SCHWARZMANN. But we only have the single-power looms. They have the big-power looms.

Mr. HALL. Why don't we have them?

Mr. SCHWARZMANN. Well, I can only state the fact that we haven't them. That is one of our problems—to keep up with the other nations with the machinery which we use.

Mr. MOORE. You mean by that that their mechanical efficiency is superior to ours?

Mr. SCHWARZMANN. I mean it has started in, and if we do not keep up in these respects, it will within a short time be bigger.

Mr. MOORE. But you do not say that their individual efficiency is more than ours?

Mr. SCHWARZMANN. No; and I wish to say that our product in itself is better than the Japanese product; I mean the product which is beginning to compete against our product of what they call the same quality.

Mr. MOORE. Their most efficient workmen obtain a wage three or four times less than ours?

Mr. SCHWARZMANN. Yes.

Mr. GARNER. Mr. Schwarzmann; you surprise me when you say that the Americans are not so efficient in machinery as the Japanese. I thought the American people were superior in machinery to any people in the world.

Mr. SCHWARZMANN. Japan has, since the silk industry became the main industry in Japan, developed machines, and we do not know every detail, but it is well known in the silk industry that Japan has been turning out pretty large machines.

Mr. GARNER. But in the course of time, the American manufacturer of silk will be able to devise machinery quite as efficient as the Japanese.

Mr. SCHWARZMANN. I hope better ones even. This country will always keep up.

The CHAIRMAN. I understand you—I want to get the facts—Japan has been since the war, especially since we entered the war, competing with us more intensely than theretofore, and is shipping in more finished products in competition with the American finished products, than ever before, and in your own case they have competed in the last two years more largely than ever before. Now, going back to the prewar profits again, do you remember what percentage of profits your company made in 1910, say?

Mr. SCHWARZMANN. Well, 1910 was a good year, perhaps about 10 per cent.

The CHAIRMAN. And then 1911, 1912, and 1913, about 2 per cent?

Mr. SCHWARZMANN. In 1911 and 1912 a loss, in 1913 about 6 per cent, not quite 6.

The CHAIRMAN. The average during those three years?

Mr. SCHWARZMANN. About 1.9 per cent.

The CHAIRMAN. And I believe—what did you say your profits were the last year—25 or 35 per cent?

Mr. SCHWARZMANN. In the 25-per-cent limit, about.

The CHAIRMAN. So Japan has not hurt you very much, if you have increased your profits from the prewar period up to last year from 2 per cent along in 1910, 10 per cent when you now have a larger competition than ever before with Japan, and they are shipping in more goods in competition with you, and you are now making 25 to 30 per cent. Do you want to tell this committee that Japan is hurting you more than ever this last year since we have entered the war? How is it if she has hurt you that you have made more profit?

Mr. SCHWARZMANN. This competition of Japan is coming, and has started in, and just as I stated this fact, in order to prevent it we started in making contracts with these Japanese people and buying goods from them.

The CHAIRMAN. So you are causing Japan to import these goods?

Mr. SCHWARZMANN. No; if they come in, we buy them in the market; but they don't put them in the market.

The CHAIRMAN. So, then, you have made money by the Japanese bringing in their importations?

Mr. SCHWARZMANN. Of course, we are not attacking this proposition to make a loss.

The CHAIRMAN. You really do not mean to say that Japan has hurt you?

Mr. SCHWARZMANN. No; not yet; but it is simply coming. We see it every day it is increasing.

The CHAIRMAN. It is increasing from time to time and your profits are increasing from year to year?

Mr. SCHWARZMANN. Now, to be correct, our profits were less in 1917 than they were in 1916, and our profits will be less in 1918 than they were in 1917.

The CHAIRMAN. They were more in 1917 than in 1916?

Mr. SCHWARZMANN. No.

The CHAIRMAN. What taxes did you pay in 1916? What was the income that you swore to before the collector of internal revenue in your return for 1916—calendar year 1915-16?

Mr. SCHWARZMANN. We have no calendar year.

The CHAIRMAN. Your fiscal year 1916, then?

Mr. SCHWARZMANN. I guess about \$2,500,000.

The CHAIRMAN. How much in 1917?

Mr. SCHWARZMANN. Not quite \$2,000,000, I guess.

The CHAIRMAN. You are not sure of that?

Mr. SCHWARZMANN. I am sure that it was less than \$2,000,000.

The CHAIRMAN. More than \$2,000,000 in 1916?

Mr. SCHWARZMANN. Yes; two and a half.

The CHAIRMAN. What is the name of your company?

Mr. SCHWARZMANN. Schwarzenbach, Huber & Co., 470 Fourth Avenue, New York City.

The CHAIRMAN. Just how much in dollars and cents do you think Japan imported into this country in 1917, finished and semifinished product, outside of the raw silk?

Mr. SCHWARZMANN. I could not tell that exactly. I know that the raw silk was around \$300,000,000.

The CHAIRMAN. You think they shipped about \$300,000,000 in 1917 of the finished product?

Mr. SCHWARZMANN. No, no; raw silk.

The CHAIRMAN. One hundred and sixty million dollars in raw silk. That is what you shipped in 1917. How much of the finished product do you think was shipped in?

Mr. SCHWARZMANN. I do not think it would be one-tenth of that; hardly one-tenth.

The CHAIRMAN. Something like one-tenth; it would be \$16,000,000. How much was the total finished product of the United States of the silk industry—of the silk industry of the United States? Something over \$500,000,000, wasn't it?

Mr. SCHWARZMANN. No; I guess between \$400,000,000 and \$450,000,000.

The CHAIRMAN. My understanding is a little more than \$500,000,000. But shipping in less than \$16,000,000 into a country that possesses \$450,000,000, does it strike you as being much competition?

Mr. SCHWARZMANN. I say not for the present. I mean it will come in the future, that is all.

Mr. MOORE. When did the silk industry start in the United States?

Mr. SCHWARZMANN. I think about 1880.

Mr. MOORE. Well, it was introduced here as a Japanese proposition at the Centennial Exposition in 1876, and I remember having seen the loom there the first time.

Mr. SCHWARZMANN. And then the Europeans came over here and settled in 1883. We were the first ones.

Mr. MOORE. I wan to ask, in view of Mr. Kitchin's questions, whether if we had complete free trade in silk and silk products, and the Japanese silk came in this market as they pleased, whether it would be possible at all to maintain the silk industry in the United States?

Mr. SCHWARZMANN. I don't think so.

Mr. MOORE. Do you think that anybody would attempt to manufacture silk here if the Japanese had the right to come into our markets?

Mr. SCHWARZMANN. I think they would not, and the Japanese instead of importing raw silk would manufacture it over there.

Mr. MOORE. And then we would have the Japanese cheap labor to provide us with silk in the United States. Isn't that a fact? Could any American manufacturer stand up against that—against the Japanese manufacturer if he had the right to come into the American market free?

Mr. SCHWARZMANN. No.

Mr. STERLING. Mr. Schwarzmann, has your company any competitors in the manufacture of silk?

Mr. SCHWARZMANN. Oh, yes.

Mr. STERLING. To what extent?

Mr. SCHWARZMANN. I stated that the silk products in the United States were around \$500,000,000. Of that we manufacture about \$60,000,000.

Mr. LONGWORTH. Do you compete indirectly with Cheney?

Mr. SCHWARZMANN. Yes; but he makes ribbons and velvets, which we do not.

Mr. STERLING. You make about one-fifth of the silk in this country?

Mr. SCHWARZMANN. \$60,000,000 out of \$500,000,000.

Mr. STERLING. About one-eighth.

Mr. SCHWARZMANN. About one-thirtieth.

Mr. LONGWORTH. About one-seventh or one-eighth.

Mr. SCHWARZMANN. \$16,000,000 against \$500,000,000.

Mr. LONGWORTH. But you said \$60,000,000.

Mr. SCHWARZMANN. \$16,000,000.

Mr. STERLING. I thought you said \$60,000,000.

Mr. SCHWARZMANN. No; \$16,000,000.

Mr. HAWLEY. Are these charts to go into the record?

The CHAIRMAN. I do not think so. You would have to get the consent of the joint committee of the House and Senate.

Mr. HALL. You could put in those charts that are made by Mr. Schwarzman himself, but not the other.

The CHAIRMAN. We will now hear Dr. Lindsay.

**STATEMENT OF PROF. SAMUEL McCUNE LINDSAY, COLUMBIA UNIVERSITY, NEW YORK CITY.**

Prof. LINDSAY. I represent here particularly a small volunteer committee known as the Committee on War Charity and Social Work, which was organized a little over a year ago in Pittsburgh, after the convention which was held there, the National Conference of Charities and Correction, which was a meeting of about 4,000 representatives chiefly of the charitable organizations of the country, both public and private, at which the matter was taken up of the protection of the standards of charitable work during the war. Anxiety and apprehension was felt as to the feasibility of charitable institutions carrying on their work during the war, and meeting the new problems that the war brought to them.

The CHAIRMAN. Are you an official of the Government in any way?

Prof. LINDSAY. I am here now in a volunteer capacity with the Treasury Department, as adviser of Mr. Love, Assistant Secretary, in matters pertaining to war-risk insurance.

The CHAIRMAN. You are one of the dollar-a-year men, I suppose?

Prof. LINDSAY. Yes; I haven't received the dollar yet; I haven't completed the year.

Mr. MOORE. After you get it we will get a revenue tax on it.

Prof. LINDSAY. I am not asking that it be exempted.

This little committee was organized to see what could be done to protect the standards of charity and educational work during the war. It is composed at the present time of 29 persons, including a number of college presidents and a number of persons interested in all sorts of charitable and educational work. The president of Harvard University, Dr. Lowe; the President of Yale University, Dr. Hadley; the president emeritus of Harvard University, Dr. Elliott; the president of Columbia University, the president of the University of North Carolina, Dr. Graham; the president of Wake Forest College, North Carolina, Dr. Toteat, and the presidents of a number of other institutions, and also a number of other gentlemen assigned with the Red Cross work—Cornelius N. Bliss, Dr. Devine, Homer Foss, and others who are now in France. These gentlemen associated themselves together to see what could be done to maintain the standards of social work, to see if these institutions could adopt the work to the present needs, and it is on behalf of that committee particularly that I am here to-day to ask your consideration for these institutions, the higher educational institutions of the country and the charitable institutions of the country.

In regard to the real estate tax, you have already made a generous and wide provision for the financial support of these institutions by providing in the war revenue act of last October for the exemption of the income tax on gifts and contributions on the part of any individual up to the extent of 15 per cent of his otherwise taxable income. The operations of that provision have been very beneficial and helpful. Now, we want to ask you if you won't make provision for the permanent support of these institutions by exempting from the Federal estate tax the bequests and legacies to these institutions; that is, bequests to educational institutions and hospitals. That is one type of institution that has been particularly in need of support and help

from the Government. They are doing a tremendously increased work under difficulties that are greater than ever. Also bequests and legacies to other institutions and to religious institutions.

Mr. MOORE. Are you trying to distinguish between contributions, gifts, and legacies?

Prof. LINDSAY. Yes; I am now asking for your consideration of an amendment.

Mr. MOORE. It seemed to me when we passed this amendment in which you are interested, this paragraph 9, section 1201, that it covered your point.

Prof. LINDSAY. No; that was only an exemption with respect to income tax on contributions and gifts. It did not cover in any way a tax on a legacy and a bequest or devise.

Mr. STERLING. An inheritance tax.

Prof. LINDSAY. It did not affect title 9. In other words, the proposition I am now discussing would affect title 9 of the real estate tax. That is, in other words, what you have now is an estate transfer tax. That is, it is a tax on which the rate has been increased, and is now a heavy tax. It is true that an institution is not necessarily affected directly by that tax; that is, the tax is not a tax upon the net estate, the only exemption now being the expenses of administration, funeral expenses, and the exemption of \$50,000—that is, it applies only to estates in excess of \$50,000—and on the net estate without any other deductions the tax is levied.

Now, that operates in two ways to affect the institutions whose interests I am discussing. A good many institutions are residuary beneficiaries; that is, an estate is left and a man provides for his family and his relatives, and he leaves his residuary estate in part or in whole to an educational institution or to a hospital.

Mr. LONGWORTH. I was going to ask you about that. Could you say roughly what proportion?

Prof. LINDSAY. There are no data at all.

Mr. LONGWORTH. Isn't it rather rare? It is the exception rather than the rule. Usually a specific sum is left.

Prof. LINDSAY. I have had the most diverse opinions from lawyers, who draw a great many wills. Some lawyers tell me that their experience has been almost invariably that a man takes care of his family and his relatives and the specific things that he wants to look out for, and he knows there is something left, but he does not know how much it is, and he divides that amount among charities and educational institutions he is interested in. On the other hand, I have equally eminent lawyers who have a large business in drawing wills say it is precisely the opposite, that men will make specific bequests for their colleges or their universities or the charities they are interested in, and then because the amount of the residuary estate is uncertain they leave it to the immediate family. There are no data, so far as I am able to discover, but in either event I want to point out that the collection of these facts is a matter which does not encourage bequests to educational and charitable institutions, and often operate as a direct reduction. If the bequest is not a direct one but is a part of the residuary estate, the tax is paid out of the residuary

estate, and therefore it reduces the amount of the residuary estate, and it reduces the amount of the tax to the charitable institution.

Mr. DIXON. The direct tax is not affected if the legacy is not paid out of the residuary estate?

Prof. LINDSAY. You are not affected if it is not, no; unless the estate is not large enough to pay the tax, in which case the direct tax largely is reduced proportionately depending on the terms of the will.

But what I want to especially invite your attention to at this time is the general effect of this as a matter of public policy upon bequests and legacies to charitable and educational institutions. All of our educational institutions are under the stress of war conditions. They have been giving men without stint to the public service, the military service, and the civil service, and their revenues have been cut off, their income has been reduced, and they have been under a very great strain.

These, gentlemen, are not profit-making institutions. These are institutions not for profit, but to make ends meet they have had to economize in every possible way to reduce their forces, double up on their work, and their only hope—I know of a number of institutions I can cite whose only hope is that they will be able to go along temporarily and have their deficits made up by the bequests and legacies. Now, anything that you do or the Government does in its taxation policy, any infliction of a tax that will discourage, that will work a very serious harm, and it will mean that we will have to depart from our traditional policy in this country, which has been to encourage and build up the support of these institutions by private benevolence, and we will have to face the problem of going over to a larger extent to Government support. Therefore, it seems to me that it is a wise public policy for the Government to refrain from taxing these bequests and legacies directly or indirectly in order that it may encourage and stimulate the disposition of private wealth in that direction, to maintain these institutions upon their present standards and to increase those standards of efficiency.

I would like to read a number of extracts from a letter that I think has been sent perhaps to some members of the committee by the president of a small college, which, I think, states the situation very well indeed.

It happens to be a man who has been president of Bates College in Maine for a great many years, President George C. Chase. He has been president of Bates College for 24 years.

(The letter is as follows:)

LEWISTON, ME., *March 30, 1918.*

HON. F. M. SIMMONS,

*Chairman Senate Finance Committee, Washington, D. C.*

DEAR SIR: I am president of Bates College, an institution loyal to the core in the great struggle for humanity in which our Government is now engaged. The trustees, the faculty, and the students of Bates are ready as individuals to sacrifice and to suffer for the success of the great cause to which our people have committed themselves. They are in full sympathy with the general provisions of the Federal State-tax law, but they believe it to be of utmost importance that this be amended through the adoption of House bill 9223 or Senate bill 3730.

The patrons of Bates with rare exceptions are people of limited means. Her students are the sons and daughters of working people—farmers, mechanics, artisans, teachers, ministers with small salaries, clerks, and professional men of scanty incomes. A large percentage of her students are working their own



way unaided by parents or friends. Many of them are boarding themselves in these strenuous times at a cost of less than \$2 per week. They are earnest in purpose and equal in natural ability and power of application to any body of students in our country. Forty-three out of each 100 or about 2,000 living graduates of Bates are educators. Their rank and usefulness are indicated by the following facts: Eighty-one Bates graduates have filled positions in universities and colleges. More than this number have won distinction as State, city, and district superintendents, and as principals of important secondary schools. Among the higher institutions to which Bates has contributed teachers are Albion, Amherst, Amherst Agricultural, Armour Institute, Bates, Bishop, Brown University, Carleton, Colgate University, Connecticut Agricultural, Cooper Institute, Cornell University, Dartmouth, Denison University, Drury, Fairmount, Grant University, Harvard University, Hillsdale, James Millikin, Keuka, Knox, Miami, Middlebury, Massachusetts Institute of Technology, Northwestern University, Norwich University, Oahu (Hawaii), Pennsylvania State, Princeton University, Pomona, Redfields, Reed, Shaw University, Mount Holyoke, Syracuse University, University of California, Tufts, University of Colorado, University of Illinois, University of Iowa, University of Maine, University of Montana, University of Utah, Washington State College, University of Wisconsin, Western Reserve University, William Jewell, Williams, Worcester Polytechnic Institute, Yale University, Yankton.

In authorship, on the bench, in legislation, in journalism, law, medicine, and engineering, Bates has distinguished representatives; while nearly the entire body of her alumni have proved themselves pure, earnest, useful citizens, ready for every good word and work and making happier and better the communities in which they have lived. More than 200 Bates men are now in the service of their country on land or sea and the number is increasing every week. So intense and prevailing is the patriotic spirit of Bates students that but for the restraining advice judiciously given by president and faculty there would now be scarcely a young man left in the college.

The present endowment of Bates is sadly inadequate for her work, and in the 24 years in which I have been president a serious annual deficit has been averted only by special contributions, Bates has gained the confidence of such judicious givers as have become acquainted with her work and is annually receiving bequests that while in no instances large prove that her work for our country is appreciated.

The adoption unamended of the Federal estate-tax law would threaten her very existence.

Owing to the increased cost for maintenance and upkeep of her work and the withdrawal of young men to enter the service of their country, her friends are now making an effort almost desperate to avert the withdrawal during the current financial year of between \$30,000 and \$40,000 from her endowment.

I can not believe that when your committee take into consideration the facts that I am stating, they will permit our institution and other colleges struggling with like difficulties to be deprived of any part of the means that good men and women wish to place at our disposal through carefully considered bequests. Nor need I emphasize the fact that from the beginning of our national history it has been the settled policy of our Government to promote that higher education afforded by our colleges and universities which is the chief source and inspiration of that general education for our people absolutely necessary to the maintenance of free institutions.

I am, with great respect,  
Sincerely, yours,

GEORGE C. CHASE.

In other words, Bates has been supplying public-school teachers, and college teachers. Most of them are, probably, public-school teachers.

Mr. LONGWORTH. May I interrupt at that point. Evidently Bates has never been a beneficiary of a residuary estate, because he speaks of large bequests.

Prof. LINDSAY. Bequests may be from a residuary estate.

Mr. LONGWORTH. That may be, but when he speaks of receiving bequests, they would probably not be residuary estates.

Prof. LINDSAY. They might be a share of a residuary estate; but, in any event, if they are direct bequests the effect of this tax upon the net estate, not exempting such bequests, is to discourage those bequests or to make it impossible for people to make such bequests. In other words, the situation that is confronting Bates—and I have no special interest in this institution, I simply cite this as typical of the small college everywhere—is that she will have to take out of her endowment \$30,000 or \$40,000 to keep it going.

Mr. HULL. Of course, I take it that every citizen in the country desires to cooperate in every feasible way in the support, development, and maintenance of education, as well as in other lines of charitable, eleemosynary, and fraternal institutions and organizations. Now, we found that among other things that between \$15,000,000 and \$20,000,000, on one ground or another, had become totally exempt from taxation in this country. Now, with the issuance of Federal bonds under war conditions we have from \$30,000,000 to \$40,000,000 more of that class of property free from normal Federal tax, and exempt from the State, county, and municipal taxation in the future, so that we are rolling up a tremendous portion of our national wealth and shielding it from any substantial amount of tax levy. Don't you think the question of corporate policy comes in there and raises the further question as to whether it is feasible to continue indiscriminate exemption, or whether it would not be feasible to propose a small tax levy on this immense volume of property that is getting under the protection of tax exemption in this country?

Prof. LINDSAY. Of course, the large amount of invested capital in educational and charitable institutions that is exempt is exempt from property tax only from local taxation. That does not affect Federal taxation in any way. It ought not to be added, it seems to me, in fairness to the issue of liberty bonds. It is not in the same class of exempt property.

Mr. HULL. Of course, now, all the property owned by the State, county, and municipality that is exempt from any kind of Federal taxation is exempt mainly from State and local taxation, and the same is true as to property owned by Federal Government. Now, the income tax, for instance, in every one of the tax laws of the State and the Federal Government, most of those start in with exemptions and end with exemptions of some kind or other. They keep increasing all the time. Some are not as meritorious as others. For instance, in some of the States they decided, as a matter of public policy, that it would be well not to exempt completely all kinds of property that goes to fraternal organization or educational or charitable institutions in every sense, but that a small rate, not the usual graduated rate, but a small rate, might be imposed to keep it within the plan of taxation.

Prof. LINDSAY. Of course, if there was any great public interest to be subserved by keeping the whole net estate on the books, so to speak, but making a preferential rate for educational institutions, that would be some help. It is only a question of how far you want to go. I can not see, however, how that would in any way facilitate Government taxing these resources to the utmost, in view of its need, any more than the exemption now of \$50,000. Congress has

said—I do not know what it intended by it—but Congress has said that an estate tax shall apply only to estates in excess of \$50,000. It applies primarily in the interests of the family of the estate where the net estate does not exceed \$50,000.

Mr. HULL. Now, there is one other consideration in that connection. In looking through the inheritance or the estate-tax burden on the country, we have considered the amount of State levies in connection with the proposed Federal levy. We found that the States, as a rule, had exempted all these national sources. Then the Federal Government proposed to take the double amount the States were levying without exemption. The result was that when you considered the burden, the taxpayers under these State and Federal bonds were getting a 50 per cent reduction in the amount that was proposed, and the others who were beneficiaries of the estate.

Prof. LINDSAY. I should like very much if you will allow me, to put into the record a statement that was prepared sometime ago—about a year ago—of the practice of the States with respect to inheritance taxes, which, of course, is similar in general application and practice. Of the 48 States, there are 34 States, I believe, that now have an inheritance tax, or State transfer tax of some sort, and which exempts bequests and legacies to charitable institutions. There are certain States that have such a tax which are not exempt. And there are 9 that do not have such a tax.

Mr. MOORE. Doctor, have you any figures showing the aggregate amount of contributions actually made within a year under this section 1201?

Prof. LINDSAY. No; I have not. We are looking forward with great interest to the returns of the first year under the law, in the Bureau of Internal Revenue.

Mr. MOORE. In view of your connection with the Treasury Department in an honorary capacity, I have to ask you to have some sympathy for this committee when you come with a request for what is a reduction of taxation. The Secretary of the Treasury, with whom you are cooperating, has asked for \$8,000,000,000, which is more than we were asked for last year. That was approved by the President and I presume by Dr. Rowe, with whom you are cooperating and who understands all about it, so that our problem is rather to find means not of reducing but of increasing.

Prof. LINDSAY. I should like to suggest that I have been working with the Department of the Treasury, as to whether it would not be possible to at least consider increasing the estate taxes sufficiently to cover whatever is estimated to be the loss through the exemption, and perhaps even to raise more revenue from that source. It seems to me that an estate tax is a reasonable source of revenue.

Mr. MOORE. It is not entirely possible that we should increase the taxes as suggested by the Secretary of the Treasury by making allowances in the nature of reductions as we go along this year.

Mr. CRISP. A man in the selective-service law is not allowed to say how he shall serve the Government. He is drafted. He is put into the Army. With that in view, will you state why should a philanthropist be allowed to say that his money should go to certain institutions rather than that he should be subject to the tax laws of the Government, and the proceeds of the taxes on these estates paid into the

Treasury and be appropriated by the constitutional authority of the Government—Congress?

Prof. LINDSAY. It does not seem to me that it is giving the man any particular opportunity.

Mr. CRISP. That is what it is. If a man is allowed to escape taxation, no other citizen is allowed to avoid a duty. We recognize that they are performing a function that the Congress has the authority to say how they shall serve.

Prof. LINDSAY. There is no question about it, sir, but it is a question whether the Government or Congress wishes to assume the full responsibility for the distribution of this money. It can take all a man's estate that it wishes, but it would then have to care for these institutions by public appropriation.

Mr. CRISP. I have not seen any disposition on the part of Congress to avoid assuming this responsibility.

Prof. LINDSAY. If Congress wants to change its policy—it has been the traditional policy since the beginning of this Government of having a large part of our charitable work contributed by private means.

Mr. CRISP. But what if the demands in France were more pressing than the needs of the charitable institutions?

Prof. LINDSAY. That is the question Mr. Moore asked. In reply to that, my personal feeling would be that you must get as much revenue or more revenue from this source in view of our present necessity than you have in the past, and the way to do that is to increase the rate upon the net estate, after subtracting these bequests.

Mr. CRISP. Every one who has come here has stated that the other fellow ought to be taxed, and has been able to suggest ways of taxing others, but hoping to go out of the door free of tax himself.

Prof. LINDSAY. I am not asking any benefit for an individual or a profit-making institution. I am asking for a benefit that shall accrue to institutions which are doing public work. If they can not be supported by private wealth they will have to be discontinued altogether or supported by the Government.

Mr. CRISP. I am not questioning the patriotism of colleges or educational institutions, but as one member of the committee I see face to face the question of raising \$2 for 1919 as against \$1 for 1918, and I do not see how we are going to double taxes by increasing the exemptions or releasing from taxation those whom we now hold. We have got to find sources of taxation, and it may be necessary to cut down some of the exemptions it may have made, due to conditions in France. That is the vital question.

The CHAIRMAN. Do you think that the 15 per cent exemption in the income tax with respect to religious, educational, and charitable institutions is a wise provision and sufficient?

Prof. LINDSAY. I think that is a very wise provision, and I think it is sufficient. We haven't any statistics. We haven't the report of this year. We do not know how much the gifts were and how much that exemption amounted to. But I have seen some little feature of it, that it was operated to raise the standard of giving on the part of private philanthropy. In other words, I think when the exemption was somewhere near 10 per cent, that it was 15 per cent—it is nearer 15 per cent to-day—there were a great many people who felt that it was a sort of Government standard that says that they shall give away 15 per cent of their income for philanthropic purposes.

Mr. MOORE. Their tithe?

Prof. LINDSAY. Their tithe.

The CHAIRMAN. Don't you think that that is a sufficient exemption for that purpose?

Prof. LINDSAY. Yes; I think so, so far as the income tax is concerned.

The CHAIRMAN. We will have some gentlemen before us later on who will ask total exemption.

Prof. LINDSAY. I think 15 per cent is a fair exemption.

The CHAIRMAN. That is about \$2,000,000, if we were to give that.

Prof. LINDSAY. I have known of some individual cases where they were able to give more than 15 per cent, and they felt that they were discriminated against somewhat, but I think it is fair.

Mr. MOORE. Is it a fact that under this exemption now provided for by law a man can leave it to a college?

Prof. LINDSAY. You mean the income-tax exemption?

Mr. MOORE. Yes. Suppose a wealthy man in Philadelphia or New York wants to leave \$100,000 to his university in Philadelphia or to Columbia University, under this law he could leave that money flat—that is to say, it would be received in full by the institution where, if it were taxable, of course, there would be a heavy reduction in the inheritance tax and the institution would get less than it does now?

Prof. LINDSAY. You are speaking about section 1201?

Mr. MOORE. I am inclined to think that a man would rather give that to an institution now as provided for in section 1201 rather than leave it in his will, because they would get it all this way and get the full revenue.

Prof. LINDSAY. It might operate in some such way.

The CHAIRMAN. You understand in the present law there is no tax on legacies or devises, but it is a tax just like the State, county, and municipal tax on the whole net estate.

Prof. LINDSAY. Out of the whole net estate.

The CHAIRMAN. In other words, if I owe the State in which I live \$5,000 in taxes, that is a debt, first priority on my whole estate, as if I owed you \$5,000. This tax operates just like that. The proposition is this, as I understand it: If I bequeath to my widow and children \$250,000 and to the university, say Columbia University, \$250,000, you wish the \$250,000 that I give to the university to be relieved from taxation, while my wife and children have to pay taxes. Do you think that the Government ought to be more lenient to the university and other institutions of the kind than to a person's own wife and children?

Prof. LINDSAY. I do not think, Mr. Chairman, that it would work quite that way.

The CHAIRMAN. And if we raise so much by inheritance tax and relieve the Columbia University of this tax on \$250,000, and make the wife and children pay a larger inheritance tax, where is the justice of that?

Prof. LINDSAY. Now, the rate would be raised by this amount, which is a graduated tax, and the rate is dependent on the amount of the net estate. You lower the rate by so much as you take out of the estate.

The CHAIRMAN. But to get the amount which we desire to raise from inheritance taxes, if we relieve these gifts to these institutions, wouldn't we have to raise the tax which our wives and other beneficiaries would have to pay?

Prof. LINDSAY. If you increase the rate and make good the loss, that would apply to that part of the estate that pays the tax. But direct bequests to your wife and children do not have to pay taxes any more than the like bequests to the university.

The CHAIRMAN. But if you relieve the university—if you relieve this gift to the university of the tax—and there are only \$250,000 left, my wife and children would have to pay the whole tax assessed against the whole estate?

Prof. LINDSAY. Yes.

The CHAIRMAN. And it would double their tax?

Prof. LINDSAY. It would double their tax.

The CHAIRMAN. Just take it from a moral standpoint, do you think that is right? Don't you think that Congress does enough when it puts your institution upon the same equality with a man's wife and children and other beneficiaries?

Prof. LINDSAY. I think that you and I, when we draw a will, would make provision to take care of our family, and we haven't any business making bequests to Columbia University or any other institutions until we have provided for our family.

The CHAIRMAN. You know of a great many wills being made by testators that turn out that the estate did not have sufficient funds to pay specific and pecuniary legacies.

Prof. LINDSAY. Yes.

The CHAIRMAN. It has occurred to me also that during this war wouldn't it be better for the Government to have that tax itself to use in the winning of this war, rather than letting the individual when he makes his will and dies, letting him say to whom he shall give money?

Prof. LINDSAY. Of course, the Government has got to have money which it needs to win this war. There would be no difference of opinion on that subject. If that means taking every dollar of private wealth, every dollar of private income, and every dollar that would go to charitable or educational institutions, it will have to do it. But, now, remember, if we do not support these institutions and put them out of business, they can not be rebuilt in a day. The war will be over some day and it is a question whether we ought not to make sure whether we have exhausted every other resource before taxing these institutions which are doing semipublic work.

The CHAIRMAN. And do you really believe that making this tax apply to the whole estate would cut off any bequests and devisees to the institutions?

Prof. LINDSAY. I am afraid it will, and it will reduce many. May I be permitted to state another case similar to the one that you cited a moment ago, in which it works the other way? Sometimes there are cases where a bequest of a certain amount—say, \$250,000—is paid to one or more individuals, and a residuary bequest is made to Columbia University, or to another college, and that institution therefore pays a tax not only upon the amount that was left to it but upon the

\$250,000 at whatever the Government imposes that was left to the widow or children.

The CHAIRMAN. But in the majority of cases the legacies are specific.

Prof. LINDSAY. That was the question of Mr. Longworth a few moments ago; but there is a difference of opinion on it. I have been trying to get information, and I found that the authorities are equally divided.

Mr. LONGWORTH. Did they bring your attention to any case where a substantial bequest came from the residuary estate?

Prof. LINDSAY. Here is a very novel case that I have in the last will and testament of Ludwig Dreyfus, who died in March this year and left a very large estate. I would like to refer to the terms of that estate. I have a memorandum about it. It will take but a moment. It answers one or two of the questions that have been put by the chairman.

Mr. CRISP. Did you hear that a man in New York had contributed \$25,000 to the Mitchell campaign fund and then claimed exemption on the ground that it was a contribution to charity?

Prof. LINDSAY. I had not heard of that.

Mr. MOORE. Wouldn't that be a contribution to charity, politically speaking?

Prof. LINDSAY. I suppose so.

Mr. CRISP. There is a record to that effect in the internal-revenue office in New York, third district.

Prof. LINDSAY. Was it allowed?

Mr. CRISP. No; not for a moment.

Prof. LINDSAY. I have here a brief statement which I would like to submit for the record, if I may.

(The statement is as follows:)

SUPPLEMENTARY STATEMENT OF JUNE 13, 1918.

The way of the taxgatherer is necessarily hard, but wealth is no slacker in this war. It is cheerfully bearing the heavy burdens that recent revenue legislation has placed upon it. It is the part of political wisdom, however, to consider well the implications of every tax, the far-reaching and indirect effects of a tax upon the social structure of the body politic. From that point of view the new Federal estate tax, a graduated transfer tax, imposed by the act of September 8, 1916, upon the entire net estate in excess of \$50,000 of decedents dying after that date, and the rates of which were doubled by two subsequent amendatory acts of March 3, 1917, and October 3, 1917, is unwise, onerous, and highly disadvantageous in its effect upon legacies and bequests to charitable, educational, and religious institutions. It contradicts the wiser policy enunciated in the income tax provisions of the great war revenue act of October 3, 1917, in which gifts and contributions for such purposes were made deductible and therefore tax free up to 15 per cent of the individual's otherwise taxable income. It is un-American and contradicts the previous tax policy of the Federal Government and that of 34 State governments which have inheritance taxes from which such bequests and legacies are exempt. It should be amended at once by Congress at this session, exempting all such bequests and legacies from any tax burden whatsoever. Several bills are pending in the House and Senate, notably the Hollis-Rainey bill introduced in both houses of Congress, to accomplish this purpose.

The estate tax is not a direct tax upon bequests and legacies, but it operates to discourage leaving private wealth for public purposes more than a direct tax upon such gifts would do. Although the college, hospital, or institution receiving such a bequest may not have to pay the tax the estate must pay the tax upon the amount of such gift, and the amount of wealth the testator

has to give to his family or for public purposes is therefore reduced by the amount of the tax. If, however, as is frequently the case, the bequest for education, philanthropy, or religion is made as a proportionate share of the residuary estate after the testator has made provision for his family and dependents, then the tax not only reduces the gift for a public purpose by the amount of the rate of the tax applied to the principal of the gift, but by an amount determined by the increased rate which the entire estate must bear applied to the bequests for private purposes in addition to those for public purposes. With as heavy a tax as is now imposed by the rates of the Federal law, plus the added State inheritance and transfer taxes in some jurisdictions, many gifts to hospitals, colleges, and other public purposes, now more needed than ever, may well be wiped out altogether.

It would be much more in the public interest if a direct exemption of all bequests and legacies for public purposes, whether made directly or as a part of a residue of an estate, should serve to encourage and stimulate such gifts at a time when our colleges, hospitals, charitable and religious institutions are called upon to meet new burdens occasioned by the war. There is not a college in the land that has not poured out its all in men and treasure in the service of the country and is not striving with diminished resources to meet the new demands for men trained to fight the Nation's battles at the front and at home, and for trained leadership in the social reconstruction that must soon come after the military victories are won.

Some are carrying deficits as heavy war debts; some are paying them from unrestricted endowments, intended for use in perpetuity; and all are hoping to increase their service and recoup their present losses largely through bequests and legacies to come from that true American generosity that has been so characteristic of the transfer of American fortunes from one generation to another. It would be shortsighted folly, indeed, if we allowed a new taxation policy to discourage, hinder, or destroy this fine American tradition. Hospitals and charitable institutions generally are, if anything, worse off than the colleges. They must meet new and heavy additional demands in caring for broken and disrupted homes and in supplementing the work of the Government in caring for the invalided by the fortunes of war, as well as those injuries by disease or bullets on the battle field.

What objection can there be to the prompt correction by Congress, through amendment of the war-revenue acts, of what would seem almost to have been an oversight in the first place? There has been no valid objection offered. Some have said that during the war the Government needs all the money it can get. This is no reason for impoverishing public services which the Government itself is asking to have carried on with unabated vigor and which in large part would have to be subsidized from the Public Treasury if private resources fail or become inadequate. Besides, the limits of available revenue resources have not yet been reached. Even the estate tax could be revised to yield more revenue with the exemption asked for than it yields now without the exemption, and in ways that would not produce the unfortunate social consequences we have just pointed out.

Others have said that to allow a specific exemption for bequests to religious, literary, charitable, and educational institutions would result in allowing such institutions an exemption not allowed the decedent's wife or children, and why should these institutions have an exemption which is refused to one's wife and children? In the first place, the theory upon which the tax is levied is that it is a tax upon surplus private wealth and that the wife and children are taken care of in the general exemption of \$50,000 or of entire estates when less than that amount. Second, if the Government takes only that part of the surplus over \$50,000 as represented by the varying rate of the tax, say, 10 per cent in the case of a net estate of a certain amount, is there not a greater reason for influencing the disposition of the other 90 per cent of the surplus by offering the inducement of the tax exemption for that part which goes voluntarily to a public purpose as compared with that part which goes to the wife and children or other private use over and above the \$50,000 net exemption? Third, a single illustration will suffice to show that, as a matter of fact, the exemption of bequests for public purposes would operate in most cases as a benefit to the wife and children; indeed, solely for their benefit, when the bequests for public purposes were direct bequests, and the wife and children had a residuary interest, and proportionately for their benefit when the institutional legatees and the wife and children were coresiduary legatees. The late Ludwig



Dreyfuss, of New York, died recently, leaving an estate of several million dollars, some of which goes at once and nearly all of which goes eventually to charity. To his wife he left his personal effects and \$25,000, and to several nieces and other relatives four \$5,000 bequests, and one of \$3,000.

He then left approximately \$31,000 in direct bequests to some 25 public institutions, including several hospitals, and some social enterprises of a national character such as the National Child Labor Committee, chartered by special act of Congress. The remainder of his estate, amounting to several million dollars, is devised to his executors and trustees named in trust for the benefit of his wife for and during her life and upon her death to be distributed to some 30 charities, including 10 hospitals, with the exception of \$220,000, which goes to 19 nephews and nieces in shares of \$10,000 each in all but three cases, in which the share is \$20,000 each. The United Hebrew Charities of New York will be the largest single beneficiary under this will. If bequests to charities were exempt from the tax, the wife's life interest would be greatly increased, and more than 30 charitable institutions would benefit by their share of the tax on their proportion of the residuary estate when distributed.

Many other illustrations could be given where the residuary estate goes largely to public purposes. In the newspapers a few days ago there was the report that the will of the late Mrs. Margaret E. Zimmerman was admitted to probate and bequeathed over \$800,000 to religious and charitable organizations in New York and a residue of several millions to St. Michael's Protestant Episcopal Church. The act to provide ways and means to meet war expenditures, approved June 30, 1898 (the Spanish War revenue act), as originally enacted, contained no exemption of gifts to charities, but this defect was remedied by the amending act of March 2, 1901. Later, by the act of June 27, 1902, the Congress provided that the Secretary of the Treasury should refund all taxes which had been paid upon bequests or legacies of this character under the terms of the original act of 1898. In this way all taxes levied under the act mentioned, upon property passing for religious, literary, charitable, educational, and other similar uses, were repealed.

Congress should take similar action now and exempt, without delay, from the operation of the Federal estate-tax law legacies and bequests to educational, philanthropic, and religious institutions. To urge this is not to ask a favor, but rather to assure the continuance of a characteristic American public policy, the results of which have been beneficent in the extreme and greatly to the credit and advantage of the American people.

**Mr. SLOAN.** Then in that case there are many times as many specific bequests to the charitable institutions as there are in the residuary estate.

**Prof. LINDSAY.** Only in the first institution. The total specific bequests aggregate about \$250,000 and the residuary to be distributed among institutions I have estimated to be something like \$10,000,000. The value of the estate is not known.

**Mr. SLOAN.** The will said the specific bequests were about 30 times the other. There was only one residuary, I believe.

**Prof. LINDSAY.** I think in the first instance, in the first distribution, all of them were specific bequests, including a few private ones, and some 25 public institutions. After the first distribution was made the whole of the residuary estate not distributed, the income goes to the wife during life and on her death the entire residuary estate terminates and is distributed among the various institutions.

**Mr. SLOAN.** How many are included in the residuary estate? I may not have understood it correctly.

**Prof. LINDSAY.** Thirty, including 10 hospitals and 19 nephews and nieces.

**Mr. SLOAN.** Is that in the residuum?

**Prof. LINDSAY.** Yes.

**Mr. SLOAN.** How many in the first distribution?

**Prof. LINDSAY.** The same number, 11; 25 public institutions, and this included the wife specifically—31 all together.

The CHAIRMAN. You read in that paper that \$50,000 exemption was for the wife and children. Of course, you are not exactly correct in that case. That \$50,000 exemption is as much for other beneficiaries under the will as it is for the wife and children.

Prof. LINDSAY. Of course, it might appear that there was no wife and children.

The CHAIRMAN. It operates entirely to the advantage of the legatees and devisees under the will.

Prof. LINDSAY. Of course, in case there were no heirs—direct heirs—it would operate as a benefit to the institutions just the same; but the theory upon which that exemption is included in the law is undoubtedly to protect the wife and children.

The CHAIRMAN. It is a simple exemption, like everybody's else; it inures to everybody under the will. Do you know of any State in the Union that taxes transfers of estates to inheritance on the net estate that exempts from such a tax charitable institutions or educational institutions?

Prof. LINDSAY. I am not sure, Mr. Chairman, that I know of any instances of a tax exactly similar to this. This is a new form of tax in this country. It has not been used heretofore prior to 1916, when it was first enacted by the Federal Government, and I do not think it has been used by any State.

The CHAIRMAN. I think Rhode Island has used it.

Prof. LINDSAY. I have, however, a carefully prepared statement of the various State tax laws, which I will ask to submit in the record.

The CHAIRMAN. Most of them are specific legacies?

Prof. LINDSAY. Most of them are on specific legacies. Some of them exempt.

The CHAIRMAN. Giving the preference at all times to the family?

Prof. LINDSAY. Thirty-four exempt and 7 or 9 do not.

Mr. Chairman, if I may be permitted to include in the record a brief statement explaining and making an argument for this exemption, it is embodied in a bill which was introduced in the House by Mr. Rainey and in the Senate by Mr. Hollis, independent of the hearing on this.

The CHAIRMAN. All right.

(The statement follows:)

**LEGACIES AND BEQUESTS FOR EDUCATIONAL, CHARITABLE, RELIGIOUS, AND PUBLIC PURPOSES SHOULD BE FREE FROM ANY BURDEN OF THE FEDERAL ESTATE TAX.**

[A statement by Samuel McCune Lindsay, professor of social legislation, Columbia University, addressed to the Senate Finance Committee and the House Ways and Means Committee, on behalf of the committee on war charity and social work, Mar. 6, 1918.]

*To the Senate Finance Committee and the House Ways and Means Committee:*

There has been referred to you a bill "To amend the war-revenue act in relation to taxation of legacies and inheritances, and for other purposes," said bill having been introduced in the House by the Hon. Henry T. Rainey of Illinois, H. R. 9223, and in the Senate by Senator Henry F. Hollis of New Hampshire, S. 3730. There is also before the Ways and Means Committee another bill for the same purpose introduced in the House by Hon. Edward W. Pou of North Carolina, H. R. 8751. These proposals seek to amend the existing Federal estate tax law, so that in determining the value of the net estate of residents

and nonresidents of the United States for the purpose of the tax there shall be deducted from the value of the gross estate, in addition to the present allowable deductions, "all bequests, legacies, devises, or gifts to the United States or to any State, or to any political division thereof, for exclusively public purposes, and all bequests, legacies, devises, or gifts for uses of a religious, literary, charitable, or educational character or for the encouragement of art, or to societies for the prevention of cruelty to children or for the prevention of cruelty to animals."

One of the proposals also authorizes and directs the Secretary of the Treasury to refund, under appropriate rules and regulations, as was done under a Spanish war revenue act, the taxes collected upon that portion of net estates which represents bequests, legacies, etc., of the character described.

#### HISTORY OF TAXATION OF LEGACIES AND BEQUESTS.

In both particulars the proposals follow good precedents. The act of June 27, 1902, amended the act of June 30, 1898, "To provide ways and means to meet war expenditures," which was the Spanish war revenue act, and, as originally enacted, contained no exemption of gifts to educational, charitable, and religious institutions, but was amended by an act of March 2, 1901, entitled "An act to amend an act entitled 'An act to provide ways and means to meet war expenditures, and for other purposes, approved, June 13, 1898, and to reduce taxation thereunder'" (U. S. Stat. L., vol. 31, chap. 806). This act exempted "all bequests or legacies for uses of a religious, literary, charitable, or educational character or for the encouragement of art, or legacies or bequests to societies for the prevention of cruelty to children, including all bequests or legacies of such character on which the tax imposed had not been paid or collected on the 1st day of March, 1901." An act of June 27, 1902, gave further relief by providing for the refund of the taxes collected under the act of 1898.

Little use has been made by the Federal Government of this surce of revenue—that is, of a tax on estates or inheritances in general. Throughout our history such taxation has been resorted to by the Federal Government only as a war measure and at other times has been left to the States, which have made extensive use of inheritance or estate transfer taxes. Prior to the Civil War practically the only Federal inheritance or estate taxes were the stamp duties imposed by the stamp act of July 6, 1797, somewhat similar to the original English legacy duty, which was repealed before the act had been in operation four years. The war-revenue act of July 1, 1862, imposed a graduated legacy tax, and an act of July 30, 1864, increased the rates and supplemented the legacy tax by a succession tax on real estate. Apparently no exemption of legacies for charitable and public uses was made by either of these acts nor by a supplementary act of July 13, 1866, none of which seems to have been rigidly enforced or yielded returns that indicated that they were generally observed. They were repealed by the act of July 14, 1870. The Spanish War revenue act, which later exempted legacies for charitable and public uses as noted above, was repealed as far as the section imposing a tax on legacies and distributive shares on personal property in concerned by the act of April 12, 1902.

No further experiment in this direction or use of taxation of legacies and bequests was resorted to by the Federal Government until the revenue act of September 8, 1916, which imposed a graduated estate tax on estates in excess of \$50,000, of those who died on or after September 9, 1916. The rates imposed in this act were increased 50 per cent by the act of March 3, 1917, made applicable to estates of those who died on or after March 3, 1917, and again increased by the act of October 3, 1917, to double the rates of the act of September 8, 1916.

#### OBJECT OF THIS PROPOSAL.

To relieve legacies and bequests for public purposes and for uses of a religious, charitable, and educational character from the burden of taxation under the revenue acts of 1916 and 1917 and to remedy a defect in this legislation similar to that which Congress recognized in the legislation of 1898 and remedied in the legislation of 1901 and 1902, the bills herein referred to have been introduced. The remedies herein proposed are identical with those which have already received Congressional sanction, and if enacted will make the policy of the Federal Government consistent with our traditional American policy

with respect to taxation which never has sought deliberately to reduce the benefits of legacies and bequests for charitable and public uses.

The policy proposed is also consistent with that followed in the legislation of 34 States and 1 territorial possession<sup>1</sup> which have inheritance tax laws, and in which bequests for educational, charitable, and other public purposes are exempted in whole or in part from their operation. Five States, the District of Columbia, and Alaska have no inheritance tax laws, and only nine States<sup>2</sup> do not make the exemption which we here request.

#### THE PRINCIPLE RELIED UPON.

The Government should avoid taking by compulsion even a small fraction of private wealth voluntarily devoted to a public use. Otherwise it merely transfers to the public purposes of taxation money already devoted to a public purpose, or penalizes generosity by taxing a gift, which is universally recognized as repugnant to sound policies of taxation.

Congress recognized the justice of the exemption herein proposed in another way with respect to the income tax in the revenue laws of 1916 and 1917.

President Nicholas Murray Butler, of Columbia University, in his annual report for 1917, has very well described this precedent as follows:

"The Congress of the United States, in drafting the war-revenue act, has wisely provided that contributions or gifts actually made within a given year to corporations or associations organized and operated exclusively for religious, charitable, scientific, or educational purposes, no part of the net income of which inures to the benefit of any private stockholder or individual, to an amount not in excess of 15 per centum of the taxpayer's taxable net income as computed without the benefit of this provision, shall be allowable as a deduction from taxable income for that year. This is a clear and satisfactory recognition of the principle that private money contributed for public purposes shall not be taxed, at least up to the limit fixed in the statute. Complete recognition of this principle would require that private money given for public purposes should be exempt from taxation no matter what relation its amount may bear to the giver's taxable income. The limitation set by the Congress is probably due to a fear that if full recognition were given just now to this undoubtedly sound principle the Government might suffer loss through its abuse by unscrupulous persons.

"While recognizing this sound principle, so far as it related to gifts, the Congress in the same war-revenue act violated it by imposing an onerous and highly disadvantageous tax upon legacies, and bequests to charitable, educational, and religious institutions. \* \* \* The amount which the Government will receive in revenue from these provisions, if they are kept upon the statute book, will be very small in comparison with the grave damage thereby inflicted upon the educational, philanthropic, and religious institutions of the country.

"It would be, indeed, disastrous if the many and far-reaching changes that are to accompany the war and the new forms of taxation which the war will compel, took such a form as to imperil the effectiveness and even the existence of the great philanthropic and educational institutions of the country. It is the well-established tradition of American life that all possible encouragement shall be given to those individuals and groups of individuals who labor to aid the spiritual and intellectual life of the Nation, or to relieve suffering and want, by building up and maintaining institutions of religion, of philanthropy, and education. \* \* \* As a result of this wise and far-sighted policy, there have been built up in the United States, without public tax, a great group of religious, philanthropic, and educational undertakings that are the glory of the country and the envy of other nations. To institutions of this kind there has been for nearly a century past a constant flow of private benefactions. Legacies and bequests made to them are, as a rule, free from the usual transfer and inheritance taxes, on the principle that these legacies and bequests represent private moneys transferred to public uses. If the effect of taxing gifts, legacies,

<sup>1</sup> Arkansas, California, Colorado, Connecticut, Delaware, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Rhode Island, South Dakota, Tennessee, Texas, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Hawaii.

<sup>2</sup> Arizona, Georgia, Maryland, Montana, Nebraska, Nevada, Pennsylvania, Utah, and Wyoming.

and bequests of this kind were to dry up the streams of benefaction by which so much of all that is best in the United States has heretofore been fertilized and strengthened, the result would be lamentable in the extreme."

#### HOW THE PRESENT LAW OPERATES.

The estate tax provisions of the revenue laws of 1916 and 1917 require the executor of every estate of every resident decedent whose gross estate exceeds in value \$60,000, or whose net estate, as defined in the law, has any value in excess of the specific exemption of \$50,000, to file a tentative return within one year after the decedent's death.

The tax based on the net estate is due one year after the decedent's death and is subject to a discount of 5 per cent per annum if paid prior to that time, and if not paid within 90 days thereafter is subject to an addition of 10 per cent interest per annum on the tax from the time of the decedent's death. This requirement often adds a further burden to the tax when the executor is forced to sell securities or property under disadvantageous market conditions to get the money to pay the tax unless the estate has ample liquid assets. This fact alone operates to discourage benefactions for public uses because testators do not wish to run the risk of having their residuary estate wiped out, especially if it goes to their immediate family, or bequests to the immediate family possibly reduced because the residuary estate is not sufficient to pay the tax. A benefaction made specifically for an educational, charitable, religious, or other public use, must now be included in the net estate upon which the tax is imposed. Whether it suffers any reduction thereby will depend upon whether the residuary estate is sufficiently large to take care of the tax. If the benefaction is not made specifically to the educational, charitable or religious institution, but, as is frequently the case, the institution or public use is one of several residuary legatees among whom the entire residuary estate is to be divided, share and share alike, then, of course, it is reduced not only by the amount of the tax upon its share of the residuary estate but must bear also its proportionate share of the tax upon the whole net estate. In any event the net result is certainly to discourage all such benefactions because of the uncertainty of the amount and incidence of the tax with respect to such benefactions. It is likewise certain that a provision to exempt such benefactions by not including them in the net estate subject to the tax would operate to encourage and stimulate benefactions being made directly to educational, charitable, and religious institutions.

#### A SUMMARY AND A PARALLEL.

##### SPANISH WAR TAX LEVIED.

The act of June 13, 1898, entitled "An act to provide ways and means to meet war expenditures" (the Spanish War revenue act), levied a legacy tax but made no exemption of property passing to public uses until amended by the act of March 2, 1901.

##### EUROPEAN WAR TAX LEVIED.

The act of September 8, 1916, entitled "An act to increase the revenue and for other purposes," imposed a graduated estate tax on net estates over \$50,000, and made no exemption of property passing to public uses. It was amended by the act of March 3, 1917, increasing each of the rates of the estate tax 50 per cent, but again making no such exemptions, and it was further amended by the act of October 3, 1917, entitled "An act to provide revenue to defray war expenses and for other purposes," again increasing the rates of the tax, making them double those of the original tax but again making no exemption of bequests and legacies for educational, charitable, and religious purposes.

##### EXEMPTION PROVIDED.

The act of March 2, 1901, exempted "all bequests or legacies for uses of a religious, literary, charitable, or edu-

##### EXEMPTION PROVIDED.

The Hollis-Rainey bills, S. 3730 and H. R. 9223, introduced January 24, 1918, in the House and February 5,

cational character, or for the encouragement of art or legacies or bequests to societies for the prevention of cruelty to children, including all bequests or legacies of such character on which the tax imposed had not been paid or collected on the 1st day of March, 1901."

1918, in the Senate, proposes to make such exemption in the following language: "That for the purpose of the tax the value of the net estate shall be determined (a) in the case of a resident by deducting from the value of the gross estate \* \* \* all bequests, legacies, devices, or gifts to the United States or to any State, or to any political division thereof, for exclusively public purposes, and all bequests, legacies, devises, or gifts for uses of a religious, literary, charitable, or educational character, or for the encouragement of art, or to societies for the prevention of cruelty to children or for the prevention of cruelty to animals."

## REFUND AUTHORIZED.

The act of June 27, 1902, provided "that the Secretary of the Treasury, under appropriate rules and regulations to be prescribed by him, be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the corporations, associations, societies, or individuals as trustees or executors, such sums of money as have been paid by them as taxes upon bequests or legacies for uses of a religious, literary, charitable, or educational character, or for the encouragement of art, or legacies or bequests to societies for the prevention of cruelty to children under the provisions of section 29 of the act entitled 'An act to provide ways and means to meet war expenditures, and for other purposes, approved June 13, 1898, and to reduce taxation thereunder.'" (U. S. Stat. L., vol. 32, ch. 1160.)

## REFUND AUTHORIZED.

It provides also that "the Secretary of the Treasury, under appropriate rules and regulations to be prescribed by him, be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the corporations, associations, societies, or individuals as trustees or executors, such sums of money as have been paid by them as taxation upon bequests or legacies for uses of a religious, literary, charitable, or educational character, or for the encouragement of art, or legacies or bequests to societies for the prevention of cruelty to children, or for the prevention of cruelty to animals under the provisions of," etc. (the appropriate section of the acts of Sept. 8, 1916, Mar. 3, 1917, and Oct. 3, 1917).

The Pou bill, H. R. 8751, introduced January 16, 1918, provides for such exemption in analogous language for the estate of residents and nonresidents, but does not provide any refund of taxes already collected.

## NOT A TAX-DODGING PROPOSAL.

Whatever loss the exemption would cost the Government can be more than made good by additional taxes which may fall directly or indirectly upon the persons or property of the very persons who benefit by the exemption. The exemption is not only necessary in order to give educational, charitable, and religious institutions the support which the Government can give them by this means, but is based on sound public policy. The rates of the estate tax might be raised sufficiently to meet all of the loss incurred by the exemption and the higher rates would be accepted by the public all the more cheerfully because of a feeling that the Government had recognized fundamental justice in refraining from taking by compulsion any part of that which an individual had already contributed to a public use. The flow of benefactions to public uses would not be half so likely to be discouraged or dried up if the exemption were granted and the rates of the estate tax again substantially increased in amount.

The benefit to be derived by the Government by the imposition and collection of this tax would be many times offset by the disadvantages to the public of crippling and preventing the growth of these genuinely public and characteristically American institutions.

It is a mistake to speak of one of these institutions as wealthy because the amount it holds in trust is relatively large. That only means that the public obligations of service which it has to meet are larger still. The endowments of an institution for education, philanthropy, or religion are in no wise to be compared with the capital holdings of business organizations for profit.

PRESENT NEEDS URGENT.

It will take a generation for the colleges and universities to recover from their present adversity. They will need all the help they can get from future bequests to take care of the debts they must accumulate during the war and to restore them to their former condition of efficiency. In addition to this the country will need their help and look to them for new leadership in training men for the new tasks of Government in the reconstruction that must come after the war.

Aside from some provision for the higher education and training of officers for the Army and Navy, some provision for schools for the Indians as special wards of the Nation, a few land grants to the States for common schools, and colleges of agriculture and mechanical arts, and very recently some Federal aid to the States in the matter of vocational training and agricultural education, the Federal Government has borne no share of the expense of schools, colleges, and universities. The State governments, likewise, have carried only a part of the public expenditure for public schools and a still smaller proportion of that for all the various forms of higher education and technical training provided by institutions other than the common schools.

If it were proposed to abandon our traditional policy of leaving to private benevolence the chief support of higher education, the main reliance of hospitals and charitable institutions, and the only hope for the encouragement of art, and for governments to assume these obligations, then there might something be said in favor of refusing the exemption herein requested of bequests for educational, charitable, religious, and public uses.

Even those who might regard the direct maintenance of such institutions as no constitutional function of the Federal Government would admit that the Government should at least refrain from putting any burden on them.

The needs of hospitals, of charitable and relief organizations of all kinds, of religious institutions, and of other organizations engaged in works of humanity and mercy are probably no less urgent than those of institutions strictly educational in character. Only the latter have been deprived of certain definite sources of revenue and support from tuition fees received from their students in proportion as they have patriotically vied with one another in urging their students and faculties alike to give themselves freely in the military and civil service of their country. The burden upon all alike—upon education, charitable relief, and the ministry of religion—is a new and increased burden by reason of the war. The need for the service which these institutions alone can render, apart from anything that the Government may or can do itself, is such now—and will be so much greater in the future, when we enter upon the work of reconstruction after the war—that no wise government can afford to ignore their call for help or to refuse them every just means of encouragement and support.

Mr. LONGWORTH. Is that what you are advocating—the substance of that bill?

Prof. LINDSAY. The same thing is embodied in another bill, introduced by Mr. Pou, and the same thing with respect to legacies for art purposes in the bill introduced by Mr. Moore.

Mr. CRISP. I happen to have a brief here that I am interested in. In one of the old English cases, Lord Linder held that a home for lost dogs was a charitable institution. Of course, under the proposition here, such an institution would be exempt from taxation.

Prof. LINDSAY. Well, if it were held to be a charitable institution in this country, under our laws, it would be exempt not from taxation but from taxation upon the bequests to that institution.

Mr. CRISP. Societies for the protection of vivisection are held to be a charity, and I understand it has been held that a fund for woman suffrage is a charity.

Prof. LINDSAY. I am afraid that would come under the same heading as the Mitchell case.

Mr. CRISP. Charity is a broad word, and it looks as if we would lose a great deal of revenue that we did not contemplate losing.

The CHAIRMAN. Just a word, again. Referring to the \$50,000 exemption, one of the main purposes was to leave it to the States to tax, and for the most of the estates the State takes care of that, and you do not want to drown the Federal courts with all of these little cases. That is one of the main reasons.

Prof. LINDSAY. Yes.

Mr. SLOAN. Have you figured out how much revenue this Government would lose by putting in operation such a proposed amendment as you suggest?

Prof. LINDSAY. No; as I said in answer to another question earlier this morning, we have no official data yet. This tax is a new tax. It has only operated on the estates of decedents after September 16, and the returns are not in yet. I asked a few weeks ago for the returns from the Internal Revenue Bureau, but they are not made up yet, for the first year of operation.

Mr. SLOAN. Could you probably obtain those figures so as to find out what it would be?

Prof. LINDSAY. I presume that I can obtain the results of the tax of the first year, and perhaps for the second year, after you doubled the rates.

Mr. DICKINSON. Doctor, are you leaving a list of the laws of the several States?

Prof. LINDSAY. Yes.

The CHAIRMAN. Just append that to your remarks.

Mr. RAINEY. I do not remember that you covered the question on the effect of the earnings of colleges caused by the war, and the enlistment of students, and what effect that has on the revenue.

Prof. LINDSAY. I referred to that very incidentally a moment ago. I presume, gentlemen, that you are all more or less familiar with those effects. So far as the higher educational institutions go, the effect of the war upon attendance and therefore upon revenue that comes from tuition fees of students has been very great. It varies with different departments and with different schools, different classes and different institutions. In law schools the reduction has been at least 50 per cent and it looks as though by another year that many law schools would have to close up.

Mr. RAINEY. In tuition fees?

Prof. LINDSAY. In reduction of the number of students and, of course, that means a reduction of tuition fees. One of the colleges, Hobart College, has closed up, gone out of business, and turned its buildings over for use as a hospital, and the president of the institution has offered his services as a volunteer laborer in one of the departments of the Government, whether the Food Administration or not, I do not remember.



Mr. DICKINSON. Are not a great many of the students of these various colleges all over the country going into the service, and thereby avoiding the necessity of the expenditure of so much money during the war?

Prof. LINDSAY. Yes; except that there are new problems of education all the time. The more training the men have to have, new departments of service, the greater burden that is being put upon these institutions. If they had the resources to go on, they could enlist, and could train them in special new work—and there is a great deal of work in the training of men for a great many kinds of work—and the reason for maintaining the institutions that they may be able to maintain an effective plant to continue the work of higher education in the training of teachers, etc., after the war. You can't build a plan of that sort overnight. You can not recruit an efficient and effective college faculty in a short time. It is a long, slow passing, and that is going to cost a great deal more in labor, time, and money to rehabilitate them after the war. There is plenty of work that they can do, even when they can't have the normal number of students on account of the draft.

The CHAIRMAN. Gentlemen, we will return at a quarter to 2.

(Thereupon the committee took a recess at 12.30 p. m. until 1.45 p. m.)

(The State laws referred to are as follows:)

#### PREVIOUS FEDERAL ESTATE-TAX LEGISLATION AND EXEMPTIONS.

United States: The Spanish War Federal inheritance-tax act of June 13, 1898, as originally enacted, contained no exemption of charities.

This defect was partly remedied by the amending act of March 2, 1901, which exempted all "bequests or legacies for uses of a religious, literary, charitable, or educational character, or for the encouragement of art or legacies or bequests to societies for the prevention of cruelty to children, including all bequests or legacies of such character on which the tax imposed had not been paid or collected on the 1st day of March, 1901."

And by the act of June 27, 1902, it was provided that the Secretary of the Treasury should refund all taxes which had been paid upon bequests or legacies of this character under the act of 1898, thus repealing all taxes under the Spanish War Federal inheritance-tax act upon property passing for the religious, literary, charitable, educational, and other uses described.

Income-tax exemption: The existing Federal income-tax law recognizes the propriety of exempting from its operation the income of educational and charitable institutions. It contains, among others, the following provision: "There shall not be taxed under this title any income received by any \* \* \* corporation or association organized and operated exclusively for religious, charitable, scientific, or educational purposes no part of the net income of which inures to the benefit of any private stockholder or individual." (Act of Sept. 8, 1916, sec. 11.)

The original income-tax law of 1913 contained a similar provision, as did the act of August 27, 1894, section 32.

The corporation excise-tax law of August 5, 1909, section 38, provided a similar exemption.

#### SUMMARY OF EXISTING STATE LEGISLATION IN REFERENCE TO EXEMPTION OF BEQUESTS, ETC., FOR EDUCATIONAL, CHARITABLE, AND OTHER PUBLIC PURPOSES FROM INHERITANCE TAXATION.

I. The following States have no inheritance-tax laws: Alabama, Florida, Mississippi, New Mexico, South Carolina (5); and there are none in the Territory of Alaska and District of Columbia (2)—7.

II. The following States exempt bequests for educational, charitable, and other public purposes, in whole or in part, from the operation of their inherit-

ance-tax laws: Arkansas, California, Colorado, Connecticut, Delaware, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Rhode Island, South Dakota, Tennessee, Texas, Vermont, Virginia, Washington, West Virginia, Wisconsin (34); Hawaii also exempts such bequests (1)—35.

III. The following States do not provide for such exemption: Arizona, Georgia, Maryland, Montana, Nebraska, Nevada, Pennsylvania, Utah, Wyoming—9.

#### IV. Summary:

Jurisdictions in which there are no inheritance-tax laws.....	7
Jurisdictions in which bequests for these purposes are exempted.....	35
Total .....	42
Jurisdictions in which such bequests are not exempted.....	9
Total .....	51

Arkansas exempts "all property transferred in good faith to societies, corporations, and institutions now or hereafter exempted by law from taxes, or to any public corporation or to any society, corporation, institution, or association of persons engaged in or devoted to any charitable, benevolent, educational, public, or other like work (pecuniary profit not being its object or purpose), or to any person, society, corporation, institution, or association of persons in trust for or to be devoted to any charitable, benevolent, educational, or public purpose by reason whereof any such person or corporation shall become beneficially entitled in possession or expectancy to any such property or to the income thereof." (Laws of 1915, ch. 189.)

California the same as Arkansas. (Laws of 1911, ch. 395, sec. 4.)

Colorado exempts "all transfers of property to the State of Colorado, or to any county, city, town, or other municipality, or for the use of public libraries, for religious or charitable purposes exclusively, or for schools and colleges not for profit: *Provided, however,* That the same be situated within this State or the property be limited for use within this State." (Laws of 1913, ch. 136, sec. 4.)

Connecticut exempts "all property passing to or in trust for the benefit of any corporation or institution located in this State which receives State aid, or for the use of a municipal corporation for public purposes within this State, and all gifts of paintings, pictures, books, engravings, bronzes, curios, bric-a-brac, arms and armor, and collections of articles of public interest passing to any corporation or institution located in this State for preservation and free exhibition for public benefit." (Act of 1915, ch. 332.)

Delaware exempts "any property, estate, or interest therein passing to or for the use or in trust for, charitable, educational, or religious societies or institutions, or cities or towns for public improvement, or to school districts or library commissions." (Laws of 1909, ch. 225, sec. 1.)

Idaho the same as Arkansas. (Idaho Revised Codes, title 10, ch. 5, sec. 1877.)

Illinois exempts "beneficial interests of any property or income therefrom" passing "to or for the use of any hospital, religious, educational, Bible, missionary, tract, scientific, benevolent, or charitable purpose, or to any trustee, bishop, or minister of any church or religious denomination, held and used exclusively for the religious, educational, or charitable uses and purposes of such church or religious denomination, institution, or corporation, by grant, gift, bequest, or otherwise." (Act of June 14, 1909, sec. 28.)

Indiana exempts "all property transferred to municipal corporations within the State for strictly county, town, or municipal purposes, or to the bishop, rector, pastor, trustee, board of trustees, or governing body of any educational or religious institution, who shall use the property so transferred solely for religious, charitable, or educational purposes within the State, or to corporations of this State organized under its laws solely for religious, charitable, or educational purposes, which shall use the property so transferred exclusively for the purpose of their organization within the State." (Laws of 1913, ch. 47, sec. 4.)

Iowa exempts property passing "to educational and religious societies or institutions, public libraries, and public art galleries within this State and open to the free use of the public"; "to or for hospitals within this State open to the public and not operated for gain, or to societies within this State organized for purposes of public charity, including cemetery associations, but not including

societies maintained by fees, dues, or assessments in whose benefits the public may not share"; "to a municipal or political corporation within this State for a purely public purpose." (Laws of 1911, ch. 68, sec. 2.)

Kansas exempts property passing "to or for the use of literary, educational, scientific, religious, benevolent, and charitable societies or institutions: *Provided*, Such use entitles the property so passing to be exempt from taxation;" and property passing "to or for the use of the State, a county, or a municipality for public purposes." (Laws of 1915, ch. 357.)

Kentucky exempts "property of any amount bequeathed or transferred to any municipal corporation within this State for public purposes, to institutions of purely public charity, to institutions of education not used or employed for gain by any person or corporation and the income of which is devoted solely to the cause of education; to public libraries; or to any person or persons, society, corporation, institution, or association in trust for any of the purposes above mentioned." (Laws of 1916, ch. 26.)

Louisiana exempts "any legacy or other donation mortis causa to or in favor of any educational, religious, or charitable institutions." (Laws of 1912, ch. 42.)

Maine exempts property passing "to or for the use of any educational, charitable, religious, or benevolent institution in this State, the property of which is by law exempt from taxation." (Me. Rev. Stat., ch. 8, sec. 69, as amended by Laws of 1911, ch. 163.)

Massachusetts exempts property passing "to or for the use of charitable, educational, or religious societies or institutions, the property of which is by the laws of this Commonwealth exempt from taxation, or for or upon trust for any charitable purposes, to be carried out within this Commonwealth, or to or for the use of the Commonwealth or any city or town within this Commonwealth for public purposes." (Laws of 1916, ch. 268.)

Michigan exempts property passing "to persons or corporations exempt by law from taxation on real or personal property." (Laws of 1909, ch. 188, as amended by Laws of 1903, ch. 195.)

This includes "religious, charitable, and similar institutions and organizations of a domestic character." (See Instructions issued by auditor general in 1907, quoted in Blakemore and Bancroft on Inheritance Taxes, p. 636.)

Minnesota exempts "all property transferred to municipal corporations within the State for strictly county, town, or municipal purposes." (Laws of 1911, ch. 209.)

And, by a subsequent act, "property of the clear value of \$2,500 transferred to a public hospital, academy, college, university, seminary of learning, church, or institution of purely public charity within this State." (Laws of 1911, ch. 372.)

Under this act any charitable bequest in excess of twenty-five hundred dollars was taxable at 5 per cent as the primary rate, subject to certain increases determined by amount, but by chapter 455 of the Laws of 1913 the primary rate upon such bequests was reduced to 2 per cent, and under the general provisions of the statute of 1911 the primary rate was subject to a progressive increase reaching three times the primary rate upon all gifts in excess of \$100,000.

Missouri exempts "property conveyed for some educational, charitable, or religious purposes exclusively." (Rev. Stat. of 1909, ch. 2, art. 14, sec. 309.)

New Hampshire exempts property passing "to or for the use of educational, religious, cemetery, or other institutions, societies, or associations of public charity in this State, or for or upon trust for any charitable purpose in the State, or for the care of cemetery lots, or to a city or town in this State for public purposes." (Laws of 1915, ch. 106.)

New Jersey exempts "property passing to churches, hospitals, and orphan asylums, public libraries, Bible and tract societies, religious, benevolent, and charitable institutions and organizations, organized under the laws of this State, or operating solely within this State." (Laws of 1914, ch. 151.)

New York by the law of 1911 exempts "Any property devised or bequeathed for religious ceremonies, observances or commemorative services of or for the deceased donor, or to any person who is a bishop or to any religious, educational, charitable, missionary, benevolent, hospital, or infirmary corporation, wherever incorporated, including corporations organized exclusively for Bible or tract purpose \* \* \* also personal property other than money or securities bequeathed to a corporation or association wherever incorporated or located, organized exclusively for the moral or mental improvement of men or women or for scientific, literary, library, patriotic, cemetery, or historical purposes or for the enforcement of laws relating to children or animals or for

two or more of such purposes and used exclusively for carrying out one or more such purposes. But no such corporation or association shall be entitled to such exemption if any officer, member, or employee thereof shall receive or may be lawfully entitled to receive any pecuniary profit from the operations thereof except reasonable compensation for services in effecting one or more of such purposes or as proper beneficiaries of its strictly charitable purposes; or if the organization thereof for any such avowed purpose be a guise or pretense for directly or indirectly making any other pecuniary profit for such corporation or association or for any of its members or employees or if it be not in good faith organized or conducted exclusively for one or more of such purposes." (Act of 1911, ch. 732.)

And in 1913 added the following exemption: "Exemption of certain personal property. A transfer of pictures, statuary, works of art, antiques, books, manuscripts, or other similar personal property shall be exempted from and not subject to the provisions of this article if within two years after such transfer the person to whom such transfer is made shall present the same to the State, or to a municipal corporation of the State for educational, scientific, literary, library, or historical purposes, and if the tax thereon shall have been theretofore paid the amount thereof shall be refunded in accordance with the provisions of this article." (Laws of 1913, ch. 639.)

North Carolina by act of 1911 (ch. 46, sec. 6) placed property passing for religious, charitable, or educational purposes in the exempt class with husband and wife, but by the Revised Law of 1913 (ch. 201) husband and wife were placed in the 1 per cent class and the charitable exemption seems to have been omitted.

North Dakota exempts "all bequests and devises of property within this State when the same is for one of the following charitable purposes, namely, the relief of aged, indigent, and poor, maintenance of sick or maimed or for the support or education of orphans or indigent children." (Laws of 1913, ch. 185, sec. 24.)

Ohio exempts property passing "to the State of Ohio under the intestate laws of the State, or embraced in a bequest, devise, transfer, or conveyance to, or for the use of the State of Ohio, or to or for the use of a municipal corporation or other political subdivision thereof for exclusively public purposes, or public institutions of learning, or to or for the use of an institution in this State for purpose only of public charity or other exclusively public purposes \* \* \* while used exclusively for any of such purposes." (Ohio General Code of 1910, sec. 5332.)

Oklahoma exempts all transfers "made in good faith for religious, charitable, or educational purposes and uses." (Laws of 1915, ch. 162, sec. 4.)

Oregon exempts "devises, bequests, legacies, and gifts to benevolent, charitable, or educational institutions incorporated within this State and actually engaged in this State in carrying out the objects and purposes for which so incorporated, or to any person or persons to be held in trust for any such institution in lieu thereof." (Act of 1905, ch. 178, sec. 1.)

Rhode Island exempts "all property or interests transferred to any corporation, association, or institution, located in Rhode Island, which is exempt from taxation by charter or under the laws of this State, or to any corporation, association, or institution, located outside of this State, which if located within this State would be exempt as aforesaid, or to any person in trust for the same, or to any city or town in this State for public purposes." (Laws of 1916, ch. 1339.)

South Dakota exempts "all property transferred to municipal corporations within the State for strictly county, town, or municipal purposes; also \* \* \* property of the clear value of \$2,500 transferred to a public hospital, academy, college, university, seminary of learning, church, or institution of purely charity within this State." (Laws of 1915, ch. 217.)

Tennessee exempts all property passing "to any religious, charitable, scientific, literary, or educational institution." (Laws of 1903, ch. 561.)

Note.—This exemption has been held to violate the Tennessee constitution—In re Speed, not yet reported.

Texas exempts property passing to "any public corporation or charitable, educational, or religious organization within this State when such bequest, gift, or devise is to be used for charitable, educational, or religious purposes within this State." (Laws of 1907, ch. 21, sec. 1.)

Vermont exempts property passing to a "bishop in his ecclesiastical capacity for religious uses within this State, or a city or town for cemetery purposes";

and also property passing to "every charitable, educational, or religious society or institution \* \* \* created and existing under and by virtue of the laws of this State and having its principal office herein." (Statutes of 1906, ch. 38, sec. 822, as amended by Laws of 1908, ch. 31, and Laws of 1910, ch. 55.)

Virginia exempts property passing where the "bequest or devise is exclusively for State, county, municipal, benevolent, charitable, educational, or religious purposes." (Virginia Code, sec. 44, as amended by Laws of 1910, ch. 148.)

Washington, same as North Dakota. (Laws of 1901, ch. 55, as amended by Laws of 1905, ch. 93.)

West Virginia exempts "all property transferred to a person or corporation in trust or use solely for educational, literary, scientific, religious, or charitable purposes, or to the State or any county or municipal corporation thereof for public purposes, provided the property so transferred is used for the purposes herein mentioned in this State." (Act of Aug. 8, 1904, as amended by act of Feb. 22, 1907, and ch. 63 of the acts of 1909.)

Wisconsin exempts property passing to "county, town, or municipal corporations within the State, for strictly county, town, or municipal purposes, and corporations of this State organized under its laws solely for religious, charitable, or educational purposes, which shall use the property so transferred exclusively for the purposes of their organization within the State." (Statutes of Wisconsin, sec. 1087-1.)

Hawaii, the same as Arkansas. (Laws of 1905, No. 102 as amended by Laws of 1909, act 147.)

#### AFTER RECESS.

The committee met at 1.45 o'clock p. m., pursuant to the taking of recess.

The CHAIRMAN. The next gentleman on the program is Mr. Graham.

#### STATEMENT OF MR. GEORGE M. GRAHAM, CHAIRMAN NATIONAL AUTOMOBILE CHAMBER OF COMMERCE MOTOR TRUCK COMMITTEE, 7 EAST FORTY-SECOND STREET, NEW YORK CITY.

The CHAIRMAN. Mr. Graham, who do you represent; what is your business and occupation?

Mr. GRAHAM. I will have to give sort of a dual answer to that, Mr. Chairman. My only immediate connection is with the sales management of the Pierce Arrow Motor Car Co.; I reside in Washington as chairman of a committee representing the entire National Automobile Chamber of Commerce. We have a great many activities more or less related to the war, and we have found it convenient to have this committee here.

Our proposition I would like you to distinguish in your mind entirely from the passenger car presentation which you heard yesterday. We feel that the elements involved are different, and it is for that reason that we have made a separate presentation. We wish, rather, to define our utility at this time than to make any protest in respect to such taxes as you may see fit to levy on this industry. We feel that it has not always been clearly understood that the motor truck is essentially a utility vehicle. We would like to demonstrate that fact to-day, and the brief presentation that I will make to-day is a matter entirely of establishing that status. We feel that the truck is not only an instrument of high commercial utility at this time, but that in respect to its ability to handle production and to move finished products it has a considerable relation to the winning of the war. We have no idea of the viewpoint of the committee. We are

not in opposition to anything; we do not know what you plan to do; we do not know whether you consider the present tax of 3 per cent. which we now pay and which we pass on to the consumer, should be retained; whether that tax should be increased, or whether under a new classification you might find it wise and proper and expedient to eliminate that tax altogether, we do not know; we do not want to attempt to direct.

The CHAIRMAN. We do not know yet ourselves. We have had these public hearings for gentlemen to express their views of the justice or injustice or equality or inequality of the present provisions of the law and to offer any suggestions as to further methods of raising revenue. These hearings are simply for our information and guidance in rewriting or writing another revenue bill. I presume that the present law will form the basis of our new revenue bill; but we are glad to have any suggestions as to the modification or amendment or approval of any of the provisions of existing law or any other suggestions.

Mr. GRAHAM. On that basis, Mr. Chairman, we are on very sound ground, because we merely wish to present to you points of information which we think you would be glad to have before you in your deliberations, in order that you may most equitably adjust this matter at issue, and this is to be understood entirely as a presentation designed to establish to you the utility status of the motor truck as distinguished from the passenger automobile. In other words, we are not particularly concerned in a rate or percentage of tax. We are very much concerned in our classification and our status. We think it is entirely fit that an industry which has taken such a prominent place in the vital, important transportation systems of the country should be rated with transportation systems.

The CHAIRMAN. I am somewhat in sympathy with that conclusion.

Mr. GRAHAM. I am glad to hear you say that. If it becomes determined by you gentlemen that your sole function is to raise revenue and in carrying out that policy it becomes necessary without any distinction to tax luxuries and necessities alike, we shall welcome that tax, or at least we shall not be disturbed by that tax in any way. But if, on the other hand, with the experience of the preceding bill in mind, you gentlemen have the thought that the tax bill might be more scientifically drawn, if you should believe with or be influenced by the expressed viewpoint of the President and the Secretary of the Treasury that taxes should bear most heavily on luxuries, we should like to submit to you gentlemen that motor trucks can by no stretch of the imagination be brought into a classification of luxuries, and that upon a basis of taxing luxuries we are either exempt, for which we do not ask, or that our tax certainly should be rated with the minimum taxes to be placed.

The CHAIRMAN. In other words, as I understand the proposition, that it is the desire of you and others who hold your views, that if we are going to tax automobile trucks and passenger cars we ought to make the same distinction as between freight rates and passenger rates. The present rate for passengers is 8 per cent and the rate on freight is 3 per cent, and the committee recognizes that freights are absolute necessities and that the other tax is to be borne by the individual man and not by the consumers generally.

Mr. GRAHAM. Of course you understand, Mr. Chairman, that my position is a little bit delicate in this respect, in that in our chamber we are affiliated with manufacturers of passenger cars and that our interests and theirs are to a very material extent identical.

Mr. GARNER. You also realize that you can not make as strong an argument for the pleasure automobile as for the truck?

Mr. GRAHAM. We are perfectly glad to accept that, Mr. Garner. I have noticed during the hearings with great interest the varying viewpoints of you gentlemen. There seemed quite a division in your minds as to the utility of the passenger car. There did exist the idea that passenger cars did discharge a very important utility function in Washington at this time in giving rapid communication, at a time when the transportation facilities are entirely inadequate. Nevertheless there was, on the other hand, a feeling that not all passenger-car use is utilitarian; that a great measure of it is purely for diversion, and there did exist that difference, which, as a matter of fairness and justice, we are ready to recognize—that the one vehicle is used both ways. That must be admitted. But also I think you gentlemen will agree with me that the motor truck is used exclusively as a utility. It can not be used as anything else. It is not an ornament; it is certainly not a medium for diversion; it is absolutely a freight-carrying medium of delivery.

Mr. DICKINSON. Your idea would be that a tax on trucks would be somewhat of a tax on commerce, too?

Mr. GRAHAM. We are already bearing such a tax. All freight carried by trucks pays its 3 per cent. The distinction between ourselves and other freight-carrying mediums as contained in the present law is this: That while equally with either freight-carrying mediums, such as the railroads or steamships, the users of motor trucks pay 3 per cent on said freight; the motor truck is also taxed in itself, whereas there is no such tax on railroad engines or on a freight car or on a steamboat.

The CHAIRMAN. Of course, the freight that is taxable hauled by motor trucks is infinitely small compared to the other freight?

Mr. GRAHAM. The only consideration is the principle at issue, and I would like to make very clear to you that we are more concerned in establishing this principle and in getting recognition for this principle—that the motor truck has taken its place among the great transportation agencies of the country—than we are in any immediate question as to what shall be levied on us. We think there should be a distinction and a classification that would put us with what are exclusively recognized as freight-carrying mediums.

If I seem a little bit concerned about that it may seem to you gentlemen that I am pressing here the obvious; you may say we all know that. I may seem a little anxious to say ours is a utility problem. I would like to recall to you gentlemen, without any criticism than in a spirit of good-natured protest, that in the previous bill motor trucks went along with what are concededly nonessentials, or, at least, not as essential as a motor truck. We were classed with phonographs, jewelry, with chewing gum, and perfumes. I submit that that is hardly a fair estimate of what the truck is doing at this time in a very great, vital, national need—transportation. If you gentlemen, in your various deliberations, will examine into the causes that

may retard the rapid and efficient entry of our country into the war I think you will trace back a great percentage of our troubles to transportation. It is quickly in the memory of us all what almost had a tragic effect last winter, when there were ships' bottoms in New York Harbor crowded with cargo for the war zone, and in order to get the coal to move those ships it was found necessary to stop production of other manufactured staples so that the transportation could be free to get the coal to the seacoast and move those ships. That is an instance of where transportation blocked the program. All our difficulties relating to coal, the difficulties we now face, and that we probably will feel heavily next winter, if you trace them, are based mainly on transportation. The steel shortage is, in large measure, we are told by the War Industries Board, a condition that grows out of a shortage of pig iron and coke, and if we ask why those are not available when there is so much in the ground, we get the answer that the difficulty is to transport them.

Mr. GARNER. In other words, your argument, in a nutshell, is that you want Congress to recognize the motor truck as a physical mode of transportation and to be treated as such, and you do not want it to be put upon the same plane with pleasure automobiles?

Mr. GRAHAM. If you had stopped there, without the reference to the passenger cars, I would have agreed with you.

Mr. GARNER. You admitted that.

Mr. GRAHAM. I volunteered that; it is not an admission. I said they were two different factors and should be differently treated.

Mr. GARNER. You do not care to be pressed on the advisability of levying a tax on the pleasure automobile?

Mr. GRAHAM. For a perfectly honest reason, and not for a reason that spares the revenue, because we believe at this time any medium of transportation, whether transportation afforded to freight or to passengers, comprises a necessity. We believe that; but we do feel that no matter how much you may disagree with us as to what measure a passenger car is used for pleasure or for business, certainly you ought to be with us on the proposition that the whole value of the motor truck is 100 per cent a utility measure.

Mr. GARNER. I think you are correct in that.

Mr. STERLING. There was a gentleman that distinguished between gasoline for joy riding and for useful purposes. Do you think that is feasible?

Mr. GRAHAM. I think it is entirely unfeasible. You might put the man on his honor; you might put him on his oath, but I do not see any other way. I do not see how you can check up on the use of your own personal car, unless you are willing truthfully to make a statement that a certain percentage of this time this car has been used for a vehicle purpose and a certain time for a pleasure use. I do not hardly see how that could be worked out.

In the matter of transportation, I should like you gentlemen to bear with me to let me tell you what has been its growth and how vital is the service it can render. There are three mediums of transportation—railroad, boat, and over the highways. Over the highways, of course, means motor trucks. Merchants and manufacturers despairing of getting rapid transportation by rail, through no fault of the railroads because the normal business growth and the enor-



mous demands of the war have overtaxed the railroads and have overtaxed the boats. Of the three elements available only one element has not yet had the possibilities exhausted or even approached, and over the roads are constantly going an increasing amount of tonnage of freight. For example, 6,000 war trucks have been sent from middle western towns to the seaboard for delivery to the United States Government over the road, all carrying capacity tonnage of various articles for which the Government desired transportation. The point of interest in that is that it proves perfectly that an overland traffic by truck is vital, that it is bound to come as transportation needs increase.

Mr. HAWLEY. Do you know what was the amount of tonnage over the highways for the last year?

Mr. GRAHAM. I can estimate the amount of tonnage carried by these trucks, but I can not give these figures for the year. I do not know of any means to get at that. These 6,000 trucks carried from 2 to 5 tons each, from Detroit and middle western cities to New York and to Baltimore.

As I said, I can show the tendency, but I don't know the figures, and I am frank to say those figures would be small in comparison with the railroads and steamboats. This is a development that is just getting started now, and it is a development born out of the necessity of the present situation. For instance, if the railroads had not been overtaxed with transportation and if the steamboats had not been overwhelmed with transportation there would not have been this much transportation over the highways. It is more expensive, of course; that must be admitted. These costs will be constantly reduced, but at the present time it is not as economical as shipment by rail or water. But when you have no means of shipment by rail or water, and when you have hundreds of hands idle waiting for materials, with an immense overhead charge going on, and you are obliged to move materials to your plant by truck it is a great convenience.

Mr. DICKINSON. Wasn't this entire shipping corporation—the Emergency Fleet Corporation—recently moved to Philadelphia from Washington by trucks?

Mr. GRAHAM. Yes; that was a very remarkable example of what can be done. When the new chief, Mr. Schwab, came into the shipping operations, he found it necessary, on account of the housing conditions, to remove the whole thing to Philadelphia, and it was moved on trucks and went over the roads in a few hours.

Mr. GARNER. Mr. Graham, won't the future use of the trucks be more potential in accordance with the use they can make of the roads, and isn't it a matter of local taxation?

Mr. GRAHAM. It is a matter of the condition of the roads, but I don't think that will retard it.

Mr. GARNER. You don't think it will retard it?

Mr. GRAHAM. I am glad to have you raise that point, because I would like to enlist your good offices now in an effort to improve the roads, and to effect a means for the permanent improvement of the roads.

The CHAIRMAN. When the trucks are doing so much damage to the roads, should they not be compelled to contribute a part of the upkeep?

Mr. GRAHAM. We think so. We would welcome that. We think we are rational in saying that the traffic over the highways offers the relief that must be had in the future for the traffic over the railways.

Mr. DICKINSON. When the Government, State and Federal, have to take care of the roads like they do of the rivers and of the railroads, dredge out the rivers and repair the roadbeds to carry freight, that will be taken care of.

Mr. GRAHAM. We would like to see that. We think that will come. We have tried to be economical in our use of the roads. One of our most recent accomplishments in that direction is the establishment of the return-load system. The return-load system is this: That if I have a 5-ton truck running from Washington to Baltimore with a load, when it gets to Baltimore it shall not return to Washington empty. An empty truck damages the road. So we have established the return-load system, and we are working with different civic bodies in the different cities and towns, and the effort is that if you, sir, have a load to go from Washington to Baltimore, and my truck is in Washington to return to Baltimore, you shall use it and my truck shall not be sent back empty.

Mr. DICKINSON. That is the same principle as the railroads have; they use the cars traveling from one part of the country to the other on different roads, so that they will not have long hauls empty; and the boats that go from one point to another.

Mr. GRAHAM. That is absolutely true. We have also striven to put the trucks at the terminals where there is congestion. The congestion of materials at the terminals is perhaps the most potent reason for delays; it is at the terminals where the materials pile up, and it is our plan and purpose to relieve that as much as possible. As far as possible we are advocating the use of trucks in short hauls in distances of 50 miles or under.

Mr. STERLING. How do the rates compare with the railroads?

Mr. GRAHAM. More expensive. I am not pleading that it will compare with the railroads or steamboats in cost, but that it will relieve matters greatly.

Mr. GARNER. In the matter of freight, the larger portion of the cost is in the handling of it?

Mr. GRAHAM. Yes, sir.

Mr. GARNER. I mean on the railroads.

Mr. GRAHAM. Yes, sir.

Mr. GARNER. Now, if you have a system of freight carrying where it is taken from the railroads to the consumer or user, or from the producer to the consumer, instead of taking it to the railroad and putting it in the freight house and then having it taken and loaded, and when it gets to its destination having it unloaded and put in another freight house, and perhaps handled several times, and put in several freight houses, now, if you pick that up and deliver it direct, can't you deliver it just as cheaply?

Mr. GRAHAM. If you are asking about a from-door-to-door delivery, yes.

Mr. GARNER. That same statement I saw made about the Shipping Board. The story as I read it was that the cost of delivering from here to Philadelphia was smaller; in considering what the cost would be of handling it was less than it would be to ship by rail.

Mr. GRAHAM. Yes, sir. And in that handling there must be added a very considerable breakage in handling and in transit and from one road to another. If you pick that up and deliver it direct you very largely eliminate that breakage. The United States has recently established its transport division in connection with the Council of National Defense. Also, as an arm of the military service, we have a transport service, which is established by order No. 38, which recognizes the motor as an arm of the military service and bunches the maintenance of the trucks of the Military Establishment under one department.

Now, gentlemen, I would like to show you that these are the signs of the times; they show a tendency. The United States Chamber of Commerce at its recent meeting in Chicago appointed a committee to be known as the motor-truck committee, whose function will be to stimulate this business; the Department of Agriculture is interesting itself in the use of the truck for the movement of food; the Fourth Assistant Postmaster General is doing the same thing. I would like to show you how important that is. It gives to the farmer the advantage of the handling of his produce at a time when he can't get farm hands; the truck gives the farmer an essential and rapid and seasonable movement of his produce to market; that is absolutely essential. If he can not move his produce and crops to market rapidly and at the time when it is ready and necessary to move it, it will spoil on his hands and large quantities of foodstuffs will go to waste. If it is possible for him to move this produce by truck, it will lead to the development of lands not now being used and to lands suitable for the cultivation of fruits and the development of fruit lands.

Mr. HAWLEY. Don't the dairy associations now use the truck very largely in moving their product?

Mr. GRAHAM. Yes, sir. And that movement is retarded in some quarters by poor roads, and if those food products could get to town more readily it would very greatly affect the cost of food.

Mr. LONGWORTH. Do you know how much tax is paid by the trucks of this country?

Mr. GRAHAM. Yes; I know how much tax is paid by the whole industry, but I can't separate it into truck tax and the tax on pleasure or passenger cars. The tax for the whole industry for six months was \$15,000,000. Now, that did not classify motor trucks, or passenger cars, but our own figures indicate that perhaps \$2,500,000 of that was paid on trucks. I am frank to say that is only an approximation.

Mr. LONGWORTH. We estimated to collect \$2,000,000 on automobiles.

Mr. GRAHAM. These are the figures. I got them yesterday.

Mr. LONGWORTH. Do you know, Mr. Chairman, how much is paid?

The CHAIRMAN. We collected in March about \$2,500,000.

Mr. LONGWORTH. The trucks are smaller in number than the passenger cars.

Mr. GRAHAM. Yes; but the unit is higher.

Mr. LONGWORTH. Do you think it would run up to \$4,000,000?

Mr. GRAHAM. You came in a little late. I am not disputing this tax. We think this has a great future.

Mr. LONGWORTH. You don't want it raised?

Mr. GRAHAM. Yes; providing other necessities are raised also. We would like to be sure of our neighbors. We want to be classed as a necessity. We are frank to say that we will pass this tax along.

Mr. LONGWORTH. Would you class it as a necessity for the purpose of the tax?

Mr. GRAHAM. Yes, sir; for instance, I can't see the reason for going to a farmer and taxing him on his truck when his wooden wagon does not bear a tax. I think it is on the same basis, or ought to be on the same basis, as a steamboat or a railroad engine. Of course, they carry much more than we do, but that doesn't alter the principle in any sense.

The CHAIRMAN. Do you make the same percentage of profits on a truck that you sell for \$2,000 as you do on a passenger car that you sell for \$2,000?

Mr. GRAHAM. I should think as much, Mr. Chairman, for a reason which I will explain. The selling cost on trucks is greater than on passenger cars; that is because the resistance is greater. The number sold proves that. The expenditure for a passenger car is an expenditure for the whole family, and everybody wants one. The truck is a new feature in our national life, and we have had to do a great deal of exploitation work; for instance, we have had to create a market by reaching organizations, and by different kinds of advertising campaigns. I should think this, as an advertising campaign or advertising proposition, if you say, "Here is a car, give me the table of your costs; and here is a truck, give me the table of your costs," the profits should not be as much. Our company introduced this truck in 1911, and I am frank to tell you we never turned a dollar of profit for three years. Now, answering your question, Is it reasonable that we should distribute over a period of seven years our profits? The selling cost is more—

The CHAIRMAN. The selling cost is more?

Mr. GRAHAM. Yes; because everybody wants a passenger car. Some people believe a truck costs more than the horse; but that is now past.

Mr. GARNER. When you get the truck business established, do you think it will be as profitable?

Mr. GRAHAM. It will be more profitable.

Mr. GARNER. Let me ask you this question: You are interested in trucks. Isn't the time coming when the Government shall have to undertake to regulate the use of and have the charge of trucks to protect the highways of the country?

Mr. GRAHAM. That is true, unless the Government shall have an officer whose business it shall be to have charge of the roads, a Cabinet officer, or otherwise designated, to build roads as they do in France.

Mr. GARNER. At the present time the States control the roads?

Mr. GRAHAM. Yes, sir.

Mr. GARNER. It would be hard to control the roads, but the Government might limit the number of tons which a truck might haul.

Mr. GRAHAM. Let me answer in this way: The Constitution did not interfere with the taking over of the railroads; it was the proper thing to do. I think the taking over of the highways would be equally a constitutional matter. Let me direct your attention to

this: Suppose the submarine ravages should increase on our eastern coast; we know it is a very serious thing. Some of the manufacturers have not been able to get their oil, and they will not have it. Now, if we had a series of highways from New York to Florida under Federal control and supervision, it would take the place of the inland waterways, which we have not got, and it would be very useful, especially to us, in moving supplies. I think your question leads to a very good point.

Mr. GARNER. Right there I want to suggest, that in answer to my question you have made a suggestion that one of my colleagues on the committee, and who is not here now, is very much interested in; the matter of inland waterways.

Mr. GRAHAM. Mr. Moore is one of my very good friends. We belong to the same club, and the Philadelphians admire him and his work, and the people of Pennsylvania admire him and his work. But, in spite of his work for the waterways, he would not be so narrow as to say that he would limit the means of transportation on the coast to inland waterways.

Mr. TREADWAY. Let me ask you if the State highways, and the State authorities, have tried to estimate the amount of damage done by the Army trucks?

Mr. GRAHAM. There have been efforts to make such estimates.

Mr. TREADWAY. That is, the exact amount?

Mr. GRAHAM. Yes; but it is different in different States. I have seen figures that indicate \$300 a mile, and I have seen some figures that indicate \$5,000 a mile.

Mr. TREADWAY. In my State \$10,000 or \$11,000 is the estimated price for the construction of a road, so if the damage was \$5,000 it would be 50 per cent of the value destroyed by Government use.

Mr. GRAHAM. Yes, sir.

Mr. LONGWORTH. That depends on the soil. In your State you have a good soil; in my State it is a rather poor soil.

Mr. TREADWAY. Yes.

Mr. GRAHAM. Then it would be a question of the upkeep and maintenance of the roads.

Mr. TREADWAY. There is a question I would like to ask this gentleman, Mr. Chairman, which hasn't a direct bearing on revenue.

The CHAIRMAN. Proceed.

Mr. TREADWAY. I would like to ask him if the various associations throughout the country have taken any action looking to the Federal repair of the State roads?

Mr. GRAHAM. Yes, sir; that is our platform. We believe there never will be proper protection and upkeep and maintenance of the roads until there is Federal control and maintenance.

Mr. TREADWAY. You are advocating Federal highways. I understood from what passed between you and Mr. Garner?

Mr. GRAHAM. Yes, sir.

Mr. TREADWAY. I am asking particularly with reference to the upkeep by the Federal Government of the State roads.

Mr. GRAHAM. Federal building of roads and Federal upkeep would be ideal. We think the United States should repair the roads. We do not believe there will be any adequate and proper road building in this country until it is developed and done under the supervi-

sion of the Federal Government. The control of the roads is so different in different States. In some States it is in the township. The township can't be blamed for not building a certain bridge which would cost \$5,000 if it hasn't the money; and without the building of that bridge you will not have a good road, and so it nullifies the whole road. In some States it is in the counties, and the county commissioners, or similar officers, have control of it. In some of the States it is the States themselves.

Our policy is this, and we are entirely unselfish at this time; but we think as a war measure it would be an invaluable thing to facilitate delivery over the roads, and as a prime essential of that the roads would have to be in good repair. In France they are paying much attention to road making and maintenance, and have been. The men who come back from France tell us that they are in good shape, and in some cases run clear to the line. It is essential and a prime necessity. That we would have here in this country if there was any centralized authority over the roads.

Mr. TREADWAY. Hasn't there been some action taken by the association? Isn't there a bill of some kind before the Congress at this time?

Mr. GRAHAM. Yes; there is such a bill. The associations recognize this, that if we help to break down the roads we should help to repair them; but it can't be done until it is done by Government policy.

Now, Mr. Chairman, I have kept you overlong. I had not intended to take so much of your time. It has been largely the result of these questions and the discussion. We consider that every truck in use at this time discharges an obligation to the country and is an asset. We believe it puts the merchant nearer his market; we believe it puts the farmer nearer his consumer; we believe it helps to make up the depleted man power of the country; we believe in making up the war orders it is a very great essential. The contractor with the order for war materials who uses a truck to carry his materials to the place of the building of his plant has an advantage; he delivers the material to himself and he delivers his product. Every one of the 400,000 trucks in this country, and they are increasing every year, helps to prevent production piling up; they distribute it from the source.

We feel that it is virtually a war instrument. We feel that if it is your judgment that it ought to be taxed, that is ought to be taxed in company with necessities. At every point they have proved that they are a utility, and can not be considered anything but a utility, and we submit to you this request, and only this one request, that in your deliberations and in your preparation of this bill, that you shall have only one thought relative to us, and that is the one thought relative to necessities, and that the motor truck should bear its burdens.

Mr. TREADWAY. What do you consider the proper method of assessment—the horsepower or the weight?

Mr. GRAHAM. The trucks are not graded according to horsepower.

Mr. TREADWAY. They are in the same relationship as passenger cars?

Mr. GRAHAM. No; that isn't true. A 30-horsepower motor would be a very high-powered truck. They are not rated the same. I thank you, Mr. Chairman and gentlemen.

**STATEMENT OF MR. EDGAR GILBERT, 61 BROADWAY, NEW YORK CITY, MANAGER OF THE LYSTER CHEMICAL WORKS.**

Mr. GILBERT. Mr. Chairman and gentlemen, my address is 61 Broadway, New York City, and I am the general manager of the Lyster Chemical Works.

The CHAIRMAN. Do you appear just for that company, or for the industry?

Mr. GILBERT. I appear in a general way, although the proposition affects our company directly. I simply wanted to call your attention to what appears to have been an omission in the last revenue bill.

Mr. TREADWAY. Will you explain what the Lyster Chemical Co. is?

Mr. GILBERT. The Lyster Chemical Co. manufactures products from the distillation of wood—creosote products in general. We are, I believe, the only one in America along our line. In the section on excess-profits tax, the first division is relative to tangible property, real estate, actual cash, and other property of that nature; the second division is relative to patents and copyrights; and the third division is relative to general intangible property, good will, trade-marks, and so forth.

The question has arisen in regard to the invested capital in secret processes, and I wish to bring to your attention the identity of the patent and the secret process, so far as utilization and capitalization go, on these two standpoints: First, with reference to the inventor; and second, with reference to his assignees. The inventor makes a discovery—produces an invention. Now, the statutes embodied in the patent law recognize the right of the inventor to protection in the enjoyment of his invention, and that right may be covered through the Patent Office by protection for a specific number of years, or it may be—since it is not obligatory upon him—a protection through a maintenance of secrecy in regard to his invention. In the case of a machine—and I might say that we might distinguish the classes of patents to the machine or apparatus patent, and to the process patent. It is the process patent which I have particular reference to. The process patent is of such a nature very frequently that when it is disclosed it makes it very difficult to protect the inventor. I might cite an illustration that is old and familiar to all of us, that of the nitration of cotton.

Now, we will go back to the time when nitrocellulose was first introduced: it is an unknown thing; and we will assume it was to be used in his marketed product, because it had no use as nitrocellulose, but in a solvent form it was used as a nitrocellulate. Now, the inventor, if he discloses it to the world, he discloses at once the nature of his patent and of his process. But he maintains his secret and patents it and puts his nitrocellulose in another product, such as celluloid. Now, if he patents that he has no means of protecting himself against infringements, because nitrocellulose appears on the market and someone is producing it, but it would be difficult to know that it had not been produced by some other patent. In that case the inventor would naturally keep secret the nature of his invention and find a market for it in the finished form of some other product. Now, there is an illustration of that recently, in the act of Congress

in recognizing the inventor of this substance we have known as Garabed, and recognizing in the inventor the right of protection. The nature of the thing may be such that protection can be afforded neither by a patent nor by a secret process, because the disclosure would cut short the presentation of the product. So I think the right of protection is so well established that it is only a step to say that the patent and the secret process are identical from the inventor's point of view. He takes whatever course seems to give him the greatest security.

Now, about his assignee. The inventor discovers a process for doing a certain work. In one case he patents it and in another case he keeps it secret. Now, he sells to a corporation for a certain consideration and then that becomes an item of invested capital for the corporation. Now, in the last bill secret processes were not mentioned at all, and my point simply is that in the redraft of the new bill that secret processes should be classified as such, because they form, in the chemical industry especially, a considerable item in the assets of the corporation.

Mr. LONGWORTH. You mean they are as marketable as good will?

Mr. GILBERT. They are identical in the market, as to their use, and the capital invested is dependent entirely upon them for returns. I had this matter up with Mr. Roper's committee for rulings, and they felt that it was proper, they were identical, but they had no power to reach it, they thought, to reach a secret process, to classify it; it had to go into the patent processes.

Mr. GARNER. Isn't there a principle of Government involved there? You want to put secret processes on the same plane as patent processes?

Mr. GILBERT. Yes, sir.

Mr. GARNER. Patent processes become eventually the property of the Government and go to the Government?

Mr. GILBERT. Yes, sir.

Mr. GARNER. The secret process belongs to the inventor?

Mr. GILBERT. Yes, sir.

Mr. GARNER. Now, should the Government give the secret inventor the same rights and the same protection as it does the man who gives his patent up at the end of 17 years?

Mr. GILBERT. The inventor has his protection. We will assume that it is an invention of his, and he gives it to the public at the end of 17 years by a disclosure of his patent in order to have during the 17 years the protection of the Government.

Mr. GARNER. But the man who wants to patent a secret process and wants to sell it and have it recognized as a valid property to be transferred and upon which an exemption of excess profits or income should be based, should he have the same consideration as the man who is willing to give up his process at the end of 17 years to the Government?

Mr. GILBERT. He doesn't give it up without value. He gives it up for the protection he has had for the 17 years.

Mr. GARNER. And your secret man has no protection?

Mr. GILBERT. No, sir; if anyone gets into his factory and finds out about his process, or if his employee would give it out, he has no protection. And he would seek the Patent Office immediately, every-



one would, if he could have the protection; but the process that is kept secret, and the nature of it is such that the Patent Office can't give him the protection he needs.

For instance, here is a process that is invented to bring out a secret process. The inventor is a poor man; he discloses his patent through the Patent Office, and the patent, to protect him, should be properly filed in foreign countries; but he can't afford it, and in Germany or in Japan, where men are ingenious, they take his product, and they begin to manufacture under it, and the product comes back to this country in competition with his. Now, he is a man of limited means, and he can't trace his patent to foreign countries, and he does not get the protection he ought to have here. So the man who is making a process has only the protection we aim to give him through the patent law. But to the man who has had a patent for 17 years, we say to him, "Here, Mr. Inventor, for 17 years you have had the benefit of this; now, you give it to the public." He doesn't give it to the public; he gets that 17 years of protection. I think the two should be identical, so far as capitalization goes.

The CHAIRMAN. What is the amount of capital invested in your company exclusive of your secret process?

Mr. GILBERT. In our particular company—we are a relatively small company and do a relatively small business. It happens that a large part of our work and our success, when we shall have become successful in a large way, will be due to this process, which we have worked out in 12 years.

The CHAIRMAN. The answer to the question I asked is this: How much did you claim before the Commissioner of Internal Revenue you should have deducted as the value of your secret process?

Mr. GILBERT. In our case, I believe \$200,000, and our entire process is \$240,000. We are not complaining of the tax.

The CHAIRMAN. It was put in at that before January 1, 1918?

Mr. GILBERT. Yes, sir.

Mr. FAIRCHILD. Where are your works?

Mr. GILBERT. In Massachusetts, just east of Boston.

#### STATEMENT OF MR. MASSEY HOLMES, KANSAS CITY, MO., REPRESENTING THE CENTRAL COAL & COKE CO. AND THE LUMBER INDUSTRIES.

The CHAIRMAN. Mr. Holmes, I see that you and Mr. Hagerman are of the same city and represent the same company, and your arguments will be along the same line?

Mr. HOLMES. Yes, sir.

The CHAIRMAN. In order to save time, will it be agreeable to you to represent both of you, and speak for both?

Mr. HOLMES. Entirely so, inasmuch as he isn't even here.

The CHAIRMAN. We ask that in order to save time, and in your case it is entirely agreeable under the circumstances. You may proceed.

Mr. HOLMES. My name is Massey Holmes, and I am representing the Southern Pine Association and also the National Lumber Manufacturers' Association. The Southern Pine Association, as many of you doubtless know, and as especially the chairman knows, is an

important industry of the South, and the National Association includes that and other associations of the Northwest and North. We are not asking to have any tax reduced for these industries. We are encouraged, however, by the words of the President, as published recently, when he said that there are some great inequalities in the excess-profits tax, and we are appealing to your committee to correct those inequalities, as doubtless other industries have appealed to you. We are asking for a correction of those inequalities as regards the lumber industry, because that is the one we are most familiar with and the one we represent.

I want to make one or two illustrations of the things that might happen and that do happen under the present law, relative to the appreciation of invested capital. For example, Company A had a paid-up capital stock of \$500,000 and with that they bought a piece of timberland many years ago that has appreciated, let us say, to \$2,000,000, for purposes of illustration. An identical piece of timberland lying alongside of it is not bought from its then owner until 15 years later.

And then it is bought by Company B for \$2,000,000. And then the excess-profits tax is put on. Then these two pieces of property, although they are in our illustration precisely the same, and they are devoted to exactly the same purpose, and have exactly the same capital and produce the same income—the income is exactly the same, yet they are taxed unequally. That may happen and does happen under this law.

Another thing that may happen and does happen under this law. A invests his capital in a piece of timberland; so does B. Let them again be equal. Just before the excess-profits tax takes effect A sells his, for any reason you may please; B does not. Then when the excess-profits tax is imposed, again they are taxed unequally, although through the entire time they have been equal—

The CHAIRMAN. Take that last illustration: take a concrete example.

Mr. HOLMES. Yes; let us take a concrete example.

The CHAIRMAN. A buys timberland for \$500,000 that appreciated to be worth \$2,000,000, just before the excess-profits tax is passed. A, just before the excess-profits tax is passed sells his land for \$2,000,000, and puts his money into some other business. B has a piece of land worth the same price; B doesn't sell; he has bought the same as A; just because A has sold and has very much larger amount of invested capital, that is the factor in determining the excess-profits tax, and he pays more than B, who has not sold. Is that your—

Mr. HOLMES (interrupting). Unless B is so fortunate as to be a wildcatter and watered his stock, and that he issued \$2,000,000 of stock for that which was worth only \$500,000, then he would be entitled to deduct the \$2,000,000.

Mr. LONGWORTH. In your illustration it is perfectly true that the amount of profit they both have is the same?

Mr. HOLMES. Yes, sir.

Mr. LONGWORTH. One has made as much money as the other?

Mr. HOLMES. They have; and both are devoting the capital to the business of producing an income.

Mr. LONGWORTH. And A, on an original investment of \$500,000. has made a profit of \$1,500,000. Ought he not to pay a rate on his income?

Mr. HOLMES. On the income or excess profits?

Mr. LONGWORTH. Excess profits.

Mr. HOLMES. No; I say not.

Mr. LONGWORTH. That is just what excess profits on invested capital means.

Mr. HOLMES. No; the law says it is based on income derived from the business. The excess-profits law is a tax on the income, and that income is derived from the value of the property.

Mr. LONGWORTH. Yes; but it is based on the amount of invested capital.

Mr. HOLMES. So is all tax based on capital.

Mr. LONGWORTH. But you couldn't have an excess-profits tax based on invested capital if you didn't have a greater tax for the man who had made a greater profit than for the man who has made a lesser profit.

Mr. HOLMES. That is because you are speaking of taxing the man who has, as you say, made the greater profit before he realized his income and made the profit. What I say is that the factor should be the same under identical circumstances, and if in your business you are devoting to producing and income of \$100,000 assets no greater than I am devoting to producing \$100,000, you and I should be taxed accordingly on that.

Mr. LONGWORTH. No matter how much capital was put in originally?

Mr. HOLMES. Yes, sir.

Mr. LONGWORTH. I can't reconcile that with an excess-profits tax. I am not arguing that an excess-profits tax is based just on that, and that alone, but if we have that, and it is calculated on that basis, necessarily the amount actually invested must determine what the excess profit is.

Mr. HOLMES. Of course that is true, if you mean by an excess-profits tax a tax placed upon what you originally put in rather than a tax upon what you have got now and are devoting to an income. But the law is not so framed, Mr. Longworth; it is not so based.

Mr. LONGWORTH. No; I know it is. It is the amount you put in. Let me see if I entirely understand you. Say A's investment was originally \$500,000.

Mr. HOLMES. Yes.

Mr. LONGWORTH. B's \$1,000,000.

Mr. HOLMES. At the same time?

Mr. LONGWORTH. No; they both are the same now, and the income is the same!

Mr. HOLMES. Yes, sir.

Mr. LONGWORTH. And you say that A, whose property cost him only half as much as B's, should pay the same tax!

Mr. HOLMES. He should pay the same tax on an income of the same amount on the same capital. And the source which produced the capital that is being taxed is purely accidental.

Mr. LONGWORTH. Then if A's original investment was \$500,000 and B's investment was \$2,000,000 that they both should pay the same tax!

Mr. HOLMES. Yes; on an income of the same amount from that property; that is just what I say, because the law does not make a distinction between an individual—

Mr. LONGWORTH (interrupting). Then your sole test is the capital?

Mr. HOLMES. Yes; that produces the income. That is withdrawn from other revenue-producing sources while it is producing that; and it is the property which is producing the income in each particular case; and the source from which you derive the property, whether by inheritance or gift, or accumulation, or in any other way, should not affect the result, where the income is the same from the property. Where the income is the same on a property valued the same, I think the property should be taxed the same, and not that, because by mere accident, it has the difference that you sold and I didn't.

Mr. LONGWORTH. Let us reduce that to an example.

Mr. HOLMES. Very well.

Mr. LONGWORTH. A is getting \$100,000 a year on an investment of \$500,000; in other words, he is getting 20 per cent on his invested capital.

Mr. HOLMES. Yes, sir.

Mr. LONGWORTH. B has put in \$2,000,000, for which he is producing \$100,000. So he is getting 5 per cent.

Mr. HOLMES. Yes, sir.

Mr. LONGWORTH. Now, do you think under an excess-profits tax a man getting 20 per cent should not be taxed at a higher rate than the man who is getting 5 per cent?

Mr. HOLMES. He is getting the same percentage. He is getting the same income, based on the amount devoted to his business.

Mr. LONGWORTH. Yes; but he hasn't done anything to produce it.

Mr. HOLMES. Well, if you like, concede that for the argument.

Mr. LONGWORTH. Now, how can you have an excess-profits tax unless you tax the man who gets four times as much at a higher rate than you do the man who gets only one-fourth as much as he does?

Mr. HOLMES. The situations are identical—

Mr. LONGWORTH. How can you have an excess-profits tax unless it is a tax whereby you tax a man who gets four times as much as another man at a higher rate?

Mr. HOLMES. Because the situations are identical, when they have property invested in equal amounts.

Mr. LONGWORTH. I know, but A's gain has been in value without any effort on his part?

Mr. HOLMES. Yes; I concede that for the sake of the argument. I don't think that is entirely true, but I know what you mean by unearned increment.

Mr. LONGWORTH. He has made a good profit on his investment?

Mr. HOLMES. Yes, sir.

Mr. LONGWORTH. At the same time he is drawing 20 per cent on his investment.

Mr. HOLMES. Yes, sir.

Mr. LONGWORTH. But B has not been so forward-looking, as some people would say.

Mr. HOLMES. No; he bought after the rise.

Mr. LONGWORTH. And he is getting 5 per cent?

Mr. HOLMES. Yes, sir.

Mr. LONGWORTH. Now, do you think he should pay just as much?

Mr. HOLMES. Yes, sir.

Mr. LONGWORTH. Then we differ.

Mr. HOLMES. Yes; evidently.

Mr. GARNER. You want to base it, instead of capital invested, you want to base it on value?

Mr. HOLMES. Yes, sir.

Mr. GARNER. Let me ask you—that disturbs the committee very much—who is going to determine the value of the \$500,000 worth of timber that you claim is worth \$2,000,000?

Mr. HOLMES. You are getting a little ahead of me, Mr. Garner, but theoretically it is claimed it is worth \$2,000,000.

Mr. GARNER. We are getting a basis for this tax. If you base it on the capital invested you can ascertain that, we have been trying to value the railroads; we have spent already twenty odd millions of dollars to value them, and we haven't got anywhere.

Mr. HOLMES. No.

Mr. GARNER. Now, if the Treasury Department has got to go out and value every piece of property, where would we get to?

Mr. HOLMES. On that hypothesis you probably wouldn't get anywhere for a good while. But you doubtless know that because of the income-tax law all of these timber companies have had to determine the value of their property as of March 1, 1913; that was the date the income-tax law took effect. The Treasury Department hasn't got our value at all. The Government goes into the matters of value for the corporation-stock tax. It goes into the timber values because, as is familiar to you, because the value of the stumpage at the time it was cut is so much, and that it is entirely proper to base the tax, not on the value now, or on the unearned increment, but approximately January 1, 1914, which is practically the same as March, 1913, for taxing purposes. I think it is entirely proper for the values of January, 1914, to be taken.

Mr. GARNER. Yes; that is in the lumber business?

Mr. HOLMES. Yes; and the coal business.

Mr. GARNER. It isn't with the railroad business and it isn't with any other kind of business. Now, do you want to put the lumber business and the coal business in a specific class and take the values of them at the time, and then the capital invested as to others?

Mr. HOLMES. No; we do not. We do not ask anything except what is general. I say it has already been determined as to the lumber and coal.

Mr. GARNER. It hasn't been determined as to the others.

Mr. HOLMES. Hasn't it? Hasn't it, as to the Federal corporation-stock tax, been determined?

The CHAIRMAN. No; you are mistaken as to the method of that.

Mr. LONGWORTH. Let me give you another illustration: A five years ago buys a piece of property for \$500,000 and it is now worth \$2,000,000 and produces \$100,000. B buys a similar piece of property for \$300,000 and it is now worth \$2,000,000, which is bringing in \$3,000. A's property is bringing him 20 per cent and B's is bringing

him 1½ per cent. Now, shouldn't A be taxed much higher than B? That is an excess-profits tax.

Mr. HOLMES. I wish I could find out what you mean by an excess-profits tax. The law doesn't tell me what it means.

Mr. LONGWORTH. It is based on the returns from capital and an arbitrary plan fixed by Congress. It is assumed that a profit in excess of 8 per cent on invested capital is an excess profit, and it is so taxed, and how else can you base it when it is an excess-profits tax? The only other way is the English way, where the tax is the difference between what you make now and three years ago.

Mr. HOLMES. The difference is, what is capital?

Mr. LONGWORTH. Your proposition is that it is purely income.

The CHAIRMAN. Let me see. In January, 1913, you buy a piece of property, or timber, for \$500,000, which is worth \$2,000,000 now.

Mr. HOLMES. Yes.

The CHAIRMAN. What is your capital invested?

Mr. HOLMES. \$2,000,000 is my capital invested.

The CHAIRMAN. No; but you invested \$500,000; you made an increase of \$1,500,000. Suppose you want the Government now to let you have a deduction of what you put in, \$500,000; should you come in and pay the Government on the \$1,500,000 increase?

Mr. HOLMES. No, sir.

The CHAIRMAN. Wouldn't that look fairer?

Mr. HOLMES. It would look fairer that way.

The CHAIRMAN. I have talked with a great many lumbermen, and they have said they would rather have it this way. You have \$1,500,000 profit in your case, haven't you, if you pay \$500,000 for it and it is now worth \$2,000,000; or if you should incorporate and put in a mill and put it in at \$2,000,000, you have actually made a clear profit on the \$500,000 invested of \$1,500,000?

Mr. HOLMES. Yes, sir.

The CHAIRMAN. You have made that?

Mr. HOLMES. If you sell it you have made it.

The CHAIRMAN. If you put in \$2,000,000 as the basis of the capital invested, why shouldn't you pay the Government a tax on the difference between the \$500,000 and the \$2,000,000? If you have it your way you escape an excess-profits tax on \$1,500,000, which you made without turning a finger.

Mr. LONGWORTH. Let me put another illustration. A buys a piece of property for \$1,000,000 and that property appreciates to \$2,000,000, and that brings in \$100,000 a year. B buys a similar piece of property and it depreciates \$1,000,000 and brings in a profit of \$100,000 a year. A is getting a profit not only on the money invested, but a large return. B not only made a loss, but is getting a very small return for the amount invested. Wouldn't the logic of your position be that you would have a tax on losses?

Mr. HOLMES. No; not if I—

Mr. LONGWORTH. They have to pay the same.

Mr. HOLMES. Because the incomes are the same.

Mr. LONGWORTH. Surely; but the investment of the one shows a profit and the investment of the other shows a loss.

Mr. HOLMES. On paper.

Mr. LONGWORTH. Would you advocate putting an excess-profits tax on losses?

Mr. HOLMES. No, not on losses; but it seems this excess-profits tax is a tax on incomes.

Mr. LONGWORTH. Well, as a pure income tax, don't you consider the capital invested at all?

Mr. HOLMES. Yes; but it is only a factor in computing tax. It is the same thing—that is, the tax is the same thing with an equal income. The phrase "capital invested" is only for the purpose of determining the amount.

Mr. LONGWORTH. What is invested capital? Is it the amount invested, or the amount determined by some one at the time of taxing?

Mr. HOLMES. I say the latter.

Mr. LONGWORTH. Then it isn't the amount invested?

Mr. HOLMES. Yes, sir.

Mr. LONGWORTH. But I have invested it.

Mr. HOLMES. Somebody might have died and left it to you. You are excluding that.

Mr. LONGWORTH. That is not excluded in excess-profits tax, if somebody dies and leaves it to me. But I have invested it.

Mr. HOLMES. Suppose a corporation was a beneficiary to a large extent; wouldn't that be capital?

Mr. LONGWORTH. Your proposition is that it isn't the amount that is invested.

Mr. HOLMES. That he originally puts in.

Mr. LONGWORTH. That the sole question as to whether an excess-profits tax should be put in is the amount that the assessor determines it is worth?

Mr. HOLMES. Yes; that it is the value that is in the business which produces an income that is subject to the tax irrespective of the accident of how you got the property, whether by inheritance or gift, or otherwise.

Mr. LONGWORTH. You are rejecting the whole principle of investment?

Mr. HOLMES. No; I think not; because you take the wildcatter who got \$500,000 worth of property and issued \$2,000,000 of stock on it; that appreciated and became worth \$2,000,000.

Mr. LONGWORTH. According to your reasoning no timber land would ever pay an excess-profits tax, no matter how much money it made?

Mr. HOLMES. Yes; when the owner realizes his income from the cutting and manufacturing the lumber.

Mr. GARNER. But you wouldn't get it from the property?

Mr. HOLMES. Yes; because he has the property.

Mr. LONGWORTH. Who puts the value on the property?

Mr. HOLMES. The Treasury Department, I suppose.

Mr. LONGWORTH. Do you suppose they would put a value on it by which you would get 20 per cent?

Mr. HOLMES. I have no idea what they would put on it.

Mr. LONGWORTH. Suppose they put an honest value on it; do you think land is ever assessed at a 20 per cent basis?

Mr. HOLMES. Timber and coal is, because it is put on in assessing the income of the corporations.

Mr. LONGWORTH. Do you mean to say—what would they put on a property that would net you \$100,000! \$2,000,000?

Mr. HOLMES. They would put a value on what it was earning at the time, not taking the market value, but the value of the physical property.

Mr. LONGWORTH. Of course, I understand what you are getting at, that the excess-profits tax must be based on the present value of the property, notwithstanding the amount invested?

Mr. HOLMES. Originally; yes, sir.

Mr. LONGWORTH. To do that you destroy capital invested?

Mr. HOLMES. You do not, because there are cases, under subdivision 2, as mentioned by the chairman, where they are largely over-capitalized. Now, my contention is simply this, that if a given corpus, or property, is devoted to a business which produces an income which is taxed, whether in the name of an excess-profits tax or war tax or normal tax, the income is the only thing taxed under each of those three. If the income is the same, and if the corpus, or property, which produces that income is the same, the tax ought to be the same.

Mr. LONGWORTH. Notwithstanding the man who pays the tax made an original investment, or not?

Mr. HOLMES. Yes; no matter whether somebody died and left him the money, or how he got it.

Mr. GARNER. We never could get that law to work; that is wholly impractical.

Mr. HOLMES. Do you think so?

Mr. GARNER. Throughout the United States it would be. It might not be in the lumber and coal business. But so far as the income is concerned, it wouldn't make any difference about the value of the property, but the income of the property. That is your contention?

Mr. HOLMES. Yes, sir.

Mr. GARNER. But you must arrive at the amount of invested capital.

Mr. HOLMES. Yes, sir.

Mr. GARNER. And we had to make some rule, and in making that rule we said the amount invested, the capital invested. Now, if you had said the property, it would devolve on the Treasury to value the property.

Mr. HOLMES. I think the Treasury Department is going to have as much trouble with this; they are not going to escape under this law the finding of the value of the property. Take the case I mentioned to Mr. Kitchin, of the man who has \$500,000 worth of property and issues \$2,000,000 of stock, and that appreciates to \$2,000,000, that has to be determined whether it is true in fact or not, and they determine that that corporation has an invested capital of \$2,000,000.

Mr. GARNER. Have you a concrete example of that kind in mind that you can cite to the Treasury Department?

Mr. HOLMES. No; I haven't any.

Mr. GARNER. You don't think the Treasury Department will come to that conclusion?

Mr. HOLMES. How can it help it? I am not evading, but I want to stick to the illustration I made. My illustration was that he forms a corporation for \$2,000,000, and he has timberland then worth \$500,000 that he puts in, and it appreciates on January 1, 1914, to \$2,000,000.



Mr. HOLMES. No question about that. If, on the other hand, that corporation had exchanged \$500,000, not for property but for cash, and with that \$500,000 cash bought some piece of timberland, and it had appreciated, it would have invested capital of only \$500,000, while this neighbor corporation would have had \$2,000,000 on the same property.

Mr. GARNER. Where, under the present law, you are letting the fellow that issued this \$2,000,000 stock escape.

Mr. HOLMES. You are encouraging it.

Mr. GARNER. And I agree probably in the instance it is wrong; but is that any reason why we should let you escape, because the other fellow got away, and not have you pay a tax on the part of the capital paid in?

Mr. HOLMES. No; I think you put it harshly in speaking of letting me escape. I do not want to do that. What I want to do is to find the proper test to apply to invested capital, if there is such a thing.

Mr. GARNER. It is a difficult thing.

Mr. HOLMES. The capital which produces the incomes that you tax. May I read into the record a suggested amendment to those first three paragraphs? It is rather short.

(The proposed amendment is as follows:)

For that part of subdivision (a) of section 207 which precedes "Provided," substitute the following:

(a) In the case of a corporation or partnership—

1. The actual cash value of the property of the corporation or partnership as of January 1, 1914. If such property was acquired prior to January 1, 1914, or if such property was acquired on or after January 1, 1914, the actual cost thereof if acquired for money, or the actual cash value thereof at the time of acquisition if acquired for property or for stock or shares in said corporation or partnership; and

2. Paid in or earned surplus and undivided profits acquired on or after January 1, 1914, and used or employed in the business, exclusive of undivided profits earned during the taxable year.

The CHAIRMAN. Do you know of some representative lumber interest? Give me one concrete case.

Mr. HOLMES. I can not from absolutely personal knowledge, but from reliable hearsay I heard of a man who had to sell out timber holdings just before the excess-profits tax law became effective. I have forgotten the figures, but here is the same illustration: He sold out for \$2,000,000, whereas he had only put in \$500,000. That \$2,000,000 he put into another business. Now, unquestionably, in his new business he may have an invested capital of \$2,000,000. If he had not sold out, under the law as it now stands he would have an invested capital of only \$500,000. It seems to us wrong, unequal, and rather un-American to tax that man in two different ways, because, as what happened to be the accident of having to convert timberland into cash rather than holding onto it a little bit longer.

The CHAIRMAN. In converting it into cash he made \$1,500,000, which was subject to income tax. If he had a business of buying and selling timber, he would have had to pay an excess profits on that also.

Mr. HOLMES. I do not follow that.

The CHAIRMAN. The man that did not sell out escapes the paying of that income tax on a \$1,500,000.

Mr. HOLMES. Yes; because it is not realized.

The CHAIRMAN. That is the reason he keeps it just as it was—the reason why he did not sell it.

Mr. HOLMES. Probably.

The CHAIRMAN. Another reason that the fellow would keep that capital down to \$500,000 instead of \$2,000,000 is to escape the payment of the capital-stock tax.

Mr. HOLMES. Yes.

Mr. GARNER. You get them both ways there.

The CHAIRMAN. The capital-stock tax was enacted into law before the excess-profits tax. It's to the interest of a corporation to cut its capital down as low as possible for the purpose of the capital-stock tax. As soon as the excess-profits tax became a law and the tax was based upon the amount of invested capital, it became advisable for the corporation to put its capital up as high as possible. You may not happen to be caught. Couldn't an individual, according to your construction of the law, having an investment in timber of \$500,000, if it is worth \$2,000,000, incorporate and sell it to the corporation for \$2,000,000, and thereby secure an invested capital of \$2,000,000?

Mr. HOLMES. Now?

The CHAIRMAN. Yes.

Mr. HOLMES. Undoubtedly, if it was worth \$2,000,000.

The CHAIRMAN. Well, how is he hurt now?

Mr. HOLMES. He has got, then, to go through the form of incorporating.

The CHAIRMAN. The other fellow went through the form of selling, and incorporating some other business. When you look at the statutes there is nothing like the inequality which at first blushed you thought there was.

Mr. GARNER. You get him one way or the other.

Mr. HOLMES. You get him going and coming. I know that; but is there any reason for taxing people unequally who are in the same condition, or the same situation? That is what we protest against.

The CHAIRMAN. Now, Mr. Longworth gave you some examples. I want to take your own examples and see if there is some unequal taxation, even if this section 207 was not in the law. The House conferees have opposed that going into the law. The Senate insisted on it, and they had to yield on some things, and we yielded on others, and we yielded on that.

Mr. HOLMES. In subdivision 2?

The CHAIRMAN. Yes. Now, take your own illustration. You said here is A who bought years ago timber and put \$500,000 in it. That is now worth \$2,000,000. Here is another, B, who comes along and buys right across the road the same number of feet and the same quantity of timber for \$2,000,000. Now, you say that B has a deduction of, say, 8 per cent on \$2,000,000, while A has only a deduction on \$500,000.

Mr. HOLMES. That is true, isn't it?

The CHAIRMAN. That is true, but here you ignore the fact that A has \$1,500,000 over and above the other man. A has never paid out of his pocket but \$500,000. B is out of his pocket \$2,000,000, four times as much as A. Why should B not have four times the deduction? A escapes the taxation on this \$1,500,000. There is not much injustice in that, is there?

Mr. HOLMES. I think so.

Mr. LONGWORTH. May I add that A is getting 20 per cent net and B is only getting 5 per cent.

Mr. HOLMES. Suppose A by the sweat of his brow has amassed that \$500,000 by toil, while B has a rich uncle who has left him what he possessed?

The CHAIRMAN. Suppose A had been left his money by a rich old aunt, and put it in timber and sat there and made \$1,500,000. Suppose B had by the sweat of his brow made \$2,000,000. You see it works both ways. I am going to pursue that a little further.

Mr. HOLMES. The deduction must be based on invested capital.

The CHAIRMAN. There are objections to that form of base, but it seemed about the wisest way. B put in four times as much actual cash from his pocket as A did, and A has already got \$1,500,000 to his credit over and above B, so why should not B have four times the deduction. He has four times more money invested. Your man has put in one-fourth as much as B and has an unearned profit of \$1,500,000, on which he escapes taxation. I just ask you this, is it unfair in that case to permit B to have four times as much deducted as A when he has got four times the actual cash invested.

Mr. HOLMES. I think so, because the \$500,000 and the \$2,000,000 timberlands are now worth the same amount.

The CHAIRMAN. Your man has escaped taxation on \$1,500,000. You put another case. You said B had a \$500,000 interest in timber and sold it for \$2,000,000 to a lumber concern. That lumber concern has received an 8 per cent deduction on the \$2,000,000. But B bought his timber the same time that A did, and at the same price. He holds it and begins to operate. Well, now, both make the same; both make \$200,000, we will say. Now A will pay more taxes than B for the reason that B will have a greater deduction. He will have an 8 per cent deduction on \$2,000,000 while A will have an 8 per cent deduction on \$500,000. We will turn them both into corporation and they both make \$200,000. A will pay \$50,000; B will pay, say, \$25,000. Your \$500,000 concern pays \$50,000 excess profits. Let us see what is left. A has 30 per cent after paying the \$50,000; 30 per cent net profit. That is in addition to the \$1,500,000 he has made; 30 per cent net profit. While B and his corporation that only pays \$25,000, on account of the big deduction, because it has more capital, only has left 8.7 per cent. Do you see anything unfair about that?

Mr. GARNER. Then your 30 per cent is to pay his income tax.

The CHAIRMAN. The man you complain about has only left in that operation on his actual capital 8.7 per cent, while A, that you want to help, has 30 per cent left after paying the tax. What do you think about that?

Mr. HOLMES. It seems to me that it is unfair.

The CHAIRMAN. You are presenting A.

Mr. HOLMES. Well, I got confused with A and B, they change sides so.

The CHAIRMAN. A is the \$500,000 fellow.

Mr. LONGWORTH. He has made the big profit.

The CHAIRMAN. A is your man. Now, if you gentlemen represent A, like the 23 men here, and most of the audience, and the case to

be just as you put it and as I put it, do you think there was much injustice done?

Mr. HOLMES. I should under this law, because it seems you are justifying an unequal tax on A.

The CHAIRMAN. And not an equal tax. A is still ahead. He has 30 per cent clear profit upon his capital invested left. You must get it clear in your mind that this excess-profits tax is based upon capital actually invested, that the deduction is based upon that.

Mr. HOLMES. I understand that pretty clearly.

The CHAIRMAN. Well, now, if that is going to be the method of deduction, there is no remedy for A.

Mr. HOLMES. Yes; if you are going to stick to that method it will result in these inequalities that I have mentioned.

The CHAIRMAN. Do you think there are inequalities?

Mr. HOLMES. Yes; I think so, obviously.

Mr. LONGWORTH. The purpose of the tax is to get at people who have made profits, because by virtue of the profit he becomes liable to the tax.

Mr. HOLMES. You want to tax them higher on the same income because in previous years they have made a profit?

Mr. LONGWORTH. Because the tax is based on the excess profits.

The CHAIRMAN. If you invest \$1,000,000 and get \$20,000 or 2 per cent, and I invest \$1,000,000 and get \$50,000, don't you think that I am as able to pay \$20,000 excess-profits tax as you are with \$1,000,000 invested, making 2 per cent, or \$20,000?

Mr. HOLMES. You are going a little fast for me.

The CHAIRMAN. Am I not in as good a position to pay over excess-profits tax?

Mr. HOLMES. Yes.

The CHAIRMAN. That is this case.

Mr. HOLMES. It seems that we mean the same thing as invested capital.

The CHAIRMAN. I understood you wanted to deduct the value of the assets.

Mr. HOLMES. Yes, sir.

The CHAIRMAN. That sounds good, if you can consider your assets your capital invested. If I am in a concern that pays me 10 per cent the property is worth dollar for dollar, isn't it?

Mr. HOLMES. Yes.

The CHAIRMAN. If it pays me 20 per cent, the assets would make the property worth \$200, wouldn't it?

Mr. HOLMES. That depends on the kind of business, of course.

The CHAIRMAN. Take it as a double proposition.

Mr. HOLMES. Well, I don't know.

Mr. GARNER. Take the lumber business.

The CHAIRMAN. Then, if I had a regular investment that would pay me 10 per cent on what I put in, \$10 on every \$100, and pays it regularly, in a few years it would be worth dollar for dollar, wouldn't it?

Mr. HOLMES. Yes, sir. Let us concede that, anyway.

The CHAIRMAN. Now, if it pays \$20 on every \$100, and continues to do so in the course of business, it would be worth \$200.

Mr. HOLMES. Yes.

The CHAIRMAN. And if it goes up to \$50 a year on every \$100, that property is worth \$500,000 instead of \$100,000.

Mr. HOLMES. That seems to be correct arithmetic; certainly.

The CHAIRMAN. Now, then, how would you ever get an excess-profits tax on the value of the assets?

Mr. LONGWORTH. You never would get it.

The CHAIRMAN. If the profits had put up the assets, so that the stock is paying 8, 9, or 10 per cent, you would never get excess profits. I have considered that very carefully, because it was presented to us very ably by men from different sections of the United States, and when we began to analyze it we found that we were going to have an 8, 9, or 10 per cent exemption, and we would never collect a cent of money, because as the profits went up the assets went up.

Mr. LONGWORTH. You are presenting to this committee a proposition which entails the loss of revenue amounting to \$1,500,000,000 during the present year of the war and a great deal more during the coming year.

Mr. HOLMES. Have you the time to explain why it would? Because there would be nothing under the excess profits?

Mr. LONGWORTH. Nothing under your system, at least on invested capital.

The CHAIRMAN. If you made invested capital the present value of your assets.

Mr. HOLMES. I was not advocating that.

Mr. LONGWORTH. I was advocating the value on January 1, 1914.

The CHAIRMAN. You can put in the value at January 1, 1914?

Mr. HOLMES. No; only in the event that you issued stock on your property.

The CHAIRMAN. Yes; if you got this \$500,000 of timber you could incorporate and put it over into the corporation as \$2,000,000 prior to January 1, 1914.

Mr. HOLMES. If you had been lucky enough to do so.

Mr. LONGWORTH. The effect of it is the same. You could transfer it.

Mr. HOLMES. And eliminate any appreciation after that.

Mr. GREEN. Have you made a study of tax systems generally, or only with reference to your particular line of business?

Mr. HOLMES. Only that and coal. I have also some coal companies for which I am counsel, who are interested.

Mr. GREEN. I was going to say that if you had you would have discovered that no tax upon any kind of property could be levied without disclosing a great many inequalities in working it.

Mr. HOLMES. The income tax doesn't do it, does it?

Mr. GREEN. Oh, yes; it has hundreds of them. It would take the rest of the afternoon to explain them.

Mr. HOLMES. There is just one more thought, another thing that I believe it would be worth your serious consideration, to see whether it might not be helpful in encouraging production in these times of abnormal cost. What I particularly had in mind as an illustration, in the development of coal property as an example, the cost is two or three times what it was 2 or 3 years ago. If that is to be treated as capital investment, this abnormal cost of developing the thing, would it not tend to discourage people from going in for the development of such properties? Doubtless this principle will apply to others

at a time when we so greatly need production of all kinds, and so greatly need coal, whereas if there could be devised a system for allowing the company to take the amount of cost over the normal cost of developing that property, and charge that excess cost against operations, against earnings, for a reasonable period of years—the ideal, of course, for the duration of the war—I wish you would think that point over, because I think there may be something in it.

The CHAIRMAN. There may be something in it.

Mr. OLDFIELD. Isn't that the argument of the mining fraternity?

Mr. HOLMES. I think so, but I am not able to answer for their proposition at all.

The CHAIRMAN. That is a hazardous business. There is something in that. Have you got a brief there, a written argument?

Mr. HOLMES. No; not really.

The CHAIRMAN. If you have not stated the last point as clearly as you want, you may write out a statement and add it and make it more explicit, if you wish.

(The statement follows.)

#### PROPOSITION.

In these times of abnormally high labor and material costs of development work, for example the sinking of coal shafts, if the total cost thereof must be treated as capital expenditures, is extremely hazardous, because when prices fall again the resulting revenue will be inadequate to yield a proper return on such high investment. This is likely to discourage development in these times when the need for production is greatest.

#### SUGGESTION.

Would it not be well for this committee to consider permitting, by legislation, the amount by which such development cost is found to be abnormal to be charged as approved operating expenses during a reasonable period of years, say, three or four? The ideal period would be, of course, for the duration of the war; but since that can not be known, the Treasury Department must ultimately determine some fair period.

#### STATEMENT OF MR. TEMPLE CHAPMAN, ZINC AND LEAD MINER, JOPLIN, MO.

The CHAIRMAN. What companies do you represent, Mr. Chapman?

Mr. CHAPMAN. Mr. Chairman, I am here as a delegate from the industry in the Joplin district, appointed by the association of mine operators there.

The CHAIRMAN. Now, Mr. Chapman, have you got your argument in your mind, and would you prefer to get through with it before the committee asks questions?

Mr. CHAPMAN. Yes. There is just one point, very briefly, that I would like to state. Mr. Thompson, from Oklahoma, is here, and I hope that he can have a few minutes another day.

The CHAIRMAN. We will try to give it to him.

Mr. CHAPMAN. The Joplin mining district is producing about half the zinc of this country, and the zinc is going into war use to some extent. The district is an important factor in zinc production as a whole, but unlike some of the great copper mines of the West, owning great beds of ore in fee, the zinc body of ore in the corner of

Oklahoma is divided up into more than a hundred parcels, Indian leases, limited in their term by the Government and owned by 100 different operating companies. So, while we are a big factor as a whole we are weak individually.

While the district as a whole has lasted 50 years, and is likely to last 50 years, the individual companies are limited by the Government in the term of the lease and in the size of their ore bed, each company owning only a small portion, 20 to 40 acres of the whole mass of ore. For this reason a tax, we feel, needs to be considered as against the brief life of the individual mines. The compilations which we have made for the advisory board of the Treasury Department of one hundred and seventy-odd mines shows that the average life of these mines for the past 20 years has been  $2\frac{1}{2}$  years.

Mr. TREADWAY. What do you mean by the life?

Mr. CHAPMAN. From the time the mine is opened until it is exhausted. The productive life of each mine has averaged two and one-half years. For this reason it seems that we have to make an exorbitant profit of 40 per cent per annum in order to get back what we have put in.

That is the meat of my statement. The exemption before charging excess-profits tax as I understand it is meant to be a liberal allowance against an industry in general, but against this zinc-mining industry, with short-term leases of small ore bodies, it is necessary for the average mine to earn 40 per cent to get back what it puts in. Some mines get it back in less time than others.

Mr. GARNER. May I ask a question?

Mr. CHAPMAN. Certainly.

Mr. GARNER. Does the same principle, the same conditions exist with all mining companies besides zinc mines?

Mr. CHAPMAN. The same principle, but different in degree.

Mr. GARNER. Just what I am getting at is, suppose that the committee should take your viewpoint and give you larger exemption or depreciation advantage under the law in the way of excess profits. Suppose we gave you 15 per cent on account of the conditions that you have just outlined. How do you suppose the other mining industries of this country would take it? What do you suppose they would say to the Senate committee in reference to this discrimination in favor of zinc mining as against them? Would all of them come in and have to be treated as a whole, the whole mining industry?

Mr. CHAPMAN. I left Joplin with one point of view, but after listening to the discussions here I have come to the view that the main point is to raise revenue for the war.

Mr. GARNER. We do not want to do anybody an injustice, and I have been very much impressed with the character of the business of the oil and mining industry. It is different from a banking institution, an established business which goes on for years and years. I should go far toward giving you exemption, but I am undetermined. But if we exempt you without exempting other mining industries I am wondering what they will say over at the other end.

Mr. STERLING. It seems to me that you might get it by reducing your cost of operations.

Mr. CHAPMAN. Operating costs?

Mr. STERLING. No; you say on account of the short life of a mine can you compute the cost of production in such a way that there will be only apparent profit?

Mr. CHAPMAN. To some extent by correct accounting, and I would like to touch on that point.

Of course, all mining is regarded as a wasting industry. I do not need to go into what you know, no doubt, better than I do. As a stockholder in Utah Copper at the time it was brought to my attention, a director of that company impressed it upon me that it was a good investment, because the mine would run for 50 years, and no matter what happened, Utah Copper would produce at a profit. I find in my zinc mining, which I went into on my own account, that it is a great deal like hunting quail. You find that you have to fire a great many shots to kill one quail; and I have had to sink a good many holes to get zinc.

Mr. LONGWORTH. At what price is there a profit in zinc?

Mr. CHAPMAN. At the present price it just a little more than pays the cost of production; on the average, the cost of producing the ore is about equal to the return.

Mr. LONGWORTH. What is it?

Mr. CHAPMAN. About \$45 a ton for zinc concentrates.

Mr. LONGWORTH. What is that on a pound of zinc?

Mr. CHAPMAN. Just over 2 cents.

Mr. LONGWORTH. Two cents?

Mr. CHAPMAN. Yes.

Mr. LONGWORTH. How high has zinc been during this war?

Mr. CHAPMAN. Up to \$35 a ton of zinc concentrates. I speak of the ore and not of the metal.

Mr. LONGWORTH. I speak of the price of zinc; what I suppose you call spelter.

Mr. CHAPMAN. Spelter is the metal.

Mr. LONGWORTH. That is the metal?

Mr. CHAPMAN. Yes.

Mr. LONGWORTH. At what price of spelter is it profitable for you to mine?

Mr. CHAPMAN. At present, about 7 cents.

Mr. LONGWORTH. You have a profit at 7 cents?

Mr. CHAPMAN. Seven cents is about equal to the cost of production.

Mr. LONGWORTH. How high has zinc been during the war?

Mr. CHAPMAN. Zinc metal went to 25 cents a pound.

Mr. LONGWORTH. When was that?

Mr. CHAPMAN. That was for certain fancy grades of metal that we do not make.

Mr. LONGWORTH. At the time that Germany invaded Belgium and took all the zinc mines there, there was an immediate and tremendous rise?

Mr. CHAPMAN. Yes; Germany had half of the zinc of the world, and we were called upon to supply her place to France and England, and the high price of ore was the necessary stimulus which has perhaps somewhat overdone this.

Mr. LONGWORTH. When zinc was at 25 cents a pound, was there a profit in it?



Mr. CHAPMAN. There was a very handsome profit in it, and it gave a great stimulus to zinc mining.

Mr. LONGWORTH. If you can produce at a profit when the price is 7 cents, of course, you are going to have a great profit when it is at 25 cents.

Mr. CHAPMAN. Of course, that stimulus having done its work, has not returned to us. We have now come to that point, because of that stimulus, where we can provide England and France with the metal at a moderate price.

Mr. LONGWORTH. Do you think zinc is about normal now, at 7 cents—fairly normal?

Mr. CHAPMAN. We think from the production it is falling rapidly, and we are questioning whether it has reached bottom, or will go lower. It is below what it costs to produce it, now. That is, the cost is about double almost everywhere, and the price is about one-half, as against the prewar price.

Mr. LONGWORTH. I understood you to say that at 7 cents you made a good profit.

Mr. CHAPMAN. No; I say, at that, it is just equal to the cost of production. We make no profit now on the bulk of our production.

These gentlemen spoke of the relation of zinc to other products and of our asking an exemption, and on that point—because it is an industry making an important metal, and one-half of the American output is in such a peculiar position as against the position in the mining industry as a whole—I personally see no way to protect us from a tax that would be confiscatory of capital except by noting, in the making of a ruling of this law, some point to see that the tax is a tax on our profits and not a tax on that part of the earnings which must be treated as a sinking fund for the return of capital; and I willingly grant that we are asking a difficult point to say you should make an exception in a general revenue law to protect one rather small industry because of its peculiar position.

I merely wish to make the point before this Ways and Means Committee that this peculiar situation does exist; that the zinc industry has an average life of only two and a half years per unit, and that the normal business profit does not permit that wasting industry to get back what you put in, because what you put in a shaft and in drilling holes, etc., is worth nothing after you take out your ore body.

Mr. TREADWAY. In regard to this two and a half years' duration or life of a mine, that is a very short life for a business. Does that average exist because you get some mines that are worthless and work out in short order—that is, you might strike a little vein and mine that, and then your mine is over, and it is a poor mine—and others run along for a period of 50 years?

Mr. CHAPMAN. Other mines; yes.

Mr. TREADWAY. Yes; other mines.

Mr. CHAPMAN. Not other zinc mines.

Mr. TREADWAY. But are there enough to practically deceive people into wanting to mine it and then have the mine play out—I do not use the right terms, perhaps?

Mr. CHAPMAN. The mining industry has been exceedingly profitable as a whole, and especially the zinc mining in our field, because of the war.

Mr. TREADWAY. It was so before the war?

Mr. CHAPMAN. But because of the war zinc mining made exceptional profits.

Mr. LONGWORTH. It ran along about 5 cents a pound before the war?

Mr. CHAPMAN. Yes.

Mr. LONGWORTH. And then it suddenly shot up to 25 cents.

Mr. CHAPMAN. Yes.

Mr. LONGWORTH. And how long did it stay there?

Mr. CHAPMAN. Not long.

Mr. LONGWORTH. It came down slowly?

Mr. CHAPMAN. It came down gradually, but steeply. [Laughter.] It is not making money now.

Mr. LONGWORTH. But it has for a good many years made money at 5 cents a pound?

Mr. CHAPMAN. Yes.

Mr. LONGWORTH. And it was up around 20 cents for three or four years?

Mr. CHAPMAN. Yes; pretty nearly.

Mr. LONGWORTH. So that there has been a pretty nice little profit there; purely a war profit; selling munitions to the allies?

Mr. CHAPMAN. Quite true. The only point we make is tax the profits but do not tax our capital, which we want just a fair show to get back.

Mr. TREADWAY. As to those mines we spoke of that have a very short length of life, it must be a very short length of life to reduce your average to two and a half years for the entire product.

Mr. CHAPMAN. Our entire field is peculiarly our own. Of course, these copper mines make a great war production.

Mr. TREADWAY. What is the longest life of any mine in that immediate vicinity to your personal knowledge?

Mr. CHAPMAN. Five years is a very exceptional mine there; to get a profit out of any mine for five years is exceptional.

Mr. TREADWAY. There are mines running there now that have been in use at least five years?

Mr. CHAPMAN. Yes; I know one mine that has been in use for 10 years.

Now, I have taken all the time I asked for. I have here a compilation showing investment and earnings of these mines that we were asked to prepare for the advisory board, and I would be glad to leave this as evidence in my statement if you wish.

Mr. TREADWAY. Neither Mr. Garner nor Mr. Moore is present. They usually ask the witnesses certain questions of a certain nature, and I will ask you those questions.

Can you offer any suggestions to add to the country's revenue, in your line of business, by taxation?

Mr. CHAPMAN. I noticed that that was the better part of anyone appearing before you, and it seems to me, as a stockholder in several other mining companies and as a worker in my field, that our industry has been very profitable, and can well afford to pay a very high tax, and I should say, from what I hear of taxes being paid in my field and elsewhere, that we can pay more tax than we have in the past.

Mr. TREADWAY. Of the same nature of taxation, only at an increased rate?

Mr. CHAPMAN. Of the same nature of taxation; yes. Certain rulings have been made by the Advisory Board of the Treasury Department over specific cases, in our field, which go far to protect the point I have made—the short life of the mine—and it seems to me that those should be confirmed; and both they and the War Industries Board have sent men out into our field to personally investigate the points I have touched upon, and they are the evidence that I would submit to your committee to back up my statements; and to answer your question further, barring only the protection of return of investment spread over reasonable part of the year, I should say we should pay more taxes. The number of years that return of investment is guarded I think needs investigation, because our industry is different from the mining industry as a whole.

Mr. HAWLEY. Taking into consideration the readjustment you suggest, would the amount received if this readjustment was made be greater than the amount paid by you under the present law?

Mr. TREADWAY. Do not the rulings you speak of by the Treasury Department bring about the condition to which Mr. Hawley has referred? You have gotten satisfactory rulings establishing certain readjustments, have you not?

Mr. CHAPMAN. Yes; they have been satisfactory. I do not know but that in some cases they have gone too far, and have answered adversely the point you make, that there might be more taxes paid.

Mr. HAWLEY. More taxes under the present law, you mean, than under the readjustments you suggest?

Mr. CHAPMAN. I mean that the readjustments should be so guarded that they will not lessen the total tax. I do not claim that they should lessen the total tax.

Mr. HAWLEY. Would they not probably increase it?

Mr. CHAPMAN. I have not facts enough to answer properly your question.

Mr. TREADWAY. Mr. Chairman, I would like to make one observation in this connection. Mr. Chapman is one of the few witnesses who has been willing to say that his industry ought to receive a higher tax, and that they would be willing to pay a higher tax; and I want to make this personal observation, that I think that is very largely the result of the fact that Mr. Chapman owns property near down where I live, and the atmosphere is such that his honesty is above reproach.

The CHAIRMAN. Is there any other point that you desire to make, Mr. Chapman?

Mr. CHAPMAN. Nothing more, Mr. Chairman. Shall I leave this compilation with you?

The CHAIRMAN. Yes; we will be glad if you will make it a part of your remarks.

(The matter referred to is here printed in full in the record, as follows:)

#### JOPLIN-MIAMI MINING DISTRICT.

#### INVESTMENT AND EARNINGS OF 176 MINES REPRESENTATIVE OF THE ZINC INDUSTRY.

A committee was chosen by the Missouri-Oklahoma Zinc Mine Operators' Association to present data pertaining to the earnings of zinc mines to the Treasury Department at Washington.

The aim of this committee has been to gather information from all mines in this district which have been productive during the past 20 years, especially those mines which have completed their record and have been mined out and abandoned, to tabulate the facts thus gathered, and to make a truly representative statement of the investment made and the profits and losses resulting therefrom.

The figures herewith submitted are not represented as being exact statements from the books of the various mines; some of the companies for whose reports we have asked had gone out of business and have no accessible records, but we have been able to obtain from their former owners statements of the capital invested and the profits and losses made, which were certified to as being substantially correct, and the committee believe, from their own experience, that the aggregate of these statements constitutes a very accurate view of the history of the district.

This list does not include the thousands of prospects which were drilled and developed during the past 20 years and which failed to become productive mines, but which, nevertheless, have absorbed several million dollars of capital and were a necessary charge upon the mining industry.

The following pages will show in detail the name and location of each mine, the amount of capital invested, the years during which the property was operated, the amount of net profit or loss, and the final disposition of the plant.

There is also given a summary of these figures wherein the aggregate and average investments, times of productivity, and profits and losses are shown separately for Missouri and Oklahoma and the entire district.

In conclusion the committee wishes to draw attention to the fact that the results shown antedate the recent advances in all mining costs; because of these advances the capital investment now required to develop and equip a mine is vastly greater than the average investment here shown.

At the present time—April, 1918—the zinc-ore market is very depressed and about two-thirds of all the mills in the district are shut down, because they can not be operated at a profit.

Respectfully submitted.

L. C. CHURCH, *Chairman*,  
P. B. BUTLER,  
TEMPLE CHAPMAN,  
T. J. FRANKS,  
W. B. SHACKLEFORD,  
J. F. ROBINSON,  
VICTOR RAKOWSKY,  
*Committee.*

Joplin district, including Webb City and neighboring camps.

4033-18-6

Name of company.	District.	Investment.	From-To	Time.	Profit.	Loss.	Remarks.
Brancher Mining Co.	Lea'sville Hollow	\$30,000	1903-4	1 year		\$10,000	Mill sold for \$3,000.
Vanango Mining Co.	Joplin	23,000	1905-1907	2 years		60,000	Mill sold for \$3,000.
Banner Mining Co.	Prosperity	22,000	1907-8	1 year		4,400	Mill sold for \$1,900.
Gold Standard Mining Co.	Joplin	6,000	1903-4	do		18,000	Mill sold for \$2,500.
St. Joe Mining Co.	do	36,000	1915-16	do		12,000	Mill sold for \$20,000.
Williams Mining Co.	do	50,000	1905-1909	4 years		40,000	Mill sold for \$4,000.
B. & H. Mining Co.	do	50,000	1905-1910	5 years		48,000	Mill sold for \$2,000.
Conn. Consol. Mining Co.	do	12,000	1909-1913	4 years		12,000	Mill sold for \$2,000.
Powers Mining Co.	Klondike	7,500	1911-1915	do		40,000	Mill sold for \$2,500.
Holy Moses Mining Co.	do	7,500	1911-1915	do		60,000	Mill sold for \$3,000.
Little Jew Mining Co.	Joplin	8,000	1908-1917	9 years		30,000	Mill sold for \$1,000.
Chicago Mines Co.	Galena	125,000	1912-1917	5 years		225,000	Mill sold for \$25,000.
Pilbrier Mining Co.	do	40,000	1911-1913	2 years		25,000	Mill sold for \$10,000.
Dawson Mining Co.	Duenweg	25,000	1918	2 months		18,000	Mill sold for \$7,500.
Whinny Hill Mining Co.	Thoms Station	11,000	1912	8 months			Mill burned.
Hartford No. 1 Mining Co.	Cave Springs	80,000	1917	5 months		17,000	Mill sold for \$27,000.
Little John Mining Co.	Joplin	33,000	1915-1917	2 years		17,000	Mill sold for \$7,000.
Empire Mining Co.	Lehigh	70,000	1899-1904	5 years		10,000	Mill sold for \$2,500.
Itaeming Mining Co. No. 2	do	8,000	1900-1906	6 years	\$15,000		Mill sold for \$2,000.
Coalburt Mining Co.	Joplin	20,000	1915-1917	1 1/2 years		22,000	Mill sold for \$11,000.
Thamagly Mining Co.	Porto Rico	110,000	1913-1917	4 years		60,000	Mill sold for \$20,000.
Little John Mining Co.	Joplin	20,000	1915-1917	2 years		20,000	
Bird Dog Trailing Co.	Webb City	5,000	1914-15	1 year		3,500	
Lincoln Mining Co.	Klondike	15,000	1910-1903	3 years	23,000		Mill sold for \$3,000.
Lincoln Mining Co. No. 2	Joplin	17,000	1899-1900	1 year		20,000	Mill sold for \$3,000.
John Jacobson Mining Co.	do	9,000	1898-1908	10 years	275,000		Mill sold for \$1,000.
John Jacobson Trailing Co.	do	2,500	1908-1908	2 years	20,000		Do.
Horseshoe Mining Co.	do	8,000	1907-8	1 year		8,000	Mill sold for \$1,200.
Brooklyn Mining Co.	Duenweg	7,500	1902-1904	1 1/2 years	72,000		Mill sold for \$2,500.
Irish Mining Co.	Joplin	6,000	1902-1903	1 year	10,000		Mill sold for \$1,300.
Hurricane Mining Co.	do	60,000	1910-11	do		60,000	Mill sold for \$16,000.
Abandon Mining Co.	Klondike	30,000	1912-1915	3 years		17,000	Mill sold for \$2,500.
Hudson Mining Co.	Carthage	25,000	1903-1908	5 years	100,000		Mill sold for \$1,000.
Troup No. 4 Mining Co.	Joplin	15,000	1906-1909	3 years			Mill sold for \$4,000.
Mary C. Mining Co.	Prosperity	50,000	1915-1916	1 year		150,000	Mill sold for \$12,000.
Seneca Mining Co.	do	25,000	1914-1916	2 years		65,000	Mill sold for \$10,000.
Foehnherr-Walton Mining Co.	Webb City	38,000	1908-1914	8 years	68,000		Burned; insured for \$9,000.
Rice Mining Co.	Prosperity	32,000	1906-7	1 year		40,000	Mill sold for \$2,300.
Anome Mining Co.	do	14,000	1916	3 months		24,000	Mill sold for \$5,700.
Gordon Hollow Mining Co.	Joplin	32,000	1913-1915	2 years		65,000	Mill sold for \$2,000.
Uncle Joe Mining Co.	Webb City	37,000	1913	8 months		58,000	Mill sold for \$2,800.
Little Jewel Mining Co.	Joplin	4,800	1894	do	40,700		Mill sold for \$1,250.
Cock Robin Mining Co.	do	3,700	1895-1902	7 years	115,000		Mill sold for \$900.
McDonald Bros. Mining Co.	Prosperity	32,000	1917-18	1 year	900		Mill sold for \$12,000.

REVENUE BILL.

Joplin district, including Webb City and neighboring camps—Continued.

Name of company.	District.	Investment.	From-To	Time.	Profit.	Loss.	Remarks.
Trouble Mining Co.	Joplin	\$7,000	1896	6 months		\$1,000	Mill sold for \$2,000.
Ground Floor Mining Co.	Webb City	\$5,000	1907	5 years		35,000	Mill sold for \$15,000.
Little Scott Mining Co.	Chitwood	8,000	1904-5	1 year		10,000	Mill sold for \$1,500.
Ashland-Wilkes Mining Co.	Bellville	10,000	1900-1902	2 years		8,000	Mill sold for \$2,000.
Red Rose Mining Co.	Badger	20,000	1905-1909	6 years	1,000		Burned.
Badger M. & W. Mining Co.	do	40,000	1892-1912	14 years	20,000		Mill sold for \$350.
Tamogamy Mining Co.	Joplin	8,000	1900-1902	2 years		2,000	Caved in.
Do	do	35,000	1906-1908	do		50,000	Mill sold for \$2,500.
Thornton Mining Co.	Webb City	12,500	1909-10	1 year	15,000		Burned.
Grand Central Mining Co.	West Joplin	10,000	1908-1910	2 years	8,000		Mill sold for \$2,000.
M. T. & O. Mining Co.	Jackson Hollow	40,000	1906-1908	do	5,500		Mill sold for \$15,000.
Winifred E. Mining Co.	Duenweg	40,000	1908-9	1 year		37,500	Mill sold for \$2,500.
Morning Hour Mining Co.	West Joplin	36,000	1906-1909	3 years	98,000		Mill sold for \$1,500.
Independence Mining Co.	Royal Heights	15,000	1900-1903	do			Mill sold for \$2,500.
Innovator Mining Co.	Prosperity	20,000	1907-1908	1 year		11,000	Mill sold for \$3,500.
McManamy & Aldrich Mining Co.	Chitwood	6,000	1896-1897	do			Mill sold for \$2,500.
Sunflower Mining Co.	Galena	4,100	1894-1902	8 years	143,000		Mill sold for \$1,600.
Nancy Lee Mining Co.	Tanyard Hollow	11,500	1901-2	1 year	20,000		Mill sold for \$3,000.
Annie Rooney Mining Co.	Galena	12,000	1901-2	do	13,000		Burned.
Sharp M. & M. Co.	Joplin	12,000	1896-7	do	30,000		Mill sold for \$2,000.
King Jack Mining Co.	Leadville Hollow	6,000	1899-1907	8 years	150,000		Mill sold for \$3,000.
Bell B. Mining Co.	do	15,000	1900-1902	2 years		40,000	Mill sold for \$1,000.
Scotch Lead & Zinc Co.	Tanyard Hollow	25,000	1893-1901	do	20,000		Mill sold for \$2,000.
Success Mining Co.	Galena	25,000	1901-2	1 year		15,000	Do.
Federated M. & M. Co.	Chitwood	20,000	1912-13	do		40,000	Mill sold for \$3,000.
Meico Mine.	Thoms Station	30,000	1910-11	do		30,000	Mill sold for \$10,000.
Julius S. Mining Co. No. 1	Neck City	24,000	1906-1912	6 years	120,000		Burned.
Julius S. Mining Co. No. 2	do	18,000	1909-1912	3 years	20,000		Mill sold for \$1,800.
Walker Mining Co.	Alba	18,000	1907-8	1 year		25,000	Mill sold for \$2,500.
Albert F. Mining Co.	Prosperity	15,000	1908-1912	4 years		8,000	Mill sold for \$1,400.
Goodrich Mining Co.	do	20,000	1908-1912	6 years	20,000		Mill sold for \$2,300.
Geo. H. Mining Co.	do	20,000	1905-1912	7 years	200,000		Mill sold for \$2,500.
Emma S. Mining Co.	do	24,000	1907-1913	6 years	45,000		Mill sold for \$2,500.
Gussie K. Mining Co.	Duenweg	20,000	1904-1911	7 years	160,000		Mill sold for \$1,200.
William E. Mining Co.	Bell Center	15,000	1908-1908	2 years		20,000	Mill sold for \$1,500.
Louis T. Mining Co.	do	15,000	1906-1909	3 years		18,000	Mill sold for \$1,500.
Peacock Mining Co. No. 2	Peacock	30,000	1910-11	1 year		30,000	Mill sold for \$3,000.
Thomas D. Mining Co. No. 1	do	35,000	1906-1912	6 years	175,000		Mill sold for \$4,000.
Yellow Pup Mining Co.	Klondike	18,000	1912-1917	5 years			Mill sold for \$10,000.
Aladdin L. & Z. Co.	Spring City	40,000	1905-1908	3 years	60,000		Mill sold for \$5,000.
La Paloma Zinc Co.	Joplin	7,000	1905-6	1 year		8,000	Abandoned.
Crown Point Zinc Co.	Galena	19,000	1899-1900	do		19,000	Cycloned.
White Oak Mining Co.	Tipton Ford	31,000	1914-1910	2 years		29,000	Mill sold for \$2,250.
Chicago Zinc Co.	Leadville Hollow	35,000	1900-1901	1 year		37,000	Mill sold for \$1,000.

Leadville Hollow Mining Co.	do.	18,000	1900-1901	do.	23,000	Mill sold for \$2,200.
Wilcox Mines Co.	Chitwood	26,000	1910-11	do.	38,000	Mill sold for \$6,000.
Chapman & Lennan Mining Co.	Webb City	40,000	1904-5	do.	5,000	Mill sold.
Mount Ararat Mine	Prosperity	30,000	1903-4	do.	Even	Do.
New Atlas Mining Co.	do.	26,000	1904	6 months	25,000	
Alexandra Mining Co.	do.	30,000	1904-1905	21 years	30,000	
Dinner Mining Co.	Webb City	50,000	1904-1912	6 years	30,000	Burned.
Newbern Mining Co.	Cartersville	40,000	1904-9	10 months	31,000	Moved.
Red Dog Mining Co.	Webb City	52,000	1907-1910	34 years	28,000	
Hull Dog Mining Co.	do.	47,000	1908-9	14 years	50,000	Burned.
Little Mary Mining Co.	Neek City	80,000	1907-1913	4 years	120,000	Removed.
Lonsacre-Chapman Mining Co.	Neek City and Miami	58,250	1913-1917	do.	303,300	
Hill er Hollow Mining Co.	Aransas	185,000	1905-5	4 months	120,000	Mill sold for \$6,000.
Hice Mining Co.	Webb City	25,000	1905-6	1 year	20,000	Removed.
Flia Mining Co.	do.	35,000	1905-6	3 months	32,000	Do.
Hessle Mining Co.	do.	20,000	1905-6	15 months	20,000	Do.
Superior Mining Co.	do.	25,000	1905-6	10 months	20,000	Do.
Big Reuben Mining Co.	do.	25,000	1905	do.	5,000	Do.
Cornfield Mining Co.	do.	20,000	1905-1907	15 months	15,000	Do.
Mosely Mining Co.	Shureston	35,000	1905-6	12 months	25,000	Do.
Franklin Mining Co.	Webb City	90,000	1906-7	15 months	65,000	Do.
Premier Mining Co.	do.	25,000	1907-8	8 months	20,000	Do.
Ben Nevis Mining Co.	do.	60,000	1907-8	15 months	55,000	Do.
<b>All mines</b>		<b>3,220,850</b>		<b>296 years</b>	<b>2,590,400</b>	<b>2,329,400</b>

*Miami district, including Commerce and Lincolnville camps.*

Name of mine.	Investment.	From-To	Time operated	Profit.	Loss.	Remarks.
Old Chief	\$30,000.00	1908-1917	7 years	\$38,000.00		Mill burned.
Sullivan	35,000.00	1909-1917	4 years 4 months	28,358.80		Mill idle.
Buckeye	25,000.00	1908-1917	5 years 4 months	30,000.00		Still operating.
Joplin-Miami	5,000.00	None	None		\$5,000.00	No mill.
Lawson	30,000.00	1909-10	1 year		15,000.00	Mill removed.
Midas	35,000.00	1912-1917	3 years 5 months	10,000.00		Do.
Crescent	20,000.00	1908-10	11 months		15,000.00	Mill sold and removed.
Southern Queen	20,000.00	1910	5 months		15,000.00	Do.
Okmulgee	15,000.00	1909	6 months		12,000.00	Mill removed.
Red Bird	5,000.00	1909	5 months		10,000.00	Do.
Golden Hen	30,000.00	1909-1916	1 year 4 months		25,000.00	Do.
Miami Yankee	25,000.00	1910	8 months		20,000.00	Do.
Little Maxine	35,000.00	1911-1913	2 years		35,000.00	Mill sold under mortgage.
Neverwest	10,000.00	1913-1916	2 years 11 months	32,000.00		Mill idle.
Consolidated	30,000.00	1911-12	1 year		15,000.00	Mill removed.
Cactus No. 2	25,000.00	1915-1917	2 years		21,791.83	Still operating.
Turkey Fat	15,000.00	1908-1917	8 years	\$37,285.00		Mill idle.
New State	40,000.00	1908-1916	7 years 6 months	\$9,000.00		Mill removed.
Index-Mitpah	50,000.00	1903-1917	6 years	15,000.00		Do.

Miami district, including Commerce and Lincolnville camps—Continued.

Name of mine.	Investment.	From-To	Time operated	Profit.	Loss.	Remarks.
Swatika.....	\$40,000.00	\$1909-10	1 year.....		\$12,000.00	Mill removed.
Cactus No. 1.....	50,000.00	1913-1915	2 years.....		55,000.00	Do.
Commonwealth.....	15,000.00	1911-12	8 months.....		10,000.00	Do.
Eureka.....	25,000.00	1912-1915	1 year.....		15,000.00	Mill idle.
Lost trail.....	32,000.00	1913-1917	3 years 8 months.....	\$84,000.00		Do.
Wau Hillau.....	20,000.00	1911-12	1 year 4 months.....		15,000.00	Mill removed.
Emma Gordon.....	50,000.00	1919-1917	8 years.....	25,400.00		Mill idle.
Prairie.....	75,000.00	1914-1917	3 years.....	20,000.00		Still operating.
King Jack.....	20,000.00	1903-1917	7 years.....	88,000.00		Mill removed.
Vantage.....	50,000.00	1914-1916	2 years.....	35,000.00		Do.
Gray Top.....	40,000.00	1912-13	6 months.....		40,000.00	Mill sold \$5,600.
McConnell-Barnes.....	40,000.00	1914-1916	2 years.....	125,000.00		Mill removed.
Carson-Dodson.....	80,000.00	1912-13	1 year.....		70,000.00	
Thirty Acre.....	40,000.00	1912-1914	2 years.....		35,000.00	
Oklahoma L. & Z. Co.....	55,000.00	1912-13	2 years.....		50,000.00	
Carson Mining Co. (2).....	90,000.00	1914-1917	4 years.....	200,000.00		1 mill removed, 1 idle.
Dark Horse.....	15,000.00	1908-1903	3 years.....		12,000.00	Mill burned down.
Hannibal.....	20,000.00	1910-1912	2 years.....		20,000.00	Recently started up.
Johanna.....	18,000.00	1908-1910	.....do.....	8,000.00		Mill sold and removed.
Perkins.....	25,000.00	1908-1911	3 years.....		25,000.00	Mill removed.
Katy, or M. K. & T.....	30,000.00	1906-1908	2 years.....		30,000.00	Do.
Big Jack.....	250,000.00	1909-1912	3 years.....		250,000.00	Creditors got 50 per cent.
F. F. F.....	9,000.00	1908-1909	1 year.....		5,000.00	Mill removed.
Red Feather.....	50,000.00	1910-1912	2 years.....		50,000.00	Sublessees also lost.
Petersburg.....	50,000.00	1909-1917	8 years.....			Operated intermittently.
Diamond C.....	50,000.00	1909-1910	1 year.....		50,000.00	Mill removed.
Hobo.....	12,000.00	1909-1912	3 years.....	10,000.00		Do.
Heap O'Brien.....	40,000.00	1909-1912	.....do.....		30,000.00	Do.
Nowlands.....	50,000.00	1910-1911	1 year.....		50,000.00	Do.
Old Abe.....	75,000.00	1907-1912	5 years.....		75,000.00	Do.
Lucile.....	40,000.00	1908-1911	2 1/2 years.....		40,000.00	Do.
Good Luck.....	10,000.00	1909-1912	.....do.....	10,000.00		Do.
McVester.....	18,000.00	None.			18,000.00	
Rush & Elder.....	6,000.00	1907-8	1 year.....		6,000.00	Mill sold for taxes, 1909.
Mason.....	75,000.00	1908-1910	2 years.....		75,000.00	Mill removed.
Virinia.....	15,000.00	None.			15,000.00	Do.
Okla.....	150,000.00	1909	6 months.....		35,000.00	Mill sold for taxes.
Lancaster.....	25,000.00	1908-9	9 months.....		15,000.00	Mill burned.
Chicago-Quapaw.....	20,000.00	1909-10	1 year.....		20,000.00	Mill removed.
Sunny Side.....	20,000.00	1907-1910	3 years.....		15,000.00	Do.
White Eagle.....	40,000.00	1908-1911	.....do.....		40,000.00	Mill idle.
Lincoln file.....	10,000.00	1907-8	6 months.....		10,000.00	Mill removed.
Quincy.....	15,000.00	None.			15,000.00	Do.
Myrtle.....	25,000.00	1909-10	1 year.....		25,000.00	Do.
65 mines.....	2,375,000.00		153 years.....	1,162,411.80	1,416,791.83	



## GENERAL SUMMARY.

## JOPLIN DISTRICT—INCLUDING WEBB CITY AND NEIGHBORING CAMPS.

Successful mines (38) :	
Total invested .....	\$910, 850
Average invested .....	\$24, 000
Total time operated .....	years 162
Average time operated .....	do 4½
Total profit .....	\$2, 590, 400
Average profit .....	\$68, 150
Unsuccessful mines (73) :	
Total invested .....	\$2, 310, 000
Average invested .....	\$31, 600
Total time operated .....	years 134
Average time operated .....	do 1½
Total loss .....	\$2, 329, 400
Average loss .....	\$31, 900
Summary (111 mines) :	
Total invested .....	\$3, 220, 850
Average invested .....	\$29, 000
Total time operated .....	years 296
Average time operated .....	do 2½
Net profit .....	\$261, 000
Average profit .....	\$2, 350

## MIAMI DISTRICT, INCLUDING COMMERCE AND LINCOLNVILLE CAMPS.

Successful mines (19) :	
Total invested .....	\$637, 000
Average invested .....	\$33, 500
Total time operated .....	years 81½
Average time operated .....	do 4½
Total profit .....	\$1, 162, 400
Average profit .....	\$61, 100
Unsuccessful mines (45) :	
Total invested .....	\$1, 738, 000
Average invested .....	\$38, 600
Total time operated .....	years 71½
Average time operated .....	do 1.6
Total loss .....	\$1, 416, 800
Average loss .....	\$31, 400
Summary (64 mines) :	
Total invested .....	\$2, 375, 000
Average invested .....	\$37, 100
Total time operated .....	years 154
Average time operated .....	do 2½
Net loss .....	\$254, 400
Average loss .....	\$4, 000

## ENTIRE JOPLIN-MIAMI DISTRICT.

Successful mines (57) :	
Total invested .....	\$1, 547, 850
Average invested .....	\$27, 150
Total time operated .....	years 243½
Average time operated .....	do 4½
Total profit .....	\$3, 752, 800
Average profit .....	\$65, 700
Unsuccessful mines (118) :	
Total invested .....	\$4, 048, 000
Average invested .....	\$34, 300
Total time operated .....	years 205½
Average time operated .....	do 1½
Total loss .....	\$3, 746, 200
Average loss .....	\$31, 700

## REVENUE BILL.

## Summary (175 mines):

Total invested.....	\$5,595,850
Average invested.....	\$32,000
Total time operated..... years.....	449
Average time operated..... do.....	2½
Net profit.....	\$6,600
Average profit.....	\$37

At 4.10 o'clock p. m. the committee adjourned until to-morrow, Friday, June 14, 1918, at 10 o'clock a. m.

# REVENUE BILL

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No. 7

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## HEARINGS

BEFORE THE

## COMMITTEE ON WAYS AND MEANS

HOUSE OF REPRESENTATIVES

WITH REFERENCE TO

## THE NEW REVENUE BILL

[THIS PRINT OF THE HEARINGS IS SUBJECT TO REVISION  
BEFORE THE FINAL PRINT]

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JUNE 14, 1918



WASHINGTON  
GOVERNMENT PRINTING OFFICE  
1918

COMMITTEE ON WAYS AND MEANS.

HOUSE OF REPRESENTATIVES.

SIXTY-FIFTH CONGRESS, SECOND SESSION.

CLAUDE KITCHIN, North Carolina, *Chairman.*

HENRY T. RAINEY, Illinois.

LINCOLN DIXON, Indiana.

CORDELL HULL, Tennessee.

JOHN N. GARNER, Texas.

JAMES W. COLLIER, Mississippi.

CLEMENT C. DICKINSON, Missouri.

WILLIAM A. OLDFIELD, Arkansas.

CHARLES R. CRISP, Georgia.

GUY T. HELVERING, Kansas.

GEORGE F. O'SHAUNESSY, Rhode Island.

JOHN F. CAREW, New York.

GEORGE WHITE, Ohio.

JOSEPH W. FORDNEY, Michigan.

J. HAMPTON MOORE, Pennsylvania.

WILLIAM R. GREEN, Iowa.

CHARLES H. SLOAN, Nebraska.

NICHOLAS LONGWORTH, Ohio.

GEORGE W. FAIRCHILD, New York.

JOHN A. STERLING, Illinois.

WHITMELL P. MARTIN, Louisiana.

WILLIS C. HAWLEY, Oregon.

ALLEN T. TREADWAY, Massachusetts.

JOHN E. WALKER, *Clerk.*

## REVENUE BILL.

COMMITTEE ON WAYS AND MEANS,  
HOUSE OF REPRESENTATIVES,  
*Friday, June 14, 1918.*

The committee met at 10 o'clock a. m., Hon. Claude Kitchin (chairman) presiding.

There were also present Representatives Rainey, Dixon, Garner, Dickinson, Oldfield, Crisp, Helvering, White, Moore, Green, Sloan, Longworth, Fairfield, Sterling, Martin, Hawley, and Treadway.

### STATEMENT OF MR. H. E. WEST, OF WEST & HAZLETT, OIL PRODUCERS, INDEPENDENCE, KANS.

The CHAIRMAN. Mr. West, give your full name and residence and your business or occupation and whom you represent in appearing before the committee.

Mr. WEST. H. E. West, Independence, Kans. I represent West & Hazlett, oil producers, Kansas, Oklahoma, and Wyoming.

Mr. Chairman, the subject I want to discuss is the question of income and excess profits, largely on sales of oil property. We have two classes of producers; one of them is the conservative man who buys property after it is partially or completely developed, and the other is the prospector. The prospector goes out and tries to find a property. Sometimes he is successful and sometimes he is unsuccessful. When he is successful and finds a property—as a rule he is a man of limited means, and especially in Wyoming he is liable to be anywhere from 20 to 50 miles from a railroad or pipe-line. It requires a larger capital than the average prospector has. He develops his property as far as he can and then he wants to sell it. There are always purchasers for properties at a good, reasonable price. He is offered a price for his property—for illustration, we will say, \$100,000 more than his cost of production; but he has probably been looking for it for a lifetime, and possibly will not find it but once in a lifetime. Under the present law he has to pay from 40 to 60 per cent of that amount in income and excess profits.

The CHAIRMAN. Mr. West, you are referring to a man who is in the business of buying and selling such property?

Mr. WEST. No; I just explained to you that he is the man who is the developer, and very essential to the oil business.

The CHAIRMAN. But that is his business?

Mr. WEST. That is largely his business. Sometimes he stops, but when he stops another man takes it up and goes ahead.

The CHAIRMAN. Of course, if it is not his business or trade to find and develop and sell—

Mr. WEST (interposing). Well, that is his business, certainly. Very few men ever quit until they go broke.

The CHAIRMAN. If that is his business, of course, he would be chargeable with an excess-profits tax, but if he simply made a sale now and then and that was not his business, then of course it would be different. For instance, I am not in the business of buying and selling farms. If I were I would be chargeable with an excess-profits tax if I made enough so that there was an excess; but if I just sold a farm I happened to own and was not in that business, I would be chargeable with no excess-profits tax.

Mr. WEST. Well, we may assume that these men are in that business. These men go ahead and develop the property and they are very essential to the business in order to keep up the production; but a man comes along and offers one of these men a profit of \$100,000. Well, that is a big profit. It looks like a big year's work, even though we take the excess-profits tax off; but he feels that it is more than his share and that he should not pay that kind of a tax where such an income comes to him once in a lifetime, possibly; and he feels that he should not pay the same tax that a man pays who has a fixed income on an investment in stocks, bonds, or real estate which brings him \$100,000 a year.

The CHAIRMAN. How do you differentiate between the man who is in the business of prospecting for oil or lead or zinc or any other mineral and happens to make a profit, perhaps, once in 10 years from a farmer or a merchant or a man in any other business who has been working perhaps all his life without making any profit, and then happens to have a very good year and makes a large profit?

Mr. WEST. I have not reached my point yet.

The CHAIRMAN. Can you differentiate between the two?

Mr. WEST. I do not think you can; no, sir; but that is not the point I am trying to make.

The CHAIRMAN. I see a great difference, or, at least, I think I do, in the oil and zinc and lead business—

Mr. WEST (interposing). It is very hazardous.

The CHAIRMAN (continuing). On account of the hazard and on account of the short life of the well, say, or the mine, but I do not see very much difference in the proposition you have just advanced.

Mr. WEST. I have not reached my point yet.

The CHAIRMAN. All right; go ahead.

Mr. WEST. He refuses to sell the property on account of the excess profit or income tax. If he can go along, he goes along in a very slow way, because his funds are very largely exhausted; and if he can, here is what he does, which defeats the purpose of the tax—understand, I have not come here to ask relief, because we are willing to carry the burden.

The CHAIRMAN. Do not get the impression that the committee does not want to hear these propositions from you and others about the mineral interests, oil, lead, zinc, etc., because it is an intricate question. It is a difficult question for us to decide, and we want experienced men like you to come before us and explain the situation and raise any objection or make any suggestions in reference to the present law. We feel that perhaps some kind of remedy is necessary.

Mr. WEST. There are some things that should be remedied. He to sell his property—I want to try to get this plain before it must be developed. Before the income tax law was sold the property, and the man or the corporation would v. He is a wildcatter or a prospector and wants to go on

and move on and make another fortune. That is what is in his mind. Of course, he does not always make it, but that is what he wants to do. He can not do that, or he reasons that he can not do that, because \$50,000 or \$60,000 is more than he feels his share of the taxation ought to be. Therefore he stops on that property and seeks a man or a corporation that has money. He says to them, "You pay me for the development"—he has probably drilled one hole or possibly had money enough to drill five holes, and he says to them, "You pay me for the development I have done here, and I will make some kind of an arrangement with you (which arrangement I consider perfectly legitimate), whereby I have a percentage in the property and you take it over and you have a controlling interest."

These trades are usually made at 30 per cent and 70 per cent, or 40 per cent and 60 per cent, or 50 per cent and 50 per cent, according to the value of the property, a \$1 consideration and return of the expense that has been incurred up to the time that this transaction takes place. The corporation or the man of means moves on to the property and he goes along and develops it. The property is developed, but the Government has not received a cent, and if there could be some adjustment or some arrangement made so that this tax could be reduced on sales which cause an income, it would be a benefit. Where a man has an income coming in, he can not help himself, but I do not know of any way of forcing him to sell, and if he does not sell, he does not pay the income tax, and this is retarding our business very materially, with no profit to the Government.

I have not a remedy to offer, but I have studied whether it would be practicable or not to possibly have a commission or a board with authority to act or with authority to thoroughly investigate that these men could go before and iron out their differences and make it a kind of trade. It does not look just as businesslike as it might for the Government to go into the swapping business, but from what I could hear yesterday and from what I know, our Government needs all the money we can get, and if the tax is so high it defeats its own purpose, it should be remedied so that it would bring in whatever it might produce. Under present conditions the tax is just the same as an import duty on goods that is so high that there are no goods imported. This law has stopped the sale of big properties absolutely. I do not know of a property of any importance whatever that has sold since the law was enacted. It has resulted in all of it going into these trades I am telling you about, and I do not see any way to prevent it. Now these men would be willing to pay 15 or 20 per cent, which would help out quite a little.

Mr. MOORE. On what?

Mr. WEST. On the sale price, whatever it might be. It might be \$100,000, it might be \$500,000, and I know of one \$2,000,000 sale that was defeated.

Mr. MOORE. Your point is that the Government gets no revenue now by reason of these arrangements made by the prospector?

Mr. WEST. Yes, sir; absolutely, and the arrangements are legitimate.

Mr. MOORE. There would be a return, however, if there was an actual sale?

Mr. WEST. Certainly, there would be a return then.

Mr. MOORE. But those actual sales are now postponed by these deals you refer to?

Mr. WEST. Absolutely.

Mr. MOORE. And therefore the law is defeated?

Mr. WEST. It is defeated of its purpose; yes, sir. There have not been any transactions carried on that are unlawful at all.

Mr. MOORE. No; I get your point, but still there is a running to cover on the part of the prospectors.

Mr. WEST. Well, here is the proposition: I know two young men—

Mr. MOORE. I do not mean that offensively, you understand.

Mr. WEST. I understand that. I am trying to get this before you just as plain as I know how.

Mr. MOORE. There is no sale this year and there is no sale next year, and no prospect of a sale for some time to come.

Mr. WEST. No, sir. Until the situation is changed there will not be any sales.

Mr. MOORE. And these continuing deals are made to avoid the possibility of being caught when the sale comes.

Mr. WEST. No; that does not relieve them from the sales. These transactions are made to develop the property. The prospector is usually a man of limited means and he must have capital, especially in Wyoming. Being from 20 to 40 miles from a railroad or pipeline means a big investment before a man can realize on his property.

Mr. MOORE. Assuming we wanted to have him go ahead with his business negotiations and produce all the oil he could, and with the knowledge that he is staving off in the manner you have described the question of taxation, your remedy would be the appointment of a commission to inquire into these business transactions?

Mr. WEST. No, sir; I consider the business transactions perfectly legitimate.

Mr. MOORE. It is not quite clear how any revenue would be derived by an inquiry of that kind unless, of course, there was fraud.

Mr. WEST. If there was a commission that the buyer and the seller could appear before and meet on some common ground, the seller representing his side and the buyer, of course, would not have a great deal to say, but if there was a commission where the seller could go and state his case to good, fair men—

Mr. MOORE (interposing). Would a tax on oil remedy the situation?

Mr. WEST. No; not in the least.

Mr. MARTIN. You mean a production tax of so much?

Mr. MOORE. Yes; that has been suggested.

Mr. WEST. That would not have any bearing on the point I am trying to make clear before you.

Mr. MOORE. I would like to know what provision of the existing law you are now referring to.

Mr. WEST. Excess profits.

Mr. MOORE. Is it the excess-profits clause?

Mr. WEST. I judge so. My attorney knows much more about the law than I do.

Mr. MOORE. Of course, if there are no excess profits, there would be no revenue.

Mr. WEST. That is the idea. That is what I am trying to get plain before you, that these sales are not made on account of what the producer or the prospector considers is an—

Mr. MOORE (interposing). Then what is the difficulty, a fictitious value in such sales as are made?



Mr. WEST. No; it is all legitimate, absolutely. There is no fictitious value, but the sale is not made. If the tax on profits made on sales was reduced, then the sales would be made and would bring quite a few million dollars to the Treasury, but at 40 or 60 per cent the man is not that patriotic and will not make the sale and therefore the law defeats its own purpose.

Mr. MOORE. Your point is that under the present law we not only fail to get revenue, but the business itself is also impeded?

Mr. WEST. Yes, sir; retarded.

Mr. MOORE. I wish you could suggest some remedy for that.

Mr. GREEN. As I understand you, there are practically no sales now.

Mr. WEST. No big sales; no, sir. There are perhaps some \$20,000 or \$30,000 leases, or maybe a little prospector at some place may sell, but I do not know of a \$100,000 sale that has been made. Of course, I am not conversant all over the territory.

Mr. GREEN. You spoke of a per cent at which you thought sales would be made?

Mr. WEST. Yes, sir.

Mr. GREEN. What was that?

Mr. WEST. I said 15 or 20 per cent. That is merely a suggestion, but I have talked with these people and I am one of them.

Mr. GREEN. Suppose we should provide that the rate should not exceed 30 per cent, and appoint a commission to make a reasonable allowance in cases where that seems to bear too hard, what would you think of such a plan as that?

Mr. GREEN. I believe it would be very acceptable, sir. That is along the line I had in view. The producer feels there is a difference between making \$100,000 in one year, which possibly in our business is a lifetime, and a man who has an income from securities of \$100,000 that comes to him annually.

Mr. GREEN. You think it is very difficult, then, to fix a rate that would apply equitably in all cases or possibly as between almost any two cases you could select?

Mr. WEST. Yes, sir; I think it is a difficult matter. Taxation is a very hard problem to work out at all times.

Mr. GREEN. But in your branch of business it seems to be especially difficult.

Mr. WEST. In our business there are some who could pay more than others on account of the cost they have been put to, you see. A man sometimes makes a find comparatively easily, whereas the other man has worked 15 years to make his find.

Mr. GREEN. As you say, it is a very difficult matter to make any tax law work out equitably; in fact, I consider it is absolutely impossible in even the simplest kind of matter, but in the case of your business it seems especially difficult.

Mr. WEST. It is very difficult.

Mr. GREEN. Some man will go in with an investment of a few thousand dollars and in a month or so make perhaps \$100,000.

Mr. WEST. Yes, sir.

Mr. GREEN. Another man may spend a good many thousand dollars and work a good many years before he makes one dollar.

Mr. WEST. Yes, sir. Now, there is one other matter I wanted to explain to you gentlemen. Before this law was enacted a great many men, following their line of business, purchased property.

They would have \$50,000 or \$100,000 of the purchase price and they would go to the banker and probably borrow three or four hundred thousand dollars. They would have about 25 per cent of the purchase price, and they pledged their oil as security for the debt. The income tax law regards oil production as an income and allows him an interest charge, but in that case takes from 40 to 60 per cent of the money he has pledged to his banker to pay off his obligation, and that is going to bankrupt a good many men in our business, especially if the tax is still increased, because the supply is depleted very largely in two or three years and he can not pay the obligations he made before the law went into effect.

Mr. GREEN. You think there should be a depreciation allowance?

Mr. WEST. There should be some way a man could pay his obligations. After the obligation is paid, if it is necessary, take it all but running expenses to whip Germany; but it is going to financially ruin a great many men who are caught in that situation. If a man borrows money after the law is enacted, of course he knows what he is doing; but he borrowed this money and probably put up all he had of his own resources, and then a law is enacted that takes from 40 to 60 per cent of the money that he was going to pay his obligation with in taxes, and his property is depleted at a rate so that the remainder will never pay the obligation.

Mr. MARTIN. Does not that same thing apply to all other business where they borrow money? Does it not apply to the farmer?

Mr. WEST. Well, it applies to the farmer, but he borrows in small amounts and the percentage is not nearly so great. I do not know that there can be any remedy for this. I just wanted to place it before the committee for its consideration. I am not offering a remedy.

Mr. GREEN. I do not know how it may be with the farmers in Mr. Martin's State, but in my State none of them are ever subjected to a 40 or 60 per cent tax.

Mr. WEST. Well, that is what our people would be subject to and it is bound to bankrupt the producer.

Mr. MARTIN. I do not mean the farmer particularly, but any other business.

Mr. WEST. The larger the sum the greater the tax and, therefore, as I consider it, the greater the burden.

Mr. GREEN. The peculiarity of your business, as I understand it, is that if a man makes anything he generally makes a great big profit.

Mr. WEST. Yes, sir.

Mr. GREEN. And therefore pays the very highest tax?

Mr. WEST. That is the idea. You are either making money or going behind very fast.

Mr. MOORE. It is hardly comparable to the farming business, because that depends largely upon a man's labor.

Mr. WEST. I think we are in a different class.

Mr. MOORE. Your business is speculative?

Mr. WEST. Very.

Mr. MOORE. It is more of a gamble. If you make a strike, you strike heavily, but you may not strike at all, and then you lose your overhead?

Mr. WEST. Yes, sir.

**STATEMENT OF MR. EARL C. SAMS, 354 FOURTH AVENUE, NEW YORK CITY.**

Mr. SAMS. Mr. Chairman, I am here representing the J. C. Penney Co., as president of the J. C. Penney Co.

Mr. MOORE. What is their business?

Mr. SAMS. Operating chain stores.

Mr. MOORE. Groceries or general merchandise?

Mr. SAMS. General merchandise, not including groceries. They are sort of department stores in a small way, I should say, in the small towns of the West. I am not here exactly to suggest a plan to remedy our situation, but merely to show you the position we occupy. It will be necessary for me probably to take just a little of your time in order to explain our organization, but I will be just as brief as I can. About 15 years ago our business was started as a partnership affair in a little town of Wyoming, three partners being equally interested in the business. We were successful for a time and after a number of years we had profits enough to open another store and we took one of the partners from the store and another gentleman, making still a partnership of three in this branch store.

I merely mention this to show you how the business is handed down from one to another store. Then after a time the profit on this store was sufficient so that we opened another store, each time being a partnership of three people. That went on for a number of years, until finally our partnerships became so scattered, there being a partnership of three people in each particular store, that we found it necessary to incorporate in order that we might have a central control of the business; but not in any sense to distribute the profits in any different way other than they had been distributed in the partnership. It was merely an affiliation, I should say, of partnerships. We are now operating 197 stores, doing a business last year of nearly \$15,000,000.

Mr. MOORE. In how many cities?

Mr. SAMS. In 197 cities.

Mr. MOORE. You only have one store in a city like New York, for instance?

Mr. SAMS. Yes; we are operating in over 25 Western States. We are a Utah corporation.

Mr. RAINEY. You are operating in the small towns?

Mr. SAMS. Yes; towns from three to ten thousand, some of them larger. We have a few towns of 25,000 or 40,000. Now the proposition I want to leave with you is that while we are a corporation yet we are really a series of partnerships, because we are not a joint-stock company, each three men in each particular class or in each particular store only shares in the profits or losses of that particular store.

Mr. RAINEY. Are they always the same three men?

Mr. SAMS. No; we probably have over 100 different men, and any two men may not own stock in the same two stores.

Mr. RAINEY. And in the combination of stores there would probably be 100 stockholders?

Mr. SAMS. About 150 I should judge, approximately.

Mr. RAINEY. You are incorporated?

Mr. SAMS. We are now incorporated, yes, sir. We have been for the past four years, I think.

Mr. RAINEY. But you locate three of these men in each town?

Mr. SAMS. Yes, sir.

Mr. RAINEY. And they actually live there?

Mr. SAMS. Well, not always. One of them lives there and the other two may or not. They may live at some other town.

Mr. RAINEY. And the profits of that particular store are divided among those three men?

Mr. SAMS. Among those three men only. The particular stockholders in the particular store participate in the profits of the particular store.

Mr. RAINEY. The company does not participate in the profits?

Mr. SAMS. No; we are just an affiliation of partnerships just to have a central control. We have a central control over each of the stores as a matter of credit.

Mr. RAINEY. Do the board of directors own stock in all of the stores?

Mr. SAMS. No, sir; they do not.

Mr. RAINEY. They are paid salaries, I presume?

Mr. SAMS. Yes, sir. The board of directors are all stockholders in maybe one or several of the stores, and each of them owns stock.

Mr. RAINEY. If there is a store operated in one town which loses money, those three men lose the money?

Mr. SAMS. Yes, sir.

Mr. RAINEY. And if they make a lot of money, those three men make the money?

Mr. SAMS. Yes, sir.

Mr. STERLING. Is the stock limited to those three men?

Mr. SAMS. In case of failure, of course, any stockholder in any of the series of stores would be liable.

Mr. STERLING. But you say all the profits go to the three men in that particular store.

Mr. SAMS. That is right; yes, sir.

Mr. STERLING. Can not some outside stockholder have stock in that particular store and share in the profits?

Mr. SAMS. You mean could one of those three men sell his stock?

Mr. STERLING. Yes; or could some outsider originally have some of the stock? Is the stock limited to the three men in the particular store?

Mr. SAMS. Well, no; I do not know that it is limited, although none of the stock could be sold to any outsider without being first offered for sale to the three owning that particular class of stock.

Mr. STERLING. You are one of the three original men who started the business?

Mr. SAMS. Yes, sir; I might say that, although not exactly in a strict sense.

Mr. STERLING. Do you not have stock in all the stores?

Mr. SAMS. No, sir; I do not. No one man has stock in all the stores.

Mr. STERLING. Does one man have stock in more than one store?

Mr. SAMS. Yes, sir; he can have stock in from one to as many as he wants.

Mr. STERLING. Then the profits are not limited to the three men who run the store?

Mr. SAMS. Yes, sir.

Mr. STERLING. Suppose some outsider had stock in it, would he not get a share of the profits?

Mr. SAMS. He could not have that stock.

Mr. STERLING. You say that the profits of any store are limited to the three men who operate that store?

Mr. SAMS. Yes, sir.

Mr. STERLING. And still you say a man could have stock in several stores?

Mr. SAMS. Well, I will explain how that might be. For instance, we might have one store and A, B, and C might own the store and they might make sufficient capital so that they could start another store. The two men owning stock in that store would take a man—ours is a sort of cooperative plan in order to interest young men as they come along and give them a share in the business—and two men owning the stock in that store would take one of the men who had been working in this particular store and they would take their profits and open another store, lending this third man, who had been an employee of this first store, sufficient money to capitalize his one-third interest. Then they would start this other store. No one man in these different stores can sell his stock without first offering it for sale to the coowners of that particular store.

Mr. RAINEY. Then if they bought it there would be only two men interested?

Mr. SAMS. In case some man wanted to sell; yes, sir.

Mr. RAINEY. And you have stores operated sometimes with only two men?

Mr. SAMS. Well, it might come to that, but we have not as yet. Oh, yes; that could be, and I think in one or two instances, perhaps, that has been true.

Mr. RAINEY. And this group of three people are incorporated?

Mr. SAMS. Each of them is an incorporation in themselves; that is, they are associations or a branch of the J. C. Penney Co.

Mr. RAINEY. I mean incorporated under the laws of any State?

Mr. SAMS. No; they are all under the laws of Utah. There is only one corporation, the J. C. Penney Co.

Mr. RAINEY. What is your proposition, a proposition of cooperative buying?

Mr. SAMS. Well, yes; that is the plan, the assemblage of these different concerns, as a matter of credit, with only one organization, though. I want to leave it clear with you that we are not each separately incorporated. We are only one corporation, and I do not think there is another corporation in existence like ours.

The CHAIRMAN. Does the J. C. Penney Co. sell to each one of these stores?

Mr. SAMS. No, sir; they do not.

The CHAIRMAN. The managers of each one of these stores can buy wherever they want to without conferring with the board of directors?

Mr. SAMS. They can do that if they want to, but we have a central buying organization.

The CHAIRMAN. That is what I am getting at.

Mr. SAMS. But they have that privilege, of course.

The CHAIRMAN. But the J. C. Penney Co. has a central store?

Mr. SAMS. Not a central store, a central office only. Our distribution is made direct.

The CHAIRMAN. You do the purchasing at the central organization for all of these stores?

Mr. SAMS. Yes, sir.

The CHAIRMAN. And distribute the supplies?

Mr. SAMS. Yes, sir.

The CHAIRMAN. Does this central organization get any commissions for selling?

Mr. SAMS. Absolutely none; no, sir. These buyers are employed by the different stores and paid a salary from each store.

The CHAIRMAN. How many members constitute your board of directors?

Mr. SAMS. Nine.

The CHAIRMAN. They do not personally superintend or manage any one of the stores, but they have the general management of all the stores?

Mr. SAMS. Yes, sir; I would say that, at the present time.

The CHAIRMAN. Are their salaries increased according to the profits of all the stores?

Mr. SAMS. No, sir. They are all just paid a reasonable salary as a whole, regardless of their earnings.

The CHAIRMAN. Have the directors a little stock in all the stores?

Mr. SAMS. No, sir.

The CHAIRMAN. Where do they come in for their profits?

Mr. SAMS. They are just like a third member in any of these stores, except they receive a salary.

Mr. RAINEY. How are the salaries paid, by assessing all the stores?

Mr. SAMS. Yes, sir.

Mr. RAINEY. Are assessments made for any other purpose than paying salaries?

Mr. SAMS. That is all, and the general running of our central office, clerical work, and things of that kind.

The CHAIRMAN. Well, take one of your directors, the one director who has more interest in all the stores, how many stores is he interested in?

Mr. SAMS. I should judge, possibly, and this would be approximate, 100 of these stores; that is, the largest stockholder. The second one I think would probably own stock in about 50, and I might add that the largest holder of this stock is a director, but he does not draw any salary at all. He simply draws his living expenses; that is, up to the present time.

The next point I want to make is that in our particular way of being organized we are simply an association together of a number of partnerships, each third man arranged in that particular class, one class having nothing to do with the other so far as earning power is concerned, one store might make \$6,000 and another store might make \$12,000, and that would make no difference because the man who only made \$6,000 would not share in the \$12,000. So, strictly speaking, we are not a stock corporation. Now as to being taxed, we have been considered as being a corporation, which we are in one sense, and naturally our taxation has been multiplied; I mean, the amount we have had to pay has been very much larger, due to that way of doing. Last year we paid on a net profit of about \$1,700,000, and we paid \$850,000 taxes.

Mr. DIXON. Federal taxes?

Mr. SAMS. That included the taxes; Federal taxes; yes, sir.

The CHAIRMAN. Your net income was how much?

Mr. SAMS. About a million seven hundred thousand dollars.

The CHAIRMAN. And you paid how much?

Mr. SAMS. \$647,000.

The CHAIRMAN. You made about 100 per cent profit on the investment?

Mr. SAMS. But here is what I want to leave with you. For instance, one of our stores that made \$6,000 on a capital and surplus of \$12,000 pays \$3,000 taxes, because we have got to assess each one of these concerns on a basis of what it applies as a whole.

The CHAIRMAN. You have some that pay 200 per cent?

Mr. SAMS. Not quite so much, but a hundred; yes. But the man who had only made 25 per cent has to pay just the same as the man that made more because of our peculiar way of doing business. If we had some store that made 150 per cent there would be no objection to letting him pay on the basis of what his capital and surplus was.

The CHAIRMAN. When they take you as a whole why do not you nine directors then distribute that tax equitably among your 197 stores?

Mr. SAMS. Do you not see that it could hardly be done, for the reason that with your taxes up higher there would be no good ones.

The CHAIRMAN. Could not you adjust it according to the profits each store made?

Mr. SAMS. I do not see how you could do it.

The CHAIRMAN. Could not you nine directors do it as well as the law could do it for you or as the Treasury Department could do it?

Mr. SAMS. What I am arguing is that we have a capital and surplus in each individual store. If you will let us figure our taxes from that we would gladly do it.

The CHAIRMAN. You can do any figuring you want in the organization.

Mr. SAMS. We can if you will let us, but we are not permitted to do that.

The CHAIRMAN. How much less taxes would you pay if they taxed each store?

Mr. SAMS. Possibly it would cost 25 per cent or 30 per cent, or it might be 35 as an average. It might cost some stores more than they are paying now, and it might cost some stores a great deal less, according to the profits that the particular store makes.

The CHAIRMAN. In other words, your point is for us to so write the law that each store would pay its pro rata part?

Mr. SAMS. Yes, sir.

The CHAIRMAN. Why can not you nine directors do that under your charter, and if your charter would not give you the right, why can not you go to Utah and have your charter changed so as to give the nine directors the power to do that?

Mr. SAMS. I do not see how we could figure taxes that way, because we are assessed as a whole.

The CHAIRMAN. You could do it as easily as we could.

Mr. SAMS. I do not think you quite grasp the idea.

The CHAIRMAN. You want to get out of paying the taxes?

Mr. SAMS. I am perfectly willing to pay, but I do not want the little stores to pay more than their share.

The CHAIRMAN. Well, you nine directors could adjust it with the little fellow. You can do it as easily as we can. If it is a matter of adjustment and not of the rate of taxation you can do it better than we can, because you keep up with it better. You nine directors do nothing else the whole 365 days of the year, and these gentlemen here have other matters to adjust.

Mr. SAMS. I do not want to take up your valuable time, unnecessarily.

The CHAIRMAN. Your statement has been very interesting and it is very progressive. It is a new industry and really a tribute to young men like yourself, and I believe that it is a good thing to get young men into a plan like that.

Mr. SAMS. What we do not like to do is to tax this young fellow that is just getting a start, who has possibly borrowed money to enable him to capitalize that particular store, and we do not like to tax him so large a percentage.

Mr. RAINEY. You pay the taxes for the whole number?

Mr. SAMS. Yes, sir.

Mr. RAINEY. And you apportion them?

Mr. SAMS. Yes, sir.

Mr. RAINEY. If you do not like to have the little fellow pay so much, why do you make him pay so much?

Mr. SAMS. That is what I am asking you to let us do, to take capital and surplus of each store and let them pay.

Mr. RAINEY. "A" store on the same capital makes \$10,000; "B" on the same capital makes \$5,000, and why could not you say that "A" should pay twice as much as "B"?

Mr. SAMS. If you take "A" and "B" and add their taxes together and figure their taxes, it will figure out differently.

Mr. RAINEY. I know, but that is between the Government and your corporation; but between your corporation and your members you could adjust taxes in your best judgment, and if under your charter you could not do that you could go to the Utah authorities and get them to amend your charter so that you can make an equitable rate in adjusting taxes.

Mr. SAMS. You mean to go to Utah to get a charter, so that each store could pay on the basis of what the investment amounts to?

Mr. RAINEY. I say, you could do that.

Mr. GREEN. Is not your real point that your concern would not pay but about half as much taxes under your plan as under this bill? You would have something like half a million dollars exemptions for each one of your corporations. How many did you say you have?

Mr. SAMS. One hundred and ninety-seven. I want to ask you a question. I have tried to explain our plan. But each of those is separately capitalized and has a separate capital and surplus and separately owned by two or three stockholders. Are they not entitled to pay taxes on the basis of their investment if they only share in the profits and losses of that particular store?

Mr. STERLING. The corporation is one organization. They do not own these subsidiaries. Just tell the committee how you suggest to fix it.

Mr. SAMS. I have suggested; I have tried to make it clear.



Mr. STERLING. Have you any way by which it may be apportioned among the various stores without reducing your taxes any?

Mr. SAMS. I would not be so much interested in doing that if I could not reduce them to a certain extent. (Laughter.)

Mr. MOORE. What we are asked to do this year is to get two dollars for what we got one dollar last year. It is not our fault; the President has told us that he needs a great deal more money.

Mr. SAMS. I understand that. You are perfectly welcome to it.

Mr. MOORE. The Secretary has indicated that he wants \$8,000,000,000, and it makes it pretty difficult to talk about reductions in any instance.

The CHAIRMAN. I am going to suggest something that I know never occurred to the members of your organization. If you had the law like you want it you would have an exemption of \$591,000. You had not thought you would make that by your proposal?

Mr. SAMS. I have not figured it out.

The CHAIRMAN. You have got 197 stores and you want us to treat, so far as taxes are concerned, each store as a separate corporation. As one corporation, as it is now, you only have a \$3,000 exemption, but with 197 stores treated each as separate corporations you would have \$3,000 exemption for each, and with 197 stores that would amount to \$590,000. That is the first pop out of the box what you would make.

Mr. SAMS. No. We suggest we are competing with other small corporations or individual owners, and should we not be as much entitled to that as our competitor would be, inasmuch as we would be only operating in this particular store with a capital and surplus of a certain amount, and the particular stockholders only share in the profits and losses of that particular store; why should we pay more taxes on that capital and surplus than our competitor?

The CHAIRMAN. In other words, your concern is large enough to have 197 times as much capital and buy at wholesale 197 times as much as your competitors, and when your competitor buys \$10,000 worth you buy \$1,970,000 worth and you can get your goods a great deal cheaper, and your overhead charges are a great deal cheaper.

Mr. SAMS. How would our overhead be cheaper?

The CHAIRMAN. And you would have a great advantage over those other stores if you were large enough to have 197 competing against that one, with your capital 150 or 200 times greater. Now you want to exempt 197 times more than that man, although your corporation, one end of it, is 197 times stronger?

Mr. SAMS. How do you figure that they will get 197 times more than the other fellow gets?

The CHAIRMAN. That man who is competing with you only has \$3,000 exemption, while you have \$591,000 exemption.

Mr. SAMS. Oh, no; we would have only \$3,000.

The CHAIRMAN. No; your concern and your nine directors have an interest not only in that one store; they have an interest in 50 or 60 stores.

Mr. SAMS. Some might have that much and some might not have any interest.

The CHAIRMAN. With this force of nine men you would have an interest in a hundred of these stores.

Mr. SAMS. But here is the real point I want to leave with you.

The CHAIRMAN. I want to get the real point. (Laughter.)

Mr. RAINEY. You have a system of cooperative buying, and these various stores are simply distributing agencies. In other words, you are competitors of the mail-order houses. The mail-order houses buy at a certain point and then they distribute through the mails, paying very large transportation charges in that way. With your cooperative system of buying you buy where you can buy the cheapest and in the largest quantities, and your transportation charges are the cheapest because you send that freight entirely in carload lots to several points of distribution and then you simply distribute there through the three stockholders who are there, who are sharing those profits, and your company is responsible for the losses any one of these little stores may suffer, and therefore you get unlimited credit. I think ultimately you are the real and only competitors for the mail-order houses in this country. I think you have a scheme that beats them all to pieces.

Mr. SAMS. Then I will ask you to put us on the basis of mail-order houses.

The CHAIRMAN. In the case of these three so-called partners in the store, say in the store at Olney, Ill., with \$20,000 capital, do you so arrange that each one of those three must have the same amount of stock?

Mr. SAMS. Yes, sir; in all cases.

The CHAIRMAN. Then it is plain that this gentleman that has a stock in a hundred has a hundred times more stock than the little fellow?

Mr. SAMS. That is, one director.

The CHAIRMAN. If he has got stock in 50 stores, he has got fifty times more interest in the business than one of these other fellows?

Mr. SAMS. That is only natural, because that has made our plans possible, because that man could take some young man out of a store and lend him the money to start a store and capitalize a particular store.

Mr. TREADWAY. Under the same name?

Mr. SAMS. Yes, sir; the J. C. Penney Co. Another thing, we are paying taxes on the basis of actual inventory, which is our capital and surplus. We have not any good will in that, or any trade-marks, or patent rights, or anything of that kind, as the mail-order houses have, with whom we compete. Our tax is based absolutely on the actual dollars and cents, and they are all actual cost inventory, and we go up against any mail-order house, say one that has \$30,000,000 in there that is exempt. Our earning power and earning capacity has never been capitalized. Am I clear on that?

Mr. GREEN. The law strictly interpreted would not allow that, but possibly you meant they have sold their good will to a corporation and capitalized it in that way, so that I think that is true with reference to mail-order houses, and there is no way now for us to prevent that. We would stop that, however, if we could.

Mr. SAMS. Do you think it is fair that a corporation of our kind of two and a half million capital and surplus should pay a profits tax of \$1,000,000 when some other corporation has got \$30,000,000 in there that they have never put into it?

Mr. GREEN. I will say that so far as I am concerned I am very much in favor of Congress taxing the sales of mail-order houses.

Mr. SAMS. On sales? I would not support that.

Mr. GREEN. That would not reach you.

Mr. SAMS. Yes, it would, just the same.

The CHAIRMAN. How would it reach you?

Mr. SAMS. You mean on sales?

The CHAIRMAN. On gross sales of mail-order houses.

Mr. SAMS. That would simply go to the consumer.

Mr. RAINEY. Everything goes to the consumer.

Mr. SAMS. That would go directly.

Mr. GREEN. The mail-order house has to compete with the local merchant. He may get more orders by cutting a little under the local man, but if you levy a tax on all gross sales of merchandise it would not inevitably go to the consumer if we levy a tax on the gross sales of the mail-order house, and if the mail-order house keeps up its business it will have to keep up its old rates. Therefore the tax does not necessarily come out of the consumer in that case.

Mr. SAMS. I want to suggest that it seems to me that the plan would be to take the three years prior to the war and to figure up and say so much percentage of profit is made on the capital and investment, and I am perfectly willing to give all above that. Let us make the same as we could in prewar years upon our investment and the Government can have all the rest of it, and then take part of that if they want to.

Mr. GREEN. We have to make these rates apply to everybody. That might work out fairly in some cases. Some of the Standard Oil companies were making about 100 per cent before the war, or making a little over 100 per cent, say 125 per cent, after the war. They have practically no tax to pay under that plan; but here is a corporation that made nothing before the war. Its business now does not have anything in particular to do with war business; it is not a munitions plant; but by reason of the general prosperity of manufacturing it has now succeeded in making a 25 per cent profit. Under your plan this corporation only making a 25 per cent profit would have to pay a big tax, while the one to-day making 125 per cent would not have to pay any.

Mr. SAMS. Go back to four years; if they have not made anything in four years, go back to five years.

Mr. GREEN. That does not follow at all. This corporation is just getting started.

Mr. LONGWORTH. What is the difference with your corporation before the war and since?

Mr. SAMS. Fifteen per cent more since the war. That is due to the general prosperity of the country.

Mr. LONGWORTH. And you are willing to give the Government all that you made over that?

Mr. SAMS. Absolutely.

Mr. RAINEY. Before the war what was the percentage?

Mr. SAMS. That I could not tell you; I do not know.

The CHAIRMAN. What is your actual capital invested?

Mr. SAMS. Our actual capital invested last year was \$2,300,000; that includes capital and surplus.

The CHAIRMAN. That is what they are taxing you on?

Mr. SAMS. Yes, sir.

The CHAIRMAN. They are permitting you to deduct that amount?

Mr. SAMS. An exemption of that amount.

The CHAIRMAN. That includes the capital and all these things?

Mr. SAMS. That includes everything. I do not think it is fair. I think we are entitled to figure each one of them, because they are separate and distinct in themselves and the men owning that particular stock in each one shares in the losses the same as our competitors do, and I can not help feeling that we are entitled to the same consideration as any other man in the town in which we may be operating. I do not think there is anything else, gentlemen.

The next is Mr. W. F. Meyer. (No response.)

Mr. A. H. Van Gorder. (No response.)

Mr. William T. Phillips. (No response.)

Mr. A. R. Bruncker. (No response.)

The CHAIRMAN. Mr. Eder, we will hear you next.

Mr. GREEN. While you are waiting, I should like to read a portion of a letter. I understand the committee welcomes suggestions, and this may tend to relieve the tedium somewhat. In the letter which I received the party suggests that there seems to be a decided movement towards hitting excess profits and he makes this suggestion in order to raise the \$8,000,000,000 necessary:

Permit me to suggest a way to raise a large part of it. Place a tax of 75 to 80 per cent on all surgeons' fees for operations that run above \$200. They now range from \$250 to \$1,500 when they are treating smaller fry, and I assume as many thousand among the wealthy class. Now, why not, if a surgeon can charge from \$250 up for 20 to 45 minutes work and get away with it, who is there that ought to be taxed in the war? If that is not excess profits then there is no such animal. If the committee does not give this class a good hard jolt then they ought to have a hard job telling why some other taxes have been put on.

The CHAIRMAN. Then we will hear from a surgeon if there is one present. [Laughter.]

#### STATEMENT OF MR. P. J. EDER, SECRETARY, MERCANTILE BANK OF AMERICAS.

The CHAIRMAN. Please give your full name, business, and occupation.

Mr. EDER. Phanor J. Eder. I am a member of the New York Bar and have been admitted to practice in one or two South American countries, specializing in foreign laws. I appear here as secretary of the Mercantile Bank of the Americas, incorporated. It is a new organization having companies in foreign countries for the purpose of fostering foreign trade, that engage in banking in foreign countries. We have organized a number of subsidiary corporations, all incorporated in the United States for the purpose of banking, especially in South America. We have subsidiary banks of the Mercantile Bank of Americas in Peru, with branches at other cities; we have organized the American Mercantile Bank at Caracas and branches at other towns. We have organized the Mercantile Bank of Brazil and branches are now being organized in cities in northern Brazil. We have organized the American Mercantile Bank of Colombia and have branches in various cities in Colombia.

We also have an interest in the National Bank of Nicaragua, which operates in four cities in Nicaragua, and banks with which we are connected operating in Ecuador, and in other cities in Central

America, and in Venezuela, and we act as representatives or agents in several other South American countries. We also have a direct branch in Paris and one in Barcelona, Spain.

Mr. DICKINSON. What is the total number of foreign banks where you have branches?

Mr. EDER. The total number of them is 22, so that we are in a position to judge pretty carefully as to the necessities of American foreign trade. I am here to advocate not merely something that affects our own interests, but something that will affect the interests of all American corporations operating in foreign countries. It is something that the more I have thought upon the more vital it has seemed to me to be. My plan will have general application to all foreign countries, but I shall confine myself as far as specific instances are concerned to South America, with which I am best acquainted.

Now, the proposal is that income derived by American corporations from sources abroad—from operations entirely abroad—or from investments entirely abroad, be either exempted altogether from income and excess-profits taxes or at least that some preferential rate be given. Now, it may appear that I am asking you gentlemen who are engaged in this question of increasing revenues to diminish revenues, but an examination of the subject has convinced me and I think, if you will follow me carefully, it will convince you gentlemen, that if we continue to impose a heavy income tax, and especially a heavy excess-profits tax on American corporations operating abroad, our sources of revenue, not only the national revenue, but the State revenue, are going to be diminished, because the first effect will be that these corporations will be compelled to give up their American charters and will be compelled to seek incorporation in foreign jurisdictions, naturally in the place where they are doing business, and in that way this Government is going to lose that revenue from those corporations.

The States are going to lose the revenue from them that they now derive from the organizations in the license fees and taxes, and we are going to lose a great deal of control over the corporations. That is practical, hard, business from the standpoint of taxation.

From the standpoint of American foreign trade the consequences are far greater. It would be a tremendous loss of prestige to the United States, to our foreign trade, if these companies had to give up their American charters. It is our patriotic desire to see the American flag waving from American merchantmen in every port in the world. It should be our patriotic desire to see American corporations waving the American charters in every country in the world. I have prepared a memorandum here which I respectfully request permission to refer to.

The CHAIRMAN. You can file that with your remarks.

Mr. EDER. It is somewhat better written than my remarks will be; I am not so good on speaking as I am on writing, perhaps, and if you will allow me to refresh my recollection by looking to this I will be able to point out one of two things. Our tax system in the past has always been very careful and very considerate of foreign trade. Now, when the corporation income tax was first imposed there was a 1 per cent tax imposed and then a 2 per cent tax. That was such a comparatively slight matter that it had no effect on our foreign trade at all, but when with the press of other business last year before your

committee and other committees, Congress did what on the surface appeared to be a very slight thing, the driving of American corporations out of the country was apparently lost sight of and no particular regard was had—and I believe it is one of the first instances in the history of the country—as to foreign trade. I do not need to dwell upon the fact to you gentlemen that the laws of this country have been discouraging foreign trade in many ways. There is no doubt that the Government is going in every way to try to stimulate foreign trade. It has always been the policy of the Government to stimulate foreign trade, and I have no doubt that it will always continue to be the policy of the Government to do so.

One of the incidental ways in which the tax law affects the foreign trade may be lost sight of in the urgency of more important items before a committee. I want to call your attention to one feature that especially hits our bank. At present the matter has not been taken up by our directors and I suppose at first sight they will give scant sympathy to any idea of giving up American charters in the corporations operating abroad, but if we are compelled to pay over a very large part of our surplus earning, say, that we derive from our bank in Peru, which is our bank which has been longest in operation and which is now beginning to be more profitable than others—if we are compelled to pay over to the United States Government a large part of our net profits we will be unable to save up the surplus there. That will have a double effect. In the first place, if we have to pay very heavy taxes when our competitors, the local banks, down there are not paying any excess taxes at all to the United States, if we are subject to this double taxation, the local tax that we and our competitors down there have to meet, and in addition we, and not they, have to meet very heavy taxes at home, we will be in a position where we can not compete with those native banks, or banks of European countries. Secondly, we will be compelled, if we do make a profit, to turn the greater part of it over to the United States Government and we will be unable to build up a surplus and that will put us in a disadvantageous position as against our competitors who are building up their resources by putting their surplus back into the business. That same idea of not being able to build up a surplus applies not merely to banks, but to all American corporations operating abroad.

As you gentlemen know, a great deal of our pioneer work in South America has been due to western and southern farmers who have gone out of the country into Mexico, Central America, into South America, operating small plantations or ranches or mines. The way they have been able to do it is this: They have been known to be men of good character and ability at home. They will go down and find some small property which appears capable of developing. They will go back home and tell their friends and they will raise a small amount of money sufficient to develop it. Out of the earnings of American skilled industry and that little amount of capital put into those plantations or into those mines, some very valuable properties have been built up. This could not be done if these concerns—they have to be incorporated in order to take in their friends at home—had to pay over to the United States a large part of their surplus; they would then be at a standstill. The same thing applies to American trading organizations abroad which have no capital invested in tangible property but which maintain trading

organizations and have capital loaned out to the county. They will be unable to compete with their neighbors and they will be driven out of America.

There are only two ways out of the situation that I can see; one for them is to give up their American charters, and in that way they would very readily avoid taxation.

The CHAIRMAN. You have a bank in Brazil, I believe?

Mr. EDER. Yes.

The CHAIRMAN. What is the Brazilian property tax there?

Mr. EDER. The franchise tax for our operations, or the property tax?

The CHAIRMAN. All the taxes.

Mr. EDER. It is 8 per cent on our capital; that is the franchise tax paid once every 10 years, when we first begin.

The CHAIRMAN. Suppose your branch has a million dollars, how much would you have to pay a year in Brazil?

Mr. EDER. I do not know. I do not think the annual corporation taxes are heavy. We have to pay a municipal tax, and we have to pay stamp taxes, and they amount, I should say—we have not been in operation over a year and I have not got the complete returns yet—I should say they would amount to about \$20,000 or \$30,000. Of course those taxes are met by all the banks there.

The CHAIRMAN. How about an income tax?

Mr. EDER. They have no income tax.

The CHAIRMAN. No excess profits tax?

Mr. EDER. No excess profits tax.

The CHAIRMAN. You have one in Paris?

Mr. EDER. Yes. There we would have to pay excess profits taxes.

The CHAIRMAN. Do you know in dollars and cents the rate of the excess profits tax in France?

Mr. EDER. No, I do not; I think it is 25 per cent.

The CHAIRMAN. Has it been based on what you were doing before the war?

Mr. EDER. Yes; the French and English taxes are based on conditions before the war.

The CHAIRMAN. What about those banks which started after the war? Do they charge 25 per cent now? Because they had no prewar business? What is the fact about that?

Mr. EDER. I think it is 25 per cent straight.

Mr. GREEN. I think there is an allowance made on sales under the English law in case there was no prewar business.

The CHAIRMAN. But the prewar business is 25 per cent on the difference of what the concern had made during the prewar period and what is being made in the war period?

Mr. EDER. I think so.

The CHAIRMAN. France also has a direct income tax?

Mr. EDER. Yes, sir.

The CHAIRMAN. Do you know what that is?

Mr. EDER. No; I do not.

The CHAIRMAN. Would not this satisfy you, if we were to make any change, to simply allow you to deduct on your income-tax return and excess-profits tax return in America the amount you have to pay on that business in a foreign country?

Mr. EDER. That would go some way. That would avoid the element of double taxation. I do not think it would prevent all these corporations migrating from the United States if there was a heavy excess-profits tax imposed on them.

The CHAIRMAN. In France they pay 25 per cent excess-profits tax and they have an income tax, whatever it is. Suppose you have to pay a large excess profits or income tax on the same business, it would be pretty hard; but if you were permitted to deduct the 25 per cent excess profits and the regular income tax in France, that would be a considerable help, would it not?

Mr. EDER. No; I do not think that would meet the situation. I have presented the figures here in my statement. I understand that that is the case now, that in making our returns we simply return the net income received in this country after a deduction of the foreign taxes. I have worked out a case here, and I believe it to be an actual case, of a corporation in England, deriving income exclusively from business transacted and capital invested in that country. Under the English law that corporation will be assessed a tax of 80 per cent of its profits in excess of the exemption allowed. In addition to this tax, the income of the corporation from sources in foreign countries will be returned for tax in the United States, and an excess-profits tax as high as 60 per cent may be assessed on such income in the United States. These taxes are exclusive of income taxes, which may be assessed in both countries.

Mr. LONGWORTH. Is your proposition to abolish the tax that will be laid on American capital invested in foreign countries?

Mr. EDER. No; I do not think it is necessary to go as far as that. I would abolish the excess-profits tax entirely, and I would leave a small income tax.

Mr. LONGWORTH. Do you know of any other country that has that system?

Mr. EDER. I do not know that this point has ever been brought up anywhere, but the more I think of it the more it seems to be vital to the stimulation of our foreign trade.

Mr. OLDFIELD. Are the English and French banks in Brazil required by their governments to pay excess-profits and income taxes? They are competitors of yours in Brazil.

Mr. EDER. In Brazil, yes; they have to pay an excess-profits tax at home, but the local banks do not, and our competitor in Brazil which is making the greatest strides is the Portuguese bank there. That Portuguese bank has cut into the business of the English banks very much.

Mr. OLDFIELD. The French and English banks are up against the same proposition that you are?

Mr. EDER. Yes; but we have the local banks and the Spanish and Portuguese banks to contend with, and we have the German banks, which are not paying taxes at home.

Mr. OLDFIELD. I thought they might have worked it out in some way. The reason the German banks are not paying taxes is because they can not get the money to the German Government.

Mr. EDER. They are not imposing a very heavy income tax at home, and the Germans have always had a very keen eye for foreign trade.



The CHAIRMAN. This matter was considered very carefully and fully in 1916, but you have suggested a different phase which I think would require some consideration.

Mr. EDER. Yes; a tax of 2 per cent is not going to drive any corporation to give up its American charter. A tax of 6 per cent might drive some.

The CHAIRMAN. A year ago this question came up in Parliament as to whether the English Government should permit them to deduct the taxes which were imposed in foreign countries in the same business, and it was decided that they should not have a deduction.

Mr. EDER. I suppose they did not feel that English corporations would be driven out of England. Now this is a fact. It is not merely a supposition that they will be driven out, because I know of several corporations that have already given up their American charter, and I know of several other corporations that are very seriously considering it.

Mr. OLDFIELD. Banking corporations?

Mr. EDER. No; other corporations.

Mr. MOORE. Is not that due largely to shipping conditions?

Mr. EDER. I do not think that has anything to do with it.

Mr. OLDFIELD. You know of cases where they have given up their charter?

Mr. EDER. I know of several cases where South Americans or Cubans who otherwise would have incorporated in the United States have failed to incorporate here. You see, we derive a great deal of revenue from American corporations also in which there are no American interests. A great many Cuban companies have come up to the United States to incorporate in the United States for the sake of getting better credit facilities. We are deriving a revenue from those at the present time. I know of one company in Cuba in which there are mixed Cuban and American interests. They have had to pay in this past year an excess-profits tax amounting to \$28 a share. The Cuban stockholders are insisting with the American stockholders that the American charter be given up and that the company be re-incorporated in Cuba.

Mr. DICKINSON. Is that a banking institution?

Mr. EDER. No; it is a mercantile institution.

Mr. GREEN. If this were applied to corporate investments we would naturally be asked to have it apply to individual investments.

Mr. EDER. No; because the individual is taxed on his returns from the corporation. You are going to get your taxes from the dividends on these American corporations. That is another thing. If they go out of the country, you will not get the tax on the dividends.

The CHAIRMAN. If they declare the dividends, they will get it; but suppose the company does not declare dividends?

Mr. EDER. There is that danger, but you will still get some dividends.

The CHAIRMAN. Great Britain is now discussing in Parliament this very question. It does seem that if other countries make the deductions which I suggested that it would be almost a practical necessity for us to make a like reduction to put our traders on an equality with their competitors. We are watching the action of other countries in this regard.

Mr. EDER. Perhaps that would not be sufficient, because I am thinking of South America. Our competition there is among the natives, too. It would help, but it might not go the whole way, and it would not remove the danger of corporations removing their charter from the United States and avoiding payment of all taxes.

Mr. GREEN. I refer to cases like this; where an American has a large investment in Canadian lands and is getting a revenue from that. He is taxed on income and excess profits and is taxed also in Canada if he has enough income and excess profits. If we remove the tax on corporate investments we probably will be asked to remove the tax on individual investments in the same way.

Mr. EDER. I think that in the long run it would be a splendid policy to do so. I think that the development of our industries abroad is the one greatest factor in developing our foreign trade, and the developing of the foreign trade of this country is a bank measure. We have control of these American citizens here; we will not have the control of these corporations if they leave the country.

Mr. LONGWORTH. Why should you distinguish between the excess-profits tax and the income tax? What difference does it make to me whether I pay an excess-profit or an income tax in Cuba or in Utah? Ought not I pay as much in the one case as in the other?

Mr. EDER. I think the individual should.

Mr. LONGWORTH. Suppose I have a corporation?

Mr. EDER. No.

Mr. LONGWORTH. You think not?

Mr. EDER. No; because in one case, as a practical matter, you leave the United States and incorporate in Cuba.

Mr. LONGWORTH. How about corporations which have investments both here and abroad?

Mr. EDER. I would exempt the income which they derive from foreign sources from excess-profits taxes.

Mr. LONGWORTH. You think it would be wise to exempt the Bethlehem Steel Co. from the profits it makes on its mines in Cuba, as a broad, general proposition?

Mr. EDER. Yes; because otherwise they will incorporate their holdings in Cuba, and then you will not get the revenue which they derive from the Cuban holdings.

Mr. STERLING. There are a good many American industries that have plants in Canada. It might very materially affect the revenue if you adopted that plan. Is there any reason why we should adopt your plan in South America and not apply the same rule to the American concerns who have industries in Canada? Does not the same reasoning apply to both?

Mr. EDER. Perhaps it is more necessary to foster American banking than it is to foster manufacturing by Americans abroad. These plants that you have in mind are manufacturing corporations; they are not trading concerns. They are in a measure competing with American manufacturers, while American banks are helping American manufacturers.

Mr. STERLING. Who do you represent? What is the name?

Mr. EDER. The Mercantile Bank of the Americas.

Mr. STERLING. Is it a single institution?

Mr. EDER. It is a single institution which holds stock in a number

of corporations. We incorporate a company for each separate where we are banking.

Mr. STERLING. Under the laws of that country?

Mr. EDER. No; under the laws of the United States. If we incorporated under the laws of that country, we could not call ourselves an American bank. We want to wave our charter and say we are an American bank.

Mr. STERLING. Have you a bank in this country?

Mr. EDER. Yes.

Mr. STERLING. Do you have separate charters for the banks in the other countries?

Mr. EDER. Only in the case of Paris and Barcelona, where we have established a branch of our New York bank.

Mr. STERLING. Will these foreign countries allow you to do business without a charter from the local government?

Mr. EDER. We have to get a local franchise and pay local taxes. We can not go in there, except in a few South American countries where there are no banking laws, without getting governmental authority.

Mr. LONGWORTH. One of those corporations is the American International Corporation. If we adopted your suggestion we would exempt that corporation.

Mr. EDER. You are not getting any tax in this country from foreign investments from the American International Corporation to-day. Its earnings are being made here in New York. Its investments occasionally in South America are done by making loans in South America to corporations there or carrying out contracts down there. It has no permanent business in South America.

Mr. LONGWORTH. It has only begun.

Mr. EDER. The International Banking Corporation is an institution which is fairly closely connected with the American International; it has no connection in South America and has not attempted to.

Mr. LONGWORTH. It is closely associated with the National City Bank?

Mr. EDER. It has branches of the New York bank.

Mr. OLDFIELD. But that has nothing to do with the International Corporation?

Mr. EDER. They are closely connected with some financial interests and closely identical with it.

Mr. RAINEY. When you establish a branch bank there the bank here owns absolutely that bank?

Mr. EDER. Yes.

Mr. RAINEY. Your bank owns absolutely the whole institution?

Mr. EDER. The whole institutions in Paris and Barcelona.

Mr. RAINEY. Then they return to you their profits?

Mr. EDER. Yes.

Mr. RAINEY. And those profits will become part of those of the parent bank here?

Mr. EDER. No. Our help, if you gentlemen will let us, will be to promote those branches, permitting them to apply their surplus and capital and resources so as to be able to continue what we are immodest enough to relinquish our valuable work on behalf of the American Government.

Mr. RAINEY. Under the present system all their profits increase your profits in the foreign bank and are taxed just as other local banks in the country are taxed?

Mr. EDER. Perhaps that would not be sufficient, because I am thinking of South America. Our competition there is among the natives, too. It would help, but it might not go the whole way, and it would not remove the danger of corporations removing their charter from the United States and avoiding payment of all taxes.

Mr. GREEN. I refer to cases like this, where an American has a large investment in Canadian lands and is getting a revenue from that. He is taxed on income and excess profits and is taxed also in Canada if he has enough income and excess profits. If we remove the tax on corporate investments we probably will be asked to remove the tax on individual investments in the same way.

Mr. EDER. I think that in the long run it would be a splendid policy to do so. I think that the development of our industries abroad is the one greatest factor in developing our foreign trade, and the developing of the foreign trade of this country is a bank measure. We have control of these American citizens here; we will not have the control of these corporations if they leave the country.

Mr. LONGWORTH. Why should you distinguish between the excess-profits tax and the income tax? What difference does it make to me whether I pay an excess-profit or an income tax in Cuba or in Utah? Ought not I pay as much in the one case as in the other?

Mr. EDER. I think the individual should.

Mr. LONGWORTH. Suppose I have a corporation?

Mr. EDER. No.

Mr. LONGWORTH. You think not?

Mr. EDER. No; because in one case, as a practical matter, you leave the United States and incorporate in Cuba.

Mr. LONGWORTH. How about corporations which have investments both here and abroad?

Mr. EDER. I would exempt the income which they derive from foreign sources from excess-profits taxes.

Mr. LONGWORTH. You think it would be wise to exempt the Bethlehem Steel Co. from the profits it makes on its mines in Cuba, as a broad, general proposition?

Mr. EDER. Yes; because otherwise they will incorporate their holdings in Cuba, and then you will not get the revenue which they derive from the Cuban holdings.

Mr. STERLING. There are a good many American industries that have plants in Canada. It might very materially affect the revenue if you adopted that plan. Is there any reason why we should adopt your plan in South America and not apply the same rule to the American concerns who have industries in Canada? Does not the same reasoning apply to both?

Mr. EDER. Perhaps it is more necessary to foster American banking than it is to foster manufacturing by Americans abroad. These plants that you have in mind are manufacturing corporations; they are not trading concerns. They are in a measure competing with American manufacturers, while American banks are helping American manufacturers.

Mr. STERLING. Who do you represent? What is the name?

Mr. EDER. The Mercantile Bank of the Americas.

Mr. STERLING. Is it a single institution?

Mr. EDER. It is a single institution which holds stock in a number of other corporations. We incorporate a company for each separate country where we are banking.

Mr. STERLING. Under the laws of that country?

Mr. EDER. No; under the laws of the United States. If we incorporated under the laws of that country, we could not call ourselves an American bank. We want to wave our charter and say we are an American bank.

Mr. STERLING. Have you a bank in this country?

Mr. EDER. Yes.

Mr. STERLING. Do you have separate charters for the banks in the other countries?

Mr. EDER. Only in the case of Paris and Barcelona, where we have established a branch of our New York bank.

Mr. STERLING. Will these foreign countries allow you to do business without a charter from the local government?

Mr. EDER. We have to get a local franchise and pay local taxes. We can not go in there, except in a few South American countries where there are no banking laws, without getting governmental authority.

Mr. LONGWORTH. One of those corporations is the American International Corporation. If we adopted your suggestion we would exempt that corporation.

Mr. EDER. You are not getting any tax in this country from foreign investments from the American International Corporation to-day. Its earnings are being made here in New York. Its investments occasionally in South America are done by making loans in South America to corporations there or carrying out contracts down there. It has no permanent business in South America.

Mr. LONGWORTH. It has only begun.

Mr. EDER. The International Banking Corporation is an institution which is fairly closely connected with the American International; it has no connection in South America and has not attempted to.

Mr. LONGWORTH. It is closely associated with the National City Bank?

Mr. EDER. It has branches of the New York bank.

Mr. OLDFIELD. But that has nothing to do with the International Corporation?

Mr. EDER. They are closely connected with some financial interests and closely identical with it.

Mr. RAINEY. When you establish a branch bank there the bank here owns absolutely that bank?

Mr. EDER. Yes.

Mr. RAINEY. Your bank owns absolutely the whole institution?

Mr. EDER. The whole institutions in Paris and Barcelona.

Mr. RAINEY. Then they return to you their profits?

Mr. EDER. Yes.

Mr. RAINEY. And those profits will become part of those of the parent bank here?

Mr. EDER. No. Our help, if you gentlemen will let us, will be to promote those branches, permitting them to apply their surplus and capital and resources so as to be able to continue what we are immodest enough to relinquish our valuable work on behalf of the American Government.

Mr. RAINEY. Under the present system all their profits increase your profits in the foreign bank and are taxed just as other local banks in the country are taxed?

Mr. EDER. Yes.

Mr. RAINEY. Do you want the law as to those branch banks owned absolutely by the parent bank to take the burden off of its income and excess profits?

Mr. EDER. I think so.

Mr. RAINEY. The other banks you establish have independent stockholders entirely?

Mr. EDER. Some of them have; some of them have native interests.

Mr. RAINEY. Do you carry on a school by your bank, educating your men in the conduct of banking business and trade conditions?

Mr. EDER. Not to the same extent as the National City Bank does. We are not nearly such a large organization.

Mr. RAINEY. A number of those banks have schools through the summer and select men and educate them along commercial and banking lines.

Mr. EDER. We have not grown as fast as that.

Mr. MOORE. Is the Mercantile Bank of the Americas the result of a propaganda carried on some time ago by the National City Bank?

Mr. EDER. No; we have no connection with the National City Bank. Our stockholders are various, owning throughout the country.

Mr. MOORE. The National City Bank was urging the creation of close associations with South America, and I was wondering whether your organization was an outgrowth of that agitation.

Mr. EDER. In a measure, yes; although I do not think the National City Bank were pioneers in that agitation. There were a great many other people advocating that long before the National City Bank did.

Mr. MOORE. How old is your bank?

Mr. EDER. We were incorporated in 1915.

Mr. MOORE. Were you interested in the passage of the so-called exports bill?

Mr. EDER. Yes. We did not take any part in the propaganda at all, but we were interested in seeing it go through.

Mr. MOORE. The purpose of that bill was to increase these foreign incomes.

Mr. EDER. Yes.

Mr. MOORE. Who is the president of the Mercantile Bank of the Americas?

Mr. EDER. Mr. James Brown, of Brown Bros. & Co.

Mr. MOORE. That is a New York concern?

Mr. EDER. A New York banking concern.

Mr. MOORE. You are the secretary of the bank?

Mr. EDER. Secretary of the bank and a member of the subsidiary corporations.

Mr. TREADWAY. What is the capitalization?

Mr. EDER. Two and a half million dollars and a surplus of \$625,000.

Mr. MOORE. Is Mr. Vanderlip a director?

Mr. EDER. No, sir; he is connected with the National City Bank.

Mr. MOORE. He is not associated with you?

Mr. EDER. Not in any way. We have no interest at all with the National City Bank.

Mr. MOORE. Is there any rivalry between his bank and yours?

Mr. EDER. I think so; to a certain extent.

Mr. TREADWAY. You are actual competitors in the field for foreign financial business?

Mr. EDER. We have not entered the same countries except in one country in South America. Their field of operations is in countries where we have not entered and, except in one country, they have not entered where we have.

Mr. MOORE. There is no working agreement between you?

Mr. EDER. None.

Mr. MOORE. I would like to ask you as to your own experience.

Mr. EDER. I have only recently become connected with the bank. I have been a lawyer specializing in American-Latin law in New York City and in South America. I have offices in one or two of the principal cities of South America.

Mr. MOORE. And speak Spanish?

Mr. EDER. Yes, sir.

Mr. MOORE. Have you had any consular or diplomatic associations?

Mr. EDER. Not for the United States Government. My father was an American consul in South America and my brother was, and I was appointed vice consul of the Republic of Colombia in New York.

Mr. MOORE. You regard South America as a fruitful field for American enterprise?

Mr. EDER. I certainly do.

Mr. MOORE. That is the basis of your business?

Mr. EDER. Yes, sir. That is the basis of our organization.

Mr. STERLING. Do the American owners own all the stock of the Mercantile Bank of the Americas?

Mr. EDER. Absolutely. Among the outside stockholders are the Anglo-London-Paris National Bank of San Francisco, the Hibernian Trust Co. of New Orleans, and the National Shawmut Bank of Boston, and we have New York stockholders. There is only one in New York, the Guarantee Trust Co.

Mr. MOORE. Tell us as to the relative influence of England, Germany and the United States in financial matters in South America.

Mr. EDER. The United States in the past and until very recently has had no banking influence at all in South America. We have been handicapped for that reason, and only in very recent years have we had any American banking institutions in South America at all.

Mr. MOORE. Most of the foreign business has been done through Germany and England?

Mr. EDER. Yes.

Mr. MOORE. How do they stand relatively now?

Mr. EDER. The English banks are still far predominant. The German banks have suffered by being placed on the black list, but they are still managing to do business.

Mr. MOORE. They have intermarried pretty actively in South America and they still retain that influence?

Mr. EDER. Yes.

Mr. MOORE. Do all your branch banks in foreign countries have the same amount of capital?

Mr. EDER. No. Some have \$500,000 capital, and one of them has \$300,000.

Mr. HAWLEY. All have \$500,000?

Mr. EDER. Except one, which has \$300,000.

MEMORANDUM IN REGARD TO TAXATION UNDER INCOME AND EXCESS-PROFITS TAX  
LAWS OF INCOME RECEIVED BY AMERICAN CORPORATIONS FROM FOREIGN BUSINESS.WAYS AND MEANS COMMITTEE,  
*House of Representatives.*

The purpose of this memorandum is to present to your committee certain features of the existing income and excess-profits tax laws which have received little notice, but which are exceedingly important and have a far-reaching bearing upon business transacted by American corporations in foreign countries. Public attention has been largely focussed upon what I may call the vertical lines of the present tax laws, by which I mean the extension of rates upward upon income taxed. The horizontal incidence of these tax laws, by which I mean the area affected, has received far less consideration.

Under the present law corporations are subject to both excess-profits and income tax upon income derived from business done in foreign countries, as well as upon income received from business done in the United States. No differentiation between these two classes of income is made either as to the rates at which they are taxed or otherwise. My purpose in appearing before you and in presenting this brief memorandum is to urge that income received by American corporations from business done in foreign countries should be relieved from excess-profits tax as well as from income tax, or if your committee is unwilling to recommend full exemption as to such income, that it should at least be taxed at a substantially lower rate than income received from sources within the United States.

At the present time these taxes are assessed regardless of the fact that the corporation may be paying a very high income and excess profits tax under the authority of the taxing laws of the country in which the American corporation is doing business and derives its profits. In this way, the income of an American corporation is assessed twice on its profits, which are derived solely from business transacted or capital invested in a foreign country.

If we take for example an American corporation having a branch in Great Britain and deriving income exclusively from business transacted and capital invested in that country, that corporation, under the English law, will be assessed a tax of 80 per cent of its profits in excess of the exemption allowed. In addition to this tax, the income of the corporation from sources in foreign countries will be returned for tax in the United States and an excess profits tax as high as 60 per cent may be assessed on such income within the United States. These taxes are exclusive of income taxes which may be assessed in both countries.

Take, for instance, an American corporation which has net profits from its business in England of \$90,000 for the year ending December 31, 1918. Assuming that its deduction on account of prewar earnings is \$34,000, it will be subject to a tax of 80 per cent on the difference between \$90,000 and \$34,000, or \$56,000. With the English tax off, this would leave the American corporation a net income from its business transacted in Great Britain of \$42,500. If the profits of the corporation from all sources within and without the United States were sufficient to place it in the class of corporations required to pay an excess profits tax of 60 per cent, the amount, net, derived from its business in Great Britain would therefore be reduced 60 per cent, leaving the net amount after payment of excess profits taxes both in the United States and Great Britain, 40 per cent of \$45,200, or \$18,080. Similarly, American corporations doing business in any other countries in which an excess profits tax is assessed on income derived from business transacted in such countries, would be affected proportionately to the rates of tax effective in such countries.

There are many American corporations whose business is largely transacted in foreign countries, such corporations merely maintaining an office in the United States for the purpose of the distribution and sale of their products. There are also many American corporations which merely have their executive offices in the United States and maintain no selling agencies and do no business whatever in the United States. Under the present law, the entire profits of such corporations are subject to excess profits tax. It is highly advisable that these corporations should remain under the jurisdiction of the laws of the United States, but it will not be possible for them to do so if their profits outside of the United States are subjected to our excess profits tax.

While the fact of double taxation in itself is not one that has received the sympathy of lawgivers, it is nevertheless a factor to be taken into consideration. The natural place of taxation, it should also be borne in mind, is the place where the operations of a corporation are carried on, or at the situs of its tangible property. It is these operations and this property which enjoy the benefits that theoretically are correlated to the burdens of taxation, and these operations and this property which are accorded the security of the law. The Government of the United States, in the case of a cor-



poration whose business is entirely transacted abroad, furnishes the corporation little that it can not dispense with.

The European war has given to American business interests an unprecedented opportunity for expansion into foreign fields, and it is obviously for the interest of the country that such expansion should be fostered and encouraged in every legitimate way. It is also desirable that this expansion should be effected through the natural growth and development of existing organizations and that American business should not be forced to assume the risk and expense of creating new organizations in foreign countries under unfamiliar and possibly disadvantageous foreign laws.

The present tax laws, however, have the effect of very seriously hampering this natural growth and development and tend to induce reorganization of foreign business under foreign laws through the creation of corporate bodies under such foreign laws for the purpose of transacting foreign business. For example, I have in mind one company whose plant is located in Brazil and whose entire income is derived from business there carried on. This company is, however, organized under the laws of one of the United States and is, therefore, subject to excess profits tax as well as to income tax, upon its entire net income. Inasmuch as such income may be subject to excess profits tax at a rate as high as 60 per cent, the company is obviously at a disadvantage as compared with local concerns in Brazil not subject to this heavy taxation. The temptation to reincorporate the business under the laws of Brazil, thus escaping Federal excess profits and income taxes is almost irresistible. If such reincorporation were to take place, however, the State under the laws of which the present company is incorporated would lose the revenue which it now derives from annual franchise taxes and fees paid into the State treasury by the corporation. There are many American corporations similarly situated which do all, or a substantial portion, of their business in foreign countries. If these companies are to be taxed at the heavy rates now in force, or at the higher rates which it is generally expected will prevail in the future, it is inevitable that there will be a very general movement toward organizing new companies under foreign laws to carry on such foreign business, with a consequent serious loss of revenue to the various States under the laws of which the companies are now organized.

On the other hand, if the present companies so situated are relieved from excess profits tax upon their income from foreign sources, they will not be compelled to disrupt the existing organizations. Even if such income from foreign business be not totally exempted from tax, it should, at least, be taxed at a substantially lower rate, which should be moderate enough to permit American corporations to conduct their foreign business upon a fair basis of competition with foreign corporations. In this way, State revenue would not be impaired and the United States would still receive considerable revenue from such income, which it will lose entirely if the present rates are continued, or higher rates are imposed upon such income.

For our present purpose, companies having investments or doing business abroad, but incorporated in the United States, may be divided into three classes:

1. Corporations in which there are no American interests at all, but whose stockholders for various reasons have sought incorporation in the United States.
2. Corporations in which there are both American and foreign interests (i. e., native, or local, interests) in the field of operations.
3. Corporations in which the stockholders are entirely American.

It is practically certain that corporations of the first class; that is, where there are no American interests, will seek a foreign jurisdiction for their corporate head office and give up their American charters if they are subjected to the heavy tax in the United States.

In the second class of corporations, if the foreign interests are in control, the same results will follow and the American charters be given up. Even if American interests are in numerical control, exceedingly strong pressure will be brought to bear upon them to transfer their charters to the jurisdiction where they are operating.

One instance in point which I have had called to my attention, is the case of an American corporation all of whose business is transacted in Cuba. This company will be compelled to pay an excess profits tax to the United States amounting approximately to \$28 a share. The Cuban stockholders are now insisting that the company be reincorporated in Cuba in order that this heavy burden shall not be placed upon their holdings. In this case, as in many others, the American charter may be given up with little or no inconvenience to the company, heavy taxation in the United States avoided, and the foreign stockholders satisfied.

In the third class of companies, namely, where Americans are the sole stockholders in corporations operating abroad, there may be some reluctance, on account of sentimental reasons, to giving up the American charter, but unquestionably a great many corporations in order to meet competition, and not primarily by reason of a desire to avoid payment of taxes at home, will be driven to give up their American charters.

In all the above cases the result would be harmful to the best interests of the United States. Loss of prestige to United States commerce and industry would ensue by the fact of American corporations reincorporating abroad. Loss of connections with home offices in the United States would entail a certain loss of that closeness of touch which is a material factor in fostering foreign trade, and finally there would be a loss of revenue both to the National Government and to the State governments.

It may be urged that if the exemption I am advocating is granted, the loss of revenue to the United States Government would ensue nevertheless. In answer to this it might be said that while a heavy income tax would drive out a great many corporations, a few might still be willing to maintain their American charters for the sake of the prestige they might thus obtain, for the additional security that may be gained where operating in undeveloped or politically unstable countries, and possibly for the sake of obtaining better credit in the United States.

Furthermore, it must be borne in mind that revenue is derived by the United States Government not merely from income and excess profits taxes paid directly by the corporation, but also from the dividends when received by the individual stockholders. At the present time nonresident foreign stockholders in American companies receiving dividends have to pay the income tax, and large numbers of American stockholders have to pay a surtax. Both of these sources of revenue would be wholly or partially swept away if the corporations transferred their charters to foreign countries. The foreign shareholders would, of course, not be subject to tax, there being no dividends paid in this country from which the tax could be withheld, and no corporate bodies here to do the withholding. In the case of American stockholders, there might be a strong inducement to defer the payment of large dividends until some time in the future, when it might be thought taxes would be materially lower in this country.

From the point of view of the National Government, it seems clear that it is of advantage that the power to regulate the carrying on of business in foreign countries should be preserved. Such power of regulation and control, of course, can be exercised where the foreign business is done through American corporations, but it will be lost if the foreign business is conducted through foreign corporations not subject to the jurisdiction of the United States.

From the point of view of the State governments, the loss of revenue is perhaps an even more important factor to be taken into consideration. A considerable part of the revenues of some States is derived from organization and annual license fees paid by corporations transacting business abroad. This source of income would be swept away if corporations give up their present charters to seek a legal domicile abroad, and there are nothing but objections instead of inducements in the way of new corporations being organized. The States are not in the same position as the Federal Government to readily obtain new sources of revenue to replace such a loss.

Moreover, under the present excess-profits tax law income received by an American corporation from business in foreign countries may bear a disproportionate burden. This results from the fact that the excess-profits tax is measured and determined by the relation between the entire net income of the corporation and its entire invested capital. From this it will be seen that the amount of tax which the income from foreign sources will have to bear will not depend upon the capital invested in foreign countries. Thus, a company with a relatively large investment in a foreign country and a small amount of capital invested in the United States may be subjected to excess-profits tax at a very high rate upon its income from foreign business, even though the actual return upon its foreign investment is comparatively small.

This feature of invested capital does not, of course, apply to the income tax, but in other respects the same considerations that apply in the case of excess-profits tax are present with respect to the income tax. If the income tax is to remain at the present rate of 6 per cent upon corporations, it would probably not, in itself, be so onerous as to compel a removal in all cases. It would be safer, nevertheless, to reduce the rate to 2 per cent. If, however, the income-tax rate upon corporations is to be increased, and such increase is to be made applicable to income received from foreign business, then the effect will be the same as in the case of excess-profits tax. The higher the rate becomes the greater will be the inducement to remove.

To what extent this removal will affect American capital invested in foreign countries would be very difficult to estimate. Hundreds of millions of dollars now invested by corporations chartered under the laws of the United States will be transferred to corporations chartered under foreign countries. In fact, it is said that some corporations have already given up their American charters and others are preparing to do so in the very near future.

It seems clear that by giving up its American charter, or by incorporating its foreign business in a foreign country, nearly every corporation now assessed an excess-profits tax on its income derived from business transactions outside of the United States may avoid the assessment of the tax. It is also evident that in corporations in which for-

foreign capital is invested, such procedure will be required by those representing the foreign capital. The result will be that the United States will not only not receive revenue on account of excess-profits tax, but will drive from the United States the executive offices, and incidentally, the control of these corporations.

If American business is to expand, it is of course essential that American corporations should be able to compete favorably with foreign concerns in the field of foreign business, and this, perhaps, constitutes the most important reason for exempting income of American corporations from foreign sources or at least subjecting such income to only a light tax. The present law results in a very serious discrimination against American corporations doing business in foreign fields as compared with competing foreign concerns, and this alone should be sufficient to show the wisdom of favorable treatment with respect to income derived from such sources. Taken in connection with the other factors mentioned above it is in every way desirable that such favorable treatment should be given.

The policy of the United States has always been to promote to the greatest degree possible its foreign trade. From the early days of the Republic the tax laws have generally embodied provisions favorable to the development of international commerce. The recent income and excess-profits tax laws through inadvertence have departed from this policy.

The following instances of governmental policy in the past, designed to further export trade, may be given:

Internal revenue tax on wines and liquors and customs duties on imported goods have been rebated upon the export of the articles.

Railroads, with the approval of the Interstate Commerce Commission and, I believe, of Congress, have always given preferential rates to through shipments for export. This preference continued until February of this year, when the necessity for restricting traffic on the railroads in order to better transport war materials impelled a temporary change.

The object of these measures was obviously to enable American goods to compete on favorable terms in foreign markets with goods of other countries.

A like policy should be applied with regard to the exported dollar. Capital abroad should, as a matter of policy and for the furtherance of trade, be enabled to compete with the invested capital of other creditor nations and with local capital.

The most important single factor in promoting foreign trade (after the production of goods in this country cheaply and efficiently so as to intrinsically compete with goods of other countries) is investment abroad, either in properties or in trade organizations. It has become an axiom that "Trade follows the invested dollar."

Now, if as a result of the laws at home an American corporation operating abroad has to pay a very high tax in comparison with its neighbors and competitors, it will be obviously placed in a disadvantageous position. It will have to take into consideration in marketing its goods a margin for taxation far greater than its competitor; it will, of course, have to pay the same local tax as its competitors, and, in addition, will be faced by the heavy taxes which it has to pay to the United States Government. The result will often be to drive it out of the market.

Another way, not at first sight so obvious, in which American corporations are placed at a disadvantage by heavy home taxes, is that they are unable to build up any surplus. If the larger part of their net income is paid over to the Government they can enlarge their business, not out of profits, but only by increasing their capital. In normal times it has always been difficult to obtain capital even for sound investments in foreign countries. At the present time it is generally impossible. Apart from the condition of our money markets, in the majority of cases the capital issues committee does not approve of the increase of capital of corporations operating abroad. Such corporations, therefore, if levied on for income or excess-profits taxes, so that they have no surplus to reinvest, are forced to see themselves standing still while their neighbors may be making heavy improvements, enlarging their plants out of earnings, and putting themselves in position to drive the American corporation out of business.

At this time all countries are looking to the development of their foreign trade. All of the European countries and Great Britain are planning to render aid to their industries to increase foreign business. The United States in various ways is likewise redoubling its efforts to promote foreign trade and to place our industries on an equal basis, at least, with foreign competitors.

Commercial representatives of the Government are to be sent to foreign countries to advise in matters of foreign trade. Congress has just passed a law—the Webb law—permitting combinations to engage in export trade, in order to more effectively and economically place our products in foreign countries, and to better enable our manufacturers and producers to meet foreign competition, and there is now pending in Congress a bill providing for registration under a national trade-mark, which is intended

to insure standard of quality and prevent fraud and deception in American goods. All of the foregoing are for the purpose of extending our foreign trade and making a market for our products abroad. The cost of production and sale of our goods has been one of the great drawbacks in our foreign trade and is what we are now striving to reduce to meet foreign competition.

If American corporations are to be taxed 60 per cent, or more, on the income which they derive solely from their foreign branches, they will not be able to cope with their foreign competitors and all of the advantages which may have been gained by the efforts of Congress and this Government, to assist in extending our foreign trade, will be nullified. It may readily be seen that it is not possible for manufacturers and producers to meet the prices of those of a foreign country which do not have to give up a large part of their profits in taxes. As a consequence, inability to meet the prices of foreign competitors means a serious loss in foreign business and a decrease in our trade balance.

Our trade balance for the last fiscal year was \$3,634,450,905, or eight times that for the fiscal year ending June 30, 1914. As is well known, this remarkable increase is due to the extraordinary conditions brought about by the war and can not be expected to continue. Our hope, however, is to retain it if possible and every effort should be exerted to accomplish that end. The revenue derived from taxation might be decreased to some extent by this change in the law, but the loss will be insignificant compared with the loss in our foreign trade if the high excess-profits tax is retained on foreign profits, and the consequent decrease in the revenues from taxation derived from domestic profits incidental to foreign trade.

In another respect the present income-tax law discriminates against American corporations in favor of foreign corporations. Subdivision (e) of section 13 of the income-tax law requires a withholding of tax at the source upon income derived from interest upon bonds or similar obligations of domestic corporations by non-resident foreign corporations not engaged in business in the United States. This provision has been held by the Treasury Department to apply to the 2 per cent normal tax under the act of September 8, 1916, and to the 4 per cent war income tax imposed upon corporations by section 4 of the act of October 3, 1917, so that a nonresident foreign corporation receiving interest upon bonds of domestic corporations is subject to withholding of tax at the source at the rate of 6 per cent.

Where, however, the interest is paid to the foreign corporation upon bonds of a domestic corporation containing a tax-free covenant in the usual form, the domestic corporation is required by the covenant to assume payment of the full 6 per cent tax. Thus, the foreign corporation receives interest at the full face amount of the coupons and is relieved of paying any tax thereon because the tax is withheld at the source and paid by the domestic corporation. This, of course, in itself, compels the American debtor corporation to pay the tax for the foreign corporation. But the discrimination does not stop here. An American corporation, holding as an investment bonds of another American corporation, is not subject to withholding of tax at the source. Consequently, the American corporation holding the bonds receives the full face amount of the interest thereon; but it must include this interest in its income tax return, and must pay the income tax of 6 per cent thereon, so that the actual return upon its investment is the face amount of the interest less the tax. But the non-resident foreign corporation holding similar bonds, because of the tax-free covenant, receives the full face amount of interest and pays no tax thereon because the tax is paid at the source of the debtor corporation. The result of this is to favor nonresident foreign corporations investing in bonds containing the tax-free covenant, as compared with American corporations holding similar bonds. This inequality might easily be removed by limiting the withholding requirements of section 13 (e) to bonds which do not contain the tax-free covenant, or if it is thought that this would result in loss of revenue by reason of the fact that foreign corporations receiving interest upon such bonds might fail to make return thereof and pay the tax thereon, the same result could be reached by requiring nonresident foreign corporations to appoint an agent in this country to whom interest upon such bonds of American corporations would be required to be paid, and by imposing upon such agent the obligation to withhold the tax and pay the same to the Government. This would result in relieving the debtor corporation from any obligation under the tax-free covenant to assume payment of the tax for the foreign corporation, and would at the same time fully protect the Government.

Another minor injustice in the present excess-profits tax might be pointed out.

A fair return on capital invested at home is not a fair return for capital invested abroad.

Under the present excess-profits tax law, corporations are allowed to enjoy an income of 7 to 9 per cent upon their invested capital before the incident of the excess-

profits tax. There can be little doubt that this furnishes a just basis in the case of corporations organized for purely domestic purposes; 7 to 9 per cent may be a fair return in invested corporate capital for business in the United States, in the vast majority of cases. But in regard to operations abroad, especially in Latin-American countries, or other undeveloped lands, a return of 9 per cent is not commensurate with the far greater risk involved in such an investment and with the greater difficulties of management and control.

The difficulty of obtaining information sufficiently accurate for an honest tax return would be obviated if the proposed exemption is enacted into law. Corporations which operate properties abroad, especially in remoter districts, encounter great difficulty at the present time in obtaining the necessary reports and inventories in time to incorporate them in the annual returns required of them. These corporations, the records will undoubtedly show, almost invariably ask for extensions of time, and often after obtaining the extensions are unable to secure the information in time. Smaller corporations, such as small mining and plantation companies, which can not afford to maintain an elaborate organization with high-priced accountants and managers, are often hard put to it, even if ample time be given, to obtain the information. Native employees and managers are often employed and they frequently can not be made to understand or to comply with the instructions given to them.

Furthermore, it is not practicable for the United States revenue authorities to check up the reports furnished from abroad. All that can be done is to check up the returns with the books, papers, and accounts kept at the corporation's offices in this country. It is, of course, obvious that books of accounts may be kept at the foreign offices which do not tally with the books and records in the United States. A door to fraud is thus opened wide, with scarcely any possibility of detection. Honest corporations make their returns to the best of their ability, but dishonest corporations escape taxation. Such a premium on dishonesty should be removed.

Income and excess profits taxation on income from sources outside of the United States is in a measure a tax on exports and therefore falls within the policy of the constitutional provision prohibiting taxes on exports.

It is not claimed, of course, that such taxation is in violation of the constitutional provision, but the indirect result of the tax is to place a burden on export trade which produces the same disastrous effect as would a direct tax on exports.

A fundamental purpose of every law enacted in the United States should be to encourage and increase our export business, and no better opportunity to aid in this direction was ever offered Congress than the amendment of the tax law, at this time, to exempt the income of corporations derived from foreign sources.

Respectfully submitted.

PHANOR J. EDER,

*Of the New York Bar, Secretary of Mercantile Bank of the Americas (Inc.),  
38 Pine Street, New York City.*

### STATEMENT OF BARRY MOHUN, WASHINGTON, D. C.

The CHAIRMAN. Mr. Mohun, we will have to adjourn and go to the House at 5 minutes to 12. You have 10 minutes, and we will let you go right on immediately after we convene after recess.

Mr. MOHUN. It may be that I shall be able to finish what I have to say in 10 minutes. I appear on behalf of the Magnolia Petroleum Co.; I am its Washington attorney. The head offices are in Dallas, Tex. It is a production and refining company. It produces oil in Oklahoma, Kansas, some in Texas, and in Mexico. It has refineries in Beaumont, Corsicana, and Fort Worth.

Before taking up specifically the subject of oil leases I desire to first make a few remarks on the subject of depletion depreciation, and obsolescence. Under the law allowances for each of these items have been for the return of capital. Obviously, under an income tax law there is no purpose to tax capital as such, so that the taxpayer is entitled under the law to a return on his capital investment. Of course, in the event of a sale the capital comes back before there can be any profit or income. If he gets more than his capital back his balance is profit or income; if he gets less, it is loss.

To illustrate, a corporation erects an office building, we will say, in this city at a cost of a million dollars. We will assume the life of the building is 20 years. The corporation is entitled each year to deduct from its income from that building, assuming that that is its only business, \$50,000. Now, at the end of 20 years it has received \$1,000,000 return of capital. You may call it depreciation, obsolescence, or anything you wish, but it is returned capital. If it sells the building after the expiration of 20 years it is all profit. If it sells at less than a million dollars it sustains a loss to which it is entitled to credit.

In this illustration I had presupposed that the sixteenth amendment had been passed prior to the consummation of this transaction, and the point is right there on the sixteenth amendment that we are most concerned with, and it is because of that point that I have asked the privilege of addressing you gentlemen this morning. The Magnolia Petroleum Co. prior to March 1, 1913, which was the date of the promulgation of the sixteenth amendment, purchased leases, and as a result, as I very respectfully submit, of an erroneous construction of the act of September 8, 1916, the company has been placed at a very serious disadvantage as respects other owners of property. On this point, that it was not the purpose of Congress to impose a tax on accretions in value, or appreciation in value, which occurred prior to March 1, 1913, I have the authority of the chairman of this committee.

When Mr. Walter E. Kelly, of New York, appeared here last Saturday the chairman stated:

The CHAIRMAN. They all had notice that after March 1, 1913, an income tax was constitutional and that in all probability one would be passed, and March 1, 1913, was put in because a person might have purchased property long before there was any constitutional power in Congress to levy an income tax. Take lumber, for instance. A person might have purchased lumber at 50 cents a thousand in 1899 and 1900, and on March 1, 1913, it had appreciated in value to \$5. They had no right to put an income tax on that appreciation before March 1, 1913, because there was no constitutional power to levy any income tax. So the committee provided that they could take the fair valuation of the property, say of lumber, oil, or coal, as of March 1, 1913, when Congress did have the right to levy an income tax.

Mr. KELLY. The intent being to fix a fair valuation on the capital existing as of that time.

The CHAIRMAN. Yes.

It is my conviction it was the purpose of Congress to do just as has been clearly stated in the quotation from the remarks of the chairman on Saturday, to take the value as of March 1, 1913, and regard it as the capital assets to be returned.

That this was the intent and purpose of Congress is, I believe, clearly evidenced by the provisions of section 10, subdivision a of the act of September 8, 1916, which is as follows:

For the purpose of ascertaining the gain derived or loss sustained from the sale or other disposition by a corporation, joint-stock company or association, or insurance company, of property, real, personal, or mixed, acquired before March first, nineteen hundred and thirteen, the fair market price or value of such property as of March first, nineteen hundred and thirteen, shall be the basis for determining the amount of such gain derived or loss sustained.

By section 12, subdivision a, paragraph second, it is provided in respect of reductions from gross income:

Second. All losses actually sustained and charged off within the year and not compensated by insurance or otherwise, including a reasonable allowance for the exhaustion, wear and tear of property arising out of its use or employment in the business

or trade; (a) in the case of oil and gas wells a reasonable allowance for actual reduction in flow and production to be ascertained not by the flush flow, but by the settled production or regular flow: *Provided*, That when the allowance authorized in (a) and (b) shall equal the capital originally invested, or in case of purchase made prior to March first, nineteen hundred and thirteen, the fair market value as of that date, no further allowance shall be made.

As Mr. Kelly pointed out, it was probably because of the use of that word "purchase" that the internal-revenue officials excluded lessees. It must be remembered that we purchase leases, but the point is, as we contend, that the value of all property as of March 1, 1913, must be returned to the taxpayer.

As to the construction which is placed upon it by the Internal Revenue Bureau, it is shown in article 170 of Regulations 33, revised, pages 83 and 84.

The CHAIRMAN. We will now take a recess until 1.30 o'clock p. m. (Thereupon, at 11.55 p. m., a recess was taken until 1.30 o'clock.)

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AFTER RECESS.

STATEMENT OF MR. BARRY MOHUN—Continued.

The CHAIRMAN. You may proceed, Mr. Mohun.

Mr. MOHUN. Mr. Chairman and gentlemen, before the recess I attempted to point out that depreciation, depletion, obsolescence, wear, and tear, and like terms used in the taxing statute mean return of capital, and further, that it was the purpose of Congress, as evidenced by the acts of September 8, 1916, and October 3, 1917, to take the value as of March 1, 1913, as the starting point, to the end that that would represent the capital assets which all taxpayers were entitled to have returned to them, just as though the property had been bought for cash on that date for that sum. It was surely not intended that there should be gross discriminations as a result of the return of capital. As I showed, by section 12, subdivision (a), second paragraph, Congress provided a particular method of ascertaining return of capital in the case of oil wells, as therein provided. It is there called depletion, but, nevertheless, it is return of capital. It is there provided, as I mentioned this morning, that the depletion in the case of oil wells shall be measured not by the flush flow, but by the settled production, etc. Then this proviso is added:

That when the allowance authorized in (a) and (b) shall equal the capital originally invested, or in case of purchase made prior to March 1, 1913, the fair market value as of that date, no further allowance shall be made.

The bureau has construed that provision, which puts a limitation on the amount of return of capital in the case of oil wells, gas wells, and mines, as though that one property alone was to have the value as of March 1, 1913, ascribed to it. I have referred several times to the ruling of the bureau but I have not given the citation. It is contained in article 170 of regulations No. 33, revised, and it is there provided:

For the purpose of determining the amount of capital to be returned through annual deductions, operators may be divided into two classes.

And this is all under the subhead of oil and gas properties.

(a) Operators who own the fee, and (b) operators who own a lease or leases. In the case of the operating fee owner, the amount returnable through depletion deductions is the fair market value of the property (exclusive of the cost of physical property) as of March 1, 1913, if acquired prior to that date.

Then there are certain other provisions which do not bear here. It then goes on to provide that:

In the case of a lessee, the capital thus to be returned is the amount paid in cash or its equivalent as a bonus or otherwise by the lessee for the lease.

There is the discrimination. The paragraph of the law to which I have referred, section 12, subdivision (a), second paragraph, has been construed by the Internal Revenue Bureau as follows:

First, that it has no application to leases, and, second, that it was the purpose of Congress to allow return of capital as of March 1, 1913, only in the case of fee owners of oil, or gas wells, and of mines, and not in the cases of either owners or lessees of other kinds of property. Return of capital, rules the bureau, in all other cases shall be on the basis of cost, although purchased prior to March 1, 1913.

I can illustrate the discrimination resulting from this, I think, very easily. Corporation A, in 1910, purchased for \$100,000 the fee of oil lands, which were worth on March 1, 1913, \$1,000,000. From its gross income it may make depletion deductions to the extent of \$1,000,000 as the amount of capital to be returned, that being its value on March 1, 1913. That is the law as construed in the regulations. This corporation, which paid \$100,000 in 1910 for the fee of oil land, which land was worth \$1,000,000 on March 1, 1913, is entitled to obtain the return of capital of \$1,000,000.

The CHAIRMAN. Before any income tax shall be paid at all?

Mr. MOHUN. Not before; no. It is pro rated over the life of the wells, assuming that the wells will last a certain number of years. The regulations of the bureau, to which I have just adverted, provide a method by which that depletion, as it is called, is spread over the life of production, and that corporation gets back \$1,000,000 before it pays any taxes. Now, suppose they produce for a period of 10 years and produce \$10,000,000 worth of oil—

The CHAIRMAN (interposing). Suppose that one million dollar concern should make a net profit of \$200,000?

Mr. MOHUN. You mean in one year?

The CHAIRMAN. Yes.

Mr. MOHUN. And we will further assume that the life of the wells there has been 10 years.

The CHAIRMAN. Does the department now make that estimate?

Mr. MOHUN. Yes, sir. If the life of the wells was assumed to be 10 years, they would allow, out of the \$200,000, \$100,000 to be deducted and on the other \$100,000 they pay the tax.

The CHAIRMAN. They have made regulations by which they have estimated the life of those wells?

Mr. MOHUN. Yes, sir. It is in the case of the fee owner that they allow that. They call it depletion, but, of course, it is return of capital. Now, we will take corporation B, which in 1910 paid a price of \$100,000 for a lease of oil lands. As you gentlemen know, the oil business is conducted with leases; I suppose there are less



than 5 per cent of fee owners. Leases are dealt in the same as in any other piece of property that changes hands readily. Corporation B, in 1910, paid \$100,000 for a lease of oil lands, which lease, we will assume, was worth \$1,000,000 on March 1, 1913. Here is where the discrimination comes in. The bureau says to the owner, "You deduct from your income during the life of these wells \$1,000,000, the value as of March 1, 1913," and says to the lessee, "You deduct \$100,000 and not another cent." The result is, of course, that the lessee pays a tax on \$900,000 more, and these oil taxes, many times, run into the 60 per cent bracket under the excess-profits tax law, and under this illustration they would have to pay a tax of \$540,000. The case which I have put before you is an exact one and there is not a particle of exaggeration or inaccuracy about it.

The CHAIRMAN. You mean both bought at the same time?

Mr. MOHUN. Yes; one bought the fee and the other bought a lease.

The CHAIRMAN. One bought a lease and put \$100,000 in the lease. Are not most of the leases made in such a way as to provide for the payment of a royalty each year?

Mr. MOHUN. Yes. The royalty in the country usually runs one-eighth, but when you get into good oil fields the bonus runs very high. However, the royalty basis will remain the same, usually, as I stated, one-eighth, but if it is a very rich territory a cash sum is paid in addition.

The CHAIRMAN. Let me see if I catch your point. A buys oil property in 1910 in fee; on January 1, 1913, it is worth \$1,000,000 and he can go out and sell it for \$1,000,000. B, in 1910, leases an oil property and pays \$100,000 for the lease.

Mr. MOHUN. That is right.

The CHAIRMAN. And on January 1, 1913, that lease is worth \$1,000,000?

Mr. MOHUN. Yes, sir.

The CHAIRMAN. What would the property be worth, then? If the lease is worth \$1,000,000, what would the whole property be worth? The whole property might be worth \$5,000,000, might it not?

Mr. STERLING. But the lease is about all of the property, as I understand it, the lease is the only property that this man B has.

Mr. MOHUN. That is right.

Mr. STERLING. He did not buy the fee.

Mr. MOHUN. No; but, of course, they do use the surface.

The CHAIRMAN. The owner of the fee is going to get a certain part of the profits, or whether they make profits or not he is going to get a certain payment in the shape of a royalty every year?

Mr. MOHUN. Surely; he gets his one-eighth.

The CHAIRMAN. And that is worth something. Would it not depend largely on how much the owner of the fee is going to get from this lessee as to what the fee is worth?

Mr. MOHUN. What the owner is to get—you mean as royalties?

The CHAIRMAN. Yes. In other words, if I lease a piece of property for \$1,000 a year and pay \$100 a year, that lease is worth considerably more than if I had paid the other \$900.

Mr. MOHUN. Surely, but in the oil business, the returns to an owner, where he leases his land, are on a percentage basis. The more oil produced, the more the owner gets.

Mr. STERLING. And he is taxed separately.

Mr. MOHUN. Yes.

Mr. MOORE. In any case does the Government make these leases?

Mr. MOHUN. There are instances, I understand, yes; but that is not so as to the Magnolia Petroleum Co.

Mr. GREEN. Even when they get a lease the owner may be paying considerable taxes also?

Mr. MOHUN. On his income?

Mr. GREEN. Yes.

Mr. MOHUN. That is true, and I think that question is right to the point. It seems to me that the criterion is what the man has and what it was worth on March 1, 1913. If the owner of the property has made a lease on it which is very advantageous to the lessee, that reduces, of course, the value of what the man had on March 1, 1913, whether it be a lease, an encumbrance, or otherwise. That is what I should think would be the criterion and what I think was really meant. But that would be the result in the case which I put, and that has been the result in our case. We made a great many leases prior to March 1, 1913, and the territory has proven to be very good. Those wells were very splendid and had a market value greatly in excess of what we paid for them, yet we may only obtain depletion, as it is called—we can not really obtain depletion at all, but return of capital on the basis of what we paid for them, and they might have been bought 50 or 75 years ago.

Further than that, under this law, if a corporation bought a piece of real estate 50 years ago in Washington and paid \$5,000 for it—it might be the corner up here where the American Security & Trust Co. is located, and that might be its business, and it is worth \$5,000,000 to-day, but the bureau would only allow them a return of capital on the basis of \$5,000, but if they sold it the bureau would say "Then take into consideration your value on March 1, 1913," which shows the utter fallacy of their position. The reason they take that position is that they say the statute commands it, and where property is sold it is the value as of March 1, 1913, without regard to whether there has been a profit or a loss, but because Congress in this instance said that the depletion or return of capital, in the cases of oil property, which is different from others, and laid down particular rules for the ascertainment of return of capital in those cases, but took the precaution to say that in no instance shall that return of capital exceed the value on March 1, 1913, the bureau said it is only the owners of property who can get that value on March 1, 1913.

The CHAIRMAN. Have you copies of any of these leases for oil lands?

Mr. MOHUN. I think I have some in my office.

The CHAIRMAN. What are the terms of those oil leases?

Mr. MOHUN. They usually provide for the payment of a royalty of one-eighth, but I think in the case of the Osage leases, referred to the other day, the Government has obtained a royalty of one-sixth.

The CHAIRMAN. You say they pay a royalty of one-eighth?

Mr. MOHUN. That is the usual royalty, one-eighth.

The CHAIRMAN. One-eighth of the income of the flow?

Mr. MOHUN. Yes, sir; but usually there are other provisions to the effect that a well must be brought in within, say, a year or 18 months, or otherwise the lease will be forfeited.

The CHAIRMAN. So you do not pay anything down for the lease, as a rule?

Mr. MOHUN. I would not like to say as a rule.

The CHAIRMAN. But you can say as to your companies, can you not?

Mr. MOHUN. I do not know exactly, but I know that leases do sell at very high premiums.

The CHAIRMAN. I know that is the fact if you get a lease from Bill Jones, and then sell that lease to me.

Mr. MOHUN. Yes, sir.

The CHAIRMAN. I want to know about the original lease. Is it usually one-eighth of the net income of a well or one-eighth of the oil that comes from a well?

Mr. MOHUN. The latter.

The CHAIRMAN. One-eighth of the gross production?

Mr. MOHUN. Yes, sir. It goes into a tank, and from the tank into the pipe line. The owner never sees the oil, but just gets a check for it.

The CHAIRMAN. The owner gets a check for whatever oil is produced, while the other fellow pays for the development?

Mr. MOHUN. Yes, sir.

Mr. STERLING. Let me ask you a question or two, if I may. I am not quite clear as to what you are driving at. The owner paid \$100,000 in 1910, and in 1913 his property is worth \$1,000,000, and the lessee paid in 1910, \$100,000 for the lease.

Mr. MOHUN. But not on the same property?

Mr. STERLING. No; of course not. The lessee bought a lease in 1910 and paid \$100,000 for it. Now, his lease is worth \$1,000,000 on the 1st of March, 1913. How does the department compute taxes on those two incomes and what difference does it make?

Mr. MOHUN. That puts the question very clearly. I would say, first, that the excess profits tax depends on the manner in which the income is calculated. In the first instance it says to the owner in fee, you will have a production from this property, we will assume, for 10 years, and that the property was worth \$1,000,000 on March 1, 1913, and you can take one-tenth of that oil and deduct it from your income and not pay any tax on it each year.

Mr. STERLING. No; I do not think that is so. Of course, the question arises in computing his exemptions.

Mr. MOHUN. His deductions?

Mr. STERLING. Yes. Well, now, how much is he exempted?

Mr. MOHUN. In the case I put before you?

Mr. STERLING. Yes—the owner.

Mr. MOHUN. \$100,000, on the assumption that it lasted 10 years.

Mr. STERLING. Let us say he has earned 9 per cent or more. What do you compute the 9 per cent on to get his exemptions—on the \$100,000 he paid for it, or on the \$1,000,000 that it is worth on the 1st of March?

Mr. MOHUN. No; you compute that on the net income of the year.

Mr. STERLING. I am getting at the excess profits tax.

Mr. MOHUN. I understand.

Mr. STERLING. He is entitled to an exemption of 9 per cent on his capital?

Mr. MOHUN. Yes, sir.

Mr. STERLING. What do they consider his capital, \$100,000 or \$1,000,000?

Mr. MOHUN. In this instance?

Mr. STERLING. Yes.

Mr. MOHUN. I should think they would consider it \$1,000,000.

Mr. HAWLEY. Have you any actual instances where the department has passed on it, in the case of the owner in fee, and considered his capital invested as \$1,000,000?

Mr. MOHUN. I have no individual rulings here as to that.

Mr. STERLING. I think you are mistaken about how they compute that. I think they compute his capital at \$100,000. If a new purchaser had bought it—

Mr. MOHUN (interposing). Of course, they compute his capital as \$100,000 in 1910, but that is not the point, though.

Mr. STERLING. I think the point is to get at the exemptions, to show whether or not there is a discrimination against the lessee or owner in fee.

Mr. GREEN. You are speaking more particularly of the depletion allowance, are you not?

Mr. MOHUN. Yes, sir.

Mr. STERLING. He is entitled to an exemption of 9 per cent on his capital before you begin to compute any excess profits tax, and they regard, in the lessee's case, the capital just the same as they would in the owner's case, and they would allow him 9 per cent on his capital. If they said \$100,000 was the capital in the case of the owner, if he bought it in 1910, they would certainly say that the capital of the lessee was \$100,000.

Mr. MOHUN. There would be no discrimination there at all, no; but I made no reference to invested capital. I was careful to use the word "capital" and the words "capital assets," and not to use the words "invested capital," so as to distinguish between the two, and I had no reference, primarily, to the excess-profits tax. As to the invested capital of a corporation, whether it is put into a lease or into freehold, there is no discrimination at all, but there is a discrimination in the production under the income-tax law, and in arriving at the net income which is subject to the tax. The first case which I quoted had nothing to do with the invested capital at all. Where \$100,000 was invested in the fee, in arriving at the deductions from the gross income under the income-tax law, the bureau will allow, in a case where we will assume that one-tenth of the production has been over a period of 10 years, a deduction each year of \$100,000, and in the other case they will allow a total deduction of \$100,000. In other words, the value on March 1, 1913, is taken in one instance at \$1,000,000, and is allowed to the fee owner, and in the other instance it is disallowed, and they take only his cost.

Mr. STERLING. In the case of the lessee.

Mr. MOHUN. Yes, sir.

Mr. STERLING. Are you recommending that only 10 per cent be deducted in each case or that all of it be deducted in the lessee's case?

Mr. MOHUN. My recommendation is to put them all on the same basis.

Mr. STERLING. You do not care which?

Mr. MOHUN. Well, I do; yes, indeed. I think the value on March 1, 1913, is the only fair way.  
 effec.  
 or othe.

Mr. STERLING. If you were on this committee and had the responsibility of raising all this money I presume you would feel that you ought to equalize them, but equalize them by making the man who pays less pay the greater amount.

Mr. MOHUN. I appreciate the wisdom of that, I think, and I fully agree with it, but in this instance we would have a case similar to that which the chairman of this committee has stated, and in which the Supreme Court—although not having the question directly before it—rendered a decision within the last two or three weeks showing, and even intimating, that the plan I referred to, of taxing accretion and enhancement in value prior to March 1, 1913, would contravene the Constitution.

I have prepared a somewhat elaborate brief which I think would convince any court that the manner in which they have treated this company in refusing to allow return of capital as the value on March 1, 1913, was unauthorized, and, as I say, I think I can convince any court of that fact. This corporation realized its rights, but is loath to sue the Government for taxes in these tremendously serious days of war. I have never heard of a company that has gone out of its way, as this company has, to meet the desires of the Fuel Administration and every department of the Government. It has said, "We will gladly comply with every regulation you make, and we want to know what your wishes are and we will meet them." We felt we would come here and frankly tell you gentlemen the situation. I had had considerable experience in a number of corporations and I have never yet found any spirit or desire to evade the law so far as taxes were concerned. They have all said, "We want to pay our fair part, but no more, and I think that is right and that it is honest."

Mr. GARNER. You are complaining more about the administration of the law than about the law itself.

Mr. MOHUN. Exactly.

Mr. GARNER. We do not administer the law and it is almost impossible to write a law and direct in all instances how it shall be administered.

Mr. MOHUN. I appreciate that, but I really think it might have been made a little plainer. The framers of this law took the precaution to point out in the case of oil wells that the owners of the wells should not get more than the value as of March 1, 1913, but that has been used by the bureau to say that they are the only people who shall have the value as of March 1, 1913, and that the owners of all other property shall not get more than the cost.

I was called upon very unexpectedly in this matter, and I have drafted, along the lines of the suggestions that the gentleman just made, an amendment.

Mr. MOORE. Where does it appear?

Mr. MOHUN. At the end of subdivision A of section 10 of the act of September 8, 1916.

Mr. MOORE. The act of 1916?

Mr. MOHUN. Yes, sir; I can find it for you quickly. It is at the end of subdivision A of section 10 of the act of September 8, 1916.

Mr. MOORE. At the end of section 10 or section 12?

Mr. MOHUN. At the end of section 10.

Mr. GARNER. Of the act of 1916?

Mr. MOHUN. Yes, sir; the act of 1916.

Mr. MOORE. That is not the reduction clause.

Mr. MOHUN. No, sir.

Mr. MOORE. That is the corporation paragraph.

Mr. MOHUN. Yes, sir; that is the corporation paragraph. As I have said, this has been thrust upon me rather hurriedly.

Mr. MOORE. I want to hear it read, but I want to hear it in connection with the act.

Mr. MOHUN. I would like to read it into my remarks, and then, with the chairman's permission, I would like to go over it pretty carefully. I would like to have an opportunity to look over it.

The CHAIRMAN. You will have that opportunity.

Mr. MOHUN. As you will see, the last paragraph in subdivision A relates to the case of a sale.

Mr. MOORE. Where does it come in?

Mr. MOHUN. It comes in at the end of paragraph A of section 10.

Mr. MOORE. It will be a subdivision of section 10?

Mr. MOHUN. Yes, sir.

Mr. GARNER. You want to add a new paragraph B.

Mr. MOHUN. No, sir; there is already a paragraph B, but there is an unnumbered paragraph.

Mr. MOORE. I want you to locate it properly. Do you want it to follow subsection B?

Mr. MOHUN. It should go just ahead of subsection B.

Mr. GARNER. We will call it subsection A-1.

Mr. MOHUN. I think that is a good idea. The amendment I propose to add at the end of subdivision A of section 10 of the act of September 8, 1916, reads as follows:

Under the provisions of the act of September 8, 1916, entitled "An act to increase the revenue, and for other purposes," and the act approved October 3, 1917, entitled "An act to provide revenue to defray war expenses, and for other purposes," and under this act, that for the purpose of ascertaining the amount to be allowed a corporation, joint-stock company or association or insurance company as return of capital invested in property, real, personal, or mixed, prior to March 1, 1913, the fair market price or value of such property as of that date shall be the basis thereof.

That was written last night.

Mr. MOORE. I do not want to ask you so broad a question as this, but wherein does that differ from the existing law?

Mr. MOHUN. It does not. I feel that that provision is in there now, but it is not recognized.

Mr. MOORE. In other words, that is the existing law?

Mr. MOHUN. Yes, sir.

Mr. GREEN. You want to fix it so that the revenue authorities can not get around it?

Mr. MOHUN. Yes, sir; exactly.

Mr. MOORE. Then your grievance is not against the law as it was enacted and as it was approved by this committee, but your grievance is against the interpretation placed upon the law by the department?

Mr. MOHUN. Yes, sir. I feel that any court would sustain the view that I am presenting now.

Mr. MOORE. Evidently, the department interpreted the law so as to bring in more money than your amendment, strictly interpreted, would bring in.

Mr. MOHUN. Yes, sir; exactly. Of course, I want to be entirely candid about the matter, and I am not only seeking by this amend-

ment to prevent the continuation of such discrimination as has taken place in the past under the law that has been enacted, but I am asking it under the act of 1916 and under the act of 1917, in order that those matters may be adjusted in accordance with this provision.

Mr. MOORE. I appreciate your purpose in attempting to correct the law with a view to having it properly interpreted by the department, but I bring to your attention the fact that the effect of your amendment would be to reduce the revenue, and that brings up to us a very serious question.

Mr. DIXON. Have you filed any claim for a refund of taxes?

Mr. MOHUN. No, sir; we have two years in which to do that.

Mr. MOORE. Do you intend to make any suggestions as to how we may increase the revenues from the oil business? Is there any equitable system that you could suggest by which we could raise more money from the oil business next year?

Mr. MOHUN. I am not in the oil business, and I have the most superficial knowledge of it.

Mr. MOORE. I do not want to embarrass you at all, but you gentlemen who come before the committee should clearly understand the problem that confronts us. I presume, of course, that the committee would be glad to amend the law with a view to correcting errors that may be found in it, but you should bear in mind that there is staring us in the face the problem of raising \$8,000,000,000 next year, as against \$4,000,000,000 last year, by taxation.

Mr. MOHUN. I am sure from what I know of this company, and my slight knowledge of other companies, that there is no objection to an increase in the rates of taxation, but it does seem unfair to discriminate against us.

Mr. GARNER. What you are suggesting is that we write into the law an interpretation of the law as you understand it to be now?

Mr. MOHUN. Yes, sir.

Mr. GARNER. You have nothing to suggest in reference to rates of taxation?

Mr. MOHUN. No, sir.

Mr. GARNER. You simply want the law construed as you believe it ought to be construed at the present time.

Mr. MOHUN. Yes, sir.

Mr. SLOAN. Did you say that the rate of taxation on the people you represent would be reduced by this?

Mr. MOHUN. Yes, sir; it would simply put us on the same footing with others.

Mr. SLOAN. Your suggestions are for reducing the taxes rather than for the purpose of increasing them?

Mr. MOHUN. Yes, sir; but they have no objection to an increase of the rates of taxation.

Mr. MOORE. The question might also be raised of whether, if this amendment were adopted, the department would go on and interpret the law as heretofore. They might do that even if that amendment were adopted.

Mr. MOHUN. Yes, sir.

Mr. STERLING. Your desire in suggesting this amendment is to equalize the cases of A and B by reducing A's taxes, is it not?

Mr. MOHUN. That is the effect of it.

Mr. STERLING. Can you draw an amendment and put it in these hearings that would equalize A and B by increasing B's taxes up to the amount paid by A?

Mr. MOHUN. I am glad you mentioned that, because I am now satisfied that I did not make myself clear. If an amendment to that effect should be added to this bill, it would mean that we would be taxing the income of B which accrued to him years before there was a sixteenth amendment to the Constitution authorizing an income tax. You would be putting him back a year and taxing his income prior to March 1, 1916, while you would not be taxing the income of the other party prior to that time.

Mr. STERLING. This suggested amendment equalizes them by reducing the tax of one to the level of the tax of the other. Then, why not increase the rate so that both would have to pay more taxes?

Mr. MOHUN. I think that would be fair, and I do not think there would be any objection to it. We are always glad to do our share, but we object to a discrimination, especially when Congress did not mean it, and we do not want to assume it.

Mr. MOORE. Is not the oil business generally more prosperous this year than last year?

Mr. MOHUN. Yes, sir.

Mr. MOORE. The war has probably had a great deal to do with that, has it not?

Mr. MOHUN. Yes, sir.

Mr. GREEN. Will you answer another question in which you are probably interested, and about which you may be able to give some information: Does your company ship through pipe lines?

Mr. MOHUN. We own pipe lines.

Mr. GREEN. There has recently been an increase in freight rates, of about 25 per cent by railroads, but that does not affect pipe lines, as I understand it.

Mr. MOHUN. You are beyond my depth there.

Mr. GREEN. You can not give us any information about that?

Mr. MOHUN. No, sir; I would be glad if I could.

Mr. RAINEY. Has there not been an increase in the output of oil wells since the war started?

Mr. MOHUN. Yes, sir; I think there has been, but not as great as the increase in the demand and consumption has been.

Mr. RAINEY. And there has also been an increase in the value of the products?

Mr. MOHUN. Yes, sir.

Mr. RAINEY. We are face to face with a proposition here which requires us to draw a bill to raise \$8,000,000,000 in revenue. We have received numerous suggestions since we started these hearings, and if we followed them all we would not be getting any money at all, but would probably lose \$2,000,000,000 of the amount that we are already getting. Have you or any oil organizations any suggestions to make as to how we can raise this money by reducing the taxes?

Mr. MOHUN. I understand that Judge Shea, of Texas, is here.

Mr. WHITE. He is from Tulsa, Okla.

Mr. MOHUN. I am not speaking for him, but I know that he represents the oil producers' association.

Mr. RAINEY. Has he a proposition by which we can get more money out of the oil business or one by which we can get it out of somebody else?



Mr. MOHUN. That I can not say.

Mr. GARNER. If you wrote into the law a provision of this kind, and then increased the income taxes and increased the excess-profits taxes, you would pay more taxes.

Mr. MOHUN. Yes, sir.

Mr. GARNER. And you are willing to do that?

Mr. MOHUN. Absolutely.

Mr. GARNER. As I understand it, you want to be treated like everybody else?

Mr. MOHUN. That is all.

Mr. GARNER. And you have no complaint to make about the rate?

Mr. MOHUN. We have no complaint to make about that.

Mr. GARNER. But you object to the construction of it?

Mr. MOHUN. Yes, sir. I thank you, gentlemen.

**STATEMENT OF MR. FREDERICK C. DURANT, 228 SOUTH NINETEENTH STREET, PHILADELPHIA, PA.**

Mr. DURANT. Mr. Chairman, in view of what I have read in the papers and listened to, my appearance here is simply for the purpose of suggesting how we may bring a very much larger revenue to the United States than we are at present getting.

Mr. GARNER. Will you state whom you represent here?

Mr. DURANT. No one in particular; but I believe there are many people who think as I do, that the Government is not getting what it ought to get out of the people of the United States.

Mr. MOORE. You come from Philadelphia?

Mr. DURANT. Yes, sir.

Mr. MOORE. You were formerly engaged in the business of refining sugar, were you not?

Mr. DURANT. Yes, sir; a good many years ago; but I am still familiar with it.

Mr. MOORE. You still have some interest in sugar refining?

Mr. DURANT. None whatever.

Mr. MOORE. You are practically retired now?

Mr. DURANT. Yes, sir.

Mr. MOORE. You have given a good deal of thought to the subject of taxation?

Mr. DURANT. In a way, yes, sir; and I still keep in touch with business generally. You were asking me a question, Mr. Congressman.

Mr. GARNER. No; I simply wanted to know whom you represented.

Mr. DURANT. In the first place, I believe, and there are many others in the United States who believe as I do, that no one has the right to claim citizenship who does not pay taxes to the United States Government. I also believe that a differential tax, excess-profits tax, or excess-income tax, or whatever you want to call it, upon excess income is a proper and just tax. However, in order to meet the question of getting the increased revenue needed, I have outlined two radical views, or perhaps they are radical, inasmuch as they have not been adopted heretofore. One is to impose a tax on the gross production or consumption of the United States.

Mr. SLOAN. Permit me to interrupt you a moment. Awhile ago you made the remarkable statement that no one should be a citizen of the United States unless he paid taxes to the United States.

Mr. DURANT. I meant direct or indirect.

Mr. SLOAN. For instance, children are citizens of the United States.

Mr. DURANT. Not until they become of age.

Mr. SLOAN. They are not citizens until they become of age?

Mr. DURANT. They are citizens, of course, in a sense—

Mr. SLOAN (interposing). You referred to franchise rather than citizenship, did you not?

Mr. DURANT. Yes, sir; except to this extent, that if you have children, you have five times the interest in the fact that they contribute their share—

Mr. SLOAN (interposing). The point I made was that you stated they should not be citizens of the United States unless they paid taxes. Did you mean voters?

Mr. DURANT. In that case I referred to manhood. That is to say, a man has no right to hold up his head in the community and say that he is doing his share as long as he is not paying anything.

Mr. MOORE. You mean every full-grown American who is enjoying the privileges of the country?

Mr. DURANT. That is exactly what I mean.

Mr. SLOAN. You meant voters?

Mr. DURANT. I meant so long as he is enjoying the privileges of the country. Now, I also contemplate a system whereby every resident of this country, but not a citizen of the United States, shall contribute through some source. It is estimated that the gross turnover in this country is about \$40,000,000,000. Now, suppose we start at the mine—

Mr. SLOAN (interposing). Did you say that the gross turn over was \$40,000,000,000?

Mr. DURANT. Yes, sir; that is the estimated turnover.

Mr. SLOAN. It was estimated at \$49,000,000,000 by somebody.

Mr. DURANT. Of course, it is all a guess. I am simply taking that estimate which was made by somebody else. Personally I believe it is much larger than that. Now, slipping away from that for the moment, the clearing house statement of last year from 184 clearing houses in the United States gave a total of over \$320,000,000,000. Now, if there are \$320,000,000,000 going through the clearing houses, that would seem to me to represent a larger percentage than this \$40,000,000,000. In other words, it would be as \$40,000,000,000 is to \$320,000,000,000, which is the amount the clearing houses reported—

Mr. SLOAN (interposing). You are counting revolutions instead of wheels, are you not?

Mr. DURANT. It is a part of the same thing. Suppose we start with the mining proposition, and take ore out of the ground. The owner of that ore would pay, according to my suggestion, along the lines I have laid down, we will say, 1 per cent on the gross receipts that he gets for his ore. He sells that ore to the manufacturer of pig iron, who, in turn, pays a tax. We will say that the ore man gets \$1,000,000 for his product, and the pig iron man, having put it through some processes of manufacture, will get, we will say, \$1,250,000. He pays a tax of 1 per cent on the pig iron, and passes it on to the steel man who makes steel ingots from it, on the sale of which he pays a tax of 1 per cent.

And so it would go on through all of the processes until there would be a tax of 8 or 9 per cent collected by imposing a tax of 1 per cent on it as it goes on through the different processes. If you dropped back from that product to rock that is taken out of a quarry for the purpose of making road ballast; you would collect only 1 per cent upon that product, because it would go from the quarry to the road that was ballasted, and the only step taken would be that of transportation. It would be the same way with various other things. For instance, take wheat. The farmer would pay a tax of 1 per cent on the sale of his wheat; the miller would pay a tax of 1 per cent, and if there was any man between the miller and the wholesale dealer, he would pay a tax of 1 per cent. The wholesale grocer, presumably, would get it next, and he would pay the third tax of 1 per cent, while the retail grocer would pay the fourth tax of 1 per cent. That would be the end of it until it got into the form of the bread and pastry, and the man selling that would be the fifth one to pay a tax of 1 per cent.

Mr. HAWLEY. Finally, of course, all those taxes would be paid by the ultimate consumer.

Mr. DURANT. You can not collect it any other way, except in the tax that you have at the present time—that is to say, the excess-profits tax and the tax on individual incomes. But there is no other tax imposed that is not paid by the consumer. The revenue collected at the ports on imports are paid by the consumers. All of those taxes are taxes on consumption. There is no way in the world to prevent the passing of it on to the consumer. He may be a farmer or he may be a banker, but he pays the tax on the article he uses, if it is taxed. It seems to me that at this time, considering the crisis that the country is in, and the fact that an enormous amount of revenue is required, you must put aside all picayune questions, personal, professional, or anything else, and make it so that everybody will pay a just and equitable tax. We have been having Red Cross drives and these other things to which the people have been encouraged to contribute. Why not try to encourage the people of the United States to pay their just share of the taxes? I assume that there would be on the turnover an average of about 5 per cent, although my idea is that it would be less than that. On a turnover of \$40,000,000,000 you could collect \$2,000,000,000 from that source alone. It is a tax that would be easy of collection, and if you wanted more revenue you could simply double the rate by adding 1 per cent. If you wanted still more revenue, you could double it again. It would become an overhead charge in every man's business. If a man's turnover in his business is such that the tax 1 per cent would amount to \$10,000 a year, that \$10,000 per year would be just the same as if he employed a superintendent at \$10,000 a year. That is to say, it would become an overhead charge. There would be no friction about that. I have talked with merchants about it, and they all agree to that proposition.

Mr. MOORE. How would you put that scheme into operation?

Mr. DURANT. I would promptly license everybody in the United States. Everybody who transacted any sort of business would be required to have a United States Government license.

Mr. MOORE. You would apply that to small stores as well as to the large department stores?

Mr. DURANT. I would apply it to everybody. It would be applied to every branch of business, because you could not make any exceptions. It would have to be universal and would have to apply to every line of business.

Mr. MOORE. But it would hardly reach the man who is employed by a rolling mill and receiving wages.

Mr. DURANT. Why would it not reach him? He has got to consume stuff. It would come from him, also.

Mr. MOORE. Would you require him to take out a license?

Mr. DURANT. No, sir; not if he was receiving a salary.

Mr. MOORE. How would you check him up?

Mr. DURANT. If he was a wage earner, he would not be a trading person, and he would not be selling anything except his time. That has been the law in the past.

Mr. MOORE. Then we would diverge at that point. You would require the man doing a small tobacco business to take a license, but the wage earner, who might derive the same amount of income, would not be required to take a license. You would have to have another sort of machinery to reach him.

Mr. DURANT. He pays an overhead charge under this tax of 5 per cent, or whatever it is, on this turnover.

Mr. MOORE. When you came to put your plan into practice, how would you actually get the money out of his pocket for the Government's needs, or what would you apportion against him?

Mr. DURANT. It would be on whatever he buys. He would pay the overhead charges on whatever he bought.

Mr. MOORE. Then, the rolling mill wage earner would pay through somebody from whom he made his purchases?

Mr. DURANT. Yes, sir.

Mr. MOORE. That would be an indirect revenue, so far as he was concerned.

Mr. DURANT. Absolutely.

Mr. MOORE. Then we would not be able to check him up.

Mr. DURANT. Suppose you take this proposition: Suppose you have two wage earners, both getting \$1,200 a year, and we will suppose that they have exactly the same number in their families to support and that all the conditions are the same, except that in one instance the man and his wife and children are economical and save \$200 a year. The other man has paid his taxes on his \$1,200.

Mr. MOORE. You spoke of passing the tax along to everybody so that every full-grown citizen, man, woman, and child would pay his or her share, but would put a direct tax on every man in business.

Mr. DURANT. But the man in business is not going to pay that tax. That is going to be an overhead charge on his business, just as much as his capital.

Mr. MOORE. As a matter of fact, doesn't the rolling mill man or the street car conductor pay his share under the present system, taking your line of reasoning?

Mr. DURANT. He pays a certain amount.

Mr. MOORE. He buys from a store in Washington or John Wanamaker's in Philadelphia, or from a store in New York City, and they pay the tax, but the individual doesn't know that he pays any tax.

Mr. DURANT. No.

Mr. MOORE. Except that he pays higher prices.

Mr. DURANT. We say what we don't know doesn't hurt us.

Mr. MOORE. That is the point where I thought your scheme fell down, because you do not trace revenue to its source in every case.

Mr. GARNER. If I understand your proposition, it is to levy a tax on sales.

Mr. DURANT. Absolutely on the gross sales.

Mr. GARNER. It makes no difference what a man sells, on what he sells he pays 1 per cent.

Mr. DURANT. Assuming that to be the rate.

Mr. GARNER. Assuming that to be the rate, and if a man sold a horse, he would pay 1 per cent on the gross sale, and if a man sells a million dollars' worth it would still be 1 per cent on that, and on down the list—what is known as a consumption tax.

Mr. DURANT. Absolutely, and another way of figuring around the same proposition is this, that to-day you have taxes on various commodities—you take your theater tickets, you have a tax on all amusements of all kinds. Now, on the other hand, take the transfer of stock. A man buys \$2 at a theater, which is the highest price they have—of course it scales down—he pays 20 cents, whereas if a man buys \$100 worth of stock he pays only 2 cents. That is not equitable.

Mr. GREEN. Isn't one a luxury and the other not?

Mr. DURANT. Buying stock is a luxury.

Mr. GREEN. Buying stock is a luxury?

Mr. DURANT. Absolutely; because if he has the money to pay for it and keep it it is a luxury. Take this trading in stocks, stock exchanges. If you were to tax those, you would derive from that source alone many billions.

Mr. GREEN. I am not saying that we ought not to advance the tax on stock of the wealthy. But let me call your attention to another question along the line of Mr. Moore's question. Here is a man with a wife and, say, 8 or 10 children. He consumes a certain number of pounds of coffee a year and tea. Here is a bachelor millionaire who does not consume more than one-tenth the amount the first man and his family consume. The first man I mention is a section hand and has just about enough to exist on. Now, under your system, the section hand would be paying ten times as much taxes, indirectly, as the bachelor millionaire. Do you think that is fair?

Mr. DURANT. No; I don't agree with you. I think I can convince you and the other gentlemen that is not the way it works.

Mr. GREEN. Your plan is not at all new. It was put in force in the Civil War, when they had a tax on gross sales on nearly everything.

The CHAIRMAN. It was a tax on gross sales of 3 per cent, but not on the manufacturers' sales. It was not as the present system.

Mr. GREEN. There was a tax on sugar and a tax on petroleum, tax on oil and certain refined products, etc.

The CHAIRMAN. About 300 or 400 articles were taxed 3 per cent to 5 per cent on the manufacturers' sales, like we tax the automobile exactly.

Mr. DURANT. Take the proposition of your poor \$800 man. I guess that is pretty low under the present wage scale.

Mr. GREEN. That section hand would not get that.

Mr. DURANT. Wouldn't he? I thought Mr. McAdoo had changed it so that he would get that.

Mr. GREEN. Perhaps, now.

Mr. DURANT. I had rather gathered that was the case, but then I had not followed it very closely. But the point is, as compared to the millionaire that you speak of, the section hand buys his food and clothes and there is nothing left of his \$600—or whatever the figure is. That is equivalent to \$38 a year tax to Uncle Sam under the present conditions. That same man is contributing to the war the same as the millionaire. In taking with laboring men, I have not talked to any who were not willing to contribute their share of taxes if the wealthy pay proportionately more, and the wealthy man is bound to do that because if he spends \$50,000 on his extravagances, he will be paying as much in proportion as the \$600 man on his necessities.

Mr. MOORE. Mr. Durant, pardon me, that brings up the point that Mr. Green endeavored to bring to your attention, that the section hand with his children under the consumption tax system would be obliged to pay indirectly on his children and his wife and himself, while the millionaire, who consumes no more than the section hand, would pay only a small proportion. In other words, the section hand would be paying nine times more on the consumption-tax plan. What have you to answer to that?

Mr. DURANT. He would be paying nine times more on account of his wife and eight children. That is his misfortune to have these children, or his blessing, whichever way you want to look at it.

Mr. MOORE. I can see another answer which I thought you would make. The millionaire is probably maintaining 30 or 40 servants, who can consume a little more than he can; and it comes to more than the one man consumption.

Mr. DURANT. Yes.

Mr. MOORE. He sometimes has a house full of servants.

Mr. STERLING. I would like to ask a question. To-day, Mr. Durant, you say that the transactions going through the clearing house are \$320,000,000,000.

Mr. DURANT. \$320,000,000,000 was the statement of last year, ending June 30, 1917.

Mr. STERLING. That represents all the business transactions of the country excepting those where cash is paid, and excepting those where a check is given and it is cashed at the same bank at which it is drawn?

Mr. DURANT. Yes; and I think it also excepts the United States—transactions of the Government. I do not think that they go into these figures; I think many of them do not.

Mr. STERLING. You figure that your plan would produce \$2,000,000,000, but you think that \$320,000,000,000 go through the clearing house. Suppose you put 1 per cent on that. That would be \$3,200,000,000.

Mr. DURANT. I am coming back to that. I have two plans to offer—one to increase the present line, and one a new one.

Mr. STERLING. Have you any data as to what per cent of the business transactions of the country go through the clearing house?

Mr. DURANT. What per cent of the business?

Mr. STERLING. Yes, sir.

Mr. DURANT. One of the plans which I have suggested here along the line of increasing income to the United States, is to tax all deposits in banks, of every kind. I am going to answer your question now about the tax on deposits that go through the banks of every nature, and exempting from those transactions or transfers that may take place from one bank to another, if the amount is exactly the same in the second bank and subject to the same signature. In other words, as a matter of commercial convenience, it may be desired to transfer \$50,000 from the First National Bank and to deposit it in the Second National Bank for the purposes of paying out. The total bank deposits in the United States in June, 1917, were \$26,289,785,000.14, which, I believe, in talking with various bankers and trust company officers, and others, had a 5 per cent daily turnover. In other words, the turnover in banks in a large city where there is a great deal of business, as in New York, Philadelphia, Washington, or Baltimore, will average 10 per cent of the deposit accounts daily; that is, the checks against that bank—against their own deposits—will amount to 10 per cent. Now, taking the trust companies, savings banks, and other institutions, which run much less, I find the savings funds run anywhere from 3 per cent up to 4 per cent. Taking them as a steady proposition, and estimating a 5 per cent daily turnover, you would get \$1,300,000,000 as a daily proposition, or \$390,000,000,000 in the year. If you put a tax of one-tenth of 1 per cent on that, you will get \$319,000,000 on that proposition.

Mr. STERLING. Daily?

Mr. DURANT. Yearly.

Mr. DIXON. You have conferred with a number of bankers. How many approve your proposition?

Mr. DURANT. I can not say that any have disapproved or approved it. One banker emphatically disapproved it on the grounds that it would possibly disturb the banking arrangements of the country, the moment we tried to adopt things of that character.

Mr. DIXON. Would you make the man that owns the money in the bank pay it?

Mr. DURANT. My theory is to make the man that owns the money pay it. Assume that in this country to-day we have a large percentage of the people whose wages or salaries are \$1,000 or more, and they are depositors in some institution.

Mr. DIXON. Then a man if he put his money in his own vault would not pay the tax, but the man who deposits his money in the bank.

Mr. DURANT. The amount of tax would not keep a man from depositing. A man would just as soon take his telephone out of his house as he would bother with taking \$10,000 or \$50,000 from his bank and putting it into a perfectly safe place, and then have to go to that vault and get money and pay it out in preference to paying the tax. Certainly the method of a 2-cent stamp on a check is not equitable, because then the poor man draws perhaps 100 checks of a total valuation we will say, of \$1,200, and the other man draws 100 checks of perhaps of a total valuation of \$1,000,000, and he pays the same tax. Supposing a man has an income of \$100,000 a year and spends \$50,000 on the pleasures of life. If he requires \$50,000 to be spent on pleasure, he pays a tax on his \$50,000. There are two kinds

of investors—one man who will take it and put it in an investment and put aside the stock in a safe deposit vault, and draw the income and pay his income tax to the Government, while the other investor is a quick investor. He likes to play it in the stock market. He likes to turn it over, and every time he turns it over, he pays Uncle Sam for the privilege, not this picayune 2 cents on \$100,000, which represents one-fiftieth of 1 per cent, and this investor does not mind paying the tax. It is a simple matter to the man who is playing the stock market. He is the man that ought to pay.

Mr. FAIRCHILD. What per cent of men with incomes carry a bank account of the general public.

Mr. DURANT. Perhaps this will answer it as nearly as I can answer it. I am giving you data entirely from the records of the Treasury Department report. This gives the number of depositors in the national banks. I am not speaking of savings banks. On June 30, 1910, the number of depositors was 8,048,000. On May 1, 1916, it had increased to 14,288,000 and on March 5, 1917, to 15,738,000. Now, a comparison with the number of people in the United States, therefore, will show the percentage of depositors in the bank, which to my mind shows a healthy increase in business, and a healthy tendency on the part of the poorer people. I do not recall the savings banks deposits at the moment.

Mr. SLOAN. Do you think your plan of taxation would encourage that very healthful increase?

Mr. DURANT. I most certainly do, sir, because, in the first place, the rate of tax is only one-tenth of 1 per cent. We will assume that the \$1,000 man puts all his money in the bank.

Mr. FAIRCHILD. But if he doesn't he has no tax to pay. This discriminates against a man who puts his money in the bank, in favor of the man that doesn't.

Mr. DURANT. The amount of the tax is so small and the inconvenience of taking the money to a safe deposit vault is so great that it will not affect bank deposits.

Mr. HAWLEY. The original safe deposit vault is known as the old stocking.

Mr. DURANT. Those were the days when you could safely put it in the clock and find it later. I have had checks out upon a bank that failed. Inside of 48 hours the checks were back home. As long as the bank was safe they were not cashed. Those conditions do not exist in the city. The conditions in the city are such that the people put their money in the banks. I have the report of the Western Savings Bank of Philadelphia, Fifth and Walnut, isn't it?

Mr. MOORE. That is the Philadelphia.

Mr. DURANT. I have the report of that.

Mr. MOORE. The Western is on Tenth Street.

Mr. DURANT. It is the Philadelphia. They give a very fine analysis, and it corresponds generally, I find, with the classes of depositors from other banks, and they have increased from year to year, nationalities and employments, and everything of that kind. It is really a very interesting document from an economic point of view to study the nationalities that are putting their money in that institution, and the conditions under which it has been increasing. Those people are not going to change because they have to pay a tax.

Mr. FAIRCHILD. Would this tax apply to savings-banks depositors?



Mr. DURANT. My plan is that it should apply to the depositors. In other words, I would make every bank subject to the United States Government, whereby they kept track of that proposition, private banks as well as savings banks.

Mr. HAWLEY. Would you apply it to the Postal Savings System?

Mr. DURANT. To answer that question I would like to say that all I am trying to do, gentlemen, is to put out what I believe to be a fundamentally good foundation to our superstructure. As to the details, you would want to be very careful on that point. I would not say yes or no.

Mr. HAWLEY. If you do not, you will allow to escape taxation much money held by foreigners.

Mr. DURANT. I am willing to say that I am a blank on the policy. It should be studied out as to whether it is a good policy from an economic point of view.

The CHAIRMAN. Your idea is to have no more income tax or excess-profits tax, but to substitute your proposition for the income and excess-profits tax?

Mr. DURANT. That is not my idea. My idea, if you want to come to an ultimate decision, is that after this war ends, which will be when we win it, as pray God we may, these questions of taxation will take care of themselves. Those that are fundamentally right will stay, and those that are not will go. We are facing a condition that we will have to meet. That answers your question to a certain extent, and I am not proposing any radical method of doing away with taxation, and came here simply to suggest certain well-defined forms whereby you could increase your taxes. I have read every report of these sessions here, and I have yet to find anybody who has advanced any theory of collecting revenue that there was not underlying a current that it would be to his benefit to do it. If it was to be on imports, it was a charming thought, but behind it was the thought that it was a protection to some business industry. I have been here only yesterday and to-day, but I have read them all, and I have not heard anyone who has come here and told you how you can collect it, putting aside all questions of policy toward any class of people.

The CHAIRMAN. In addition to the income tax and excess-profits tax you would enact this proposition of yours?

Mr. DURANT. Absolutely, sir. The point is not to decrease your revenue, but to raise your \$8,000,000,000. It is ridiculous to put a tax of one-fiftieth of 1 per cent on an absolute luxury. I am not opposing stock speculation, but I am opposing such a tax for the simple reason that I am opposed to a 2-cent stamp tax. There is no logic or reason in such a proposition.

Mr. DICKINSON. Under this recent law, there is no tax on checks.

Mr. DURANT. No; I know that.

Mr. DICKINSON. And if there is to be in the law that will be written it is very probable that we would increase the size of the tax according to the amount of the check.

Mr. DURANT. That is what I would suggest, take one-tenth of 1 per cent, or one-fifth of 1 per cent of what the amount is. I would take one-tenth in figuring out transactions, but as between a buyer and a lender, I come to one of you gentlemen, and I want to borrow \$5,000 or \$10,000. You are going to charge me 5 per cent as interest. I

hand you this check which is taxed one-tenth of 1 per cent. Now, you are not going to loan me that unless I pay it. I need the money and so I agree to pay it. Now, I say, "Will you kindly draw me five checks which I can pass out to where I owe the money?" Now, to that extent I save that one-tenth, but the amount of that is not big enough to take into calculation, except as it is a benefit to that class that we all feel kindly disposed to.

As to the bachelor that Mr. Green mentioned, if he pays a consumption tax on \$50,000, if that is all the money that he is spending on that proposition, and then he has the other in the bank, he will have to pay his tax on the money in the bank also.

Mr. GREEN. But if he spends his \$50,000, he would spend it on luxuries, whereas a poor man has to spend his for the absolute necessities of life, for which he is only getting enough. Indeed a good many Government employees are complaining that they are not getting enough now to supply themselves with the necessities of life.

Mr. DURANT. I can answer that question. They are going to get enough to take care of themselves, and there are certain people in the United States, like myself, who are going to see that they get enough. There is a rational end to the proposition as well as an irrational one. If one puts it on the ground that he can not afford to pay the tax, then give him enough. Don't try to pauperize him on that ground, or on the ground that he can not pay his taxes because he is too poor.

Mr. GREEN. What would be the advantage to the Government if it was required to pay a man \$100 more and then tax him \$100?

Mr. DURANT. You are speaking of Government employees. I am speaking of outsiders. I have been dealing with outsiders altogether. They seem to have taken pretty good care of the Government end of it by making exemptions. There is no equity in that.

Mr. GREEN. To what exemptions do you refer?

Mr. DURANT. I refer to any exemptions.

Mr. GREEN. What ones?

Mr. DURANT. Exemptions of office salaries or anything else of Supreme Court judges.

Mr. GREEN. What salaries are exempt?

Mr. DURANT. Those below \$6,000.

Mr. GREEN. Those below pay income taxes.

Mr. DURANT. Yes.

Mr. GREEN. Excess profits taxes are those above \$6,000.

Mr. DURANT. I may be wrong.

Mr. MOORE. You may be referring to something like salaries of the President and judges of the Supreme Court.

Mr. STERLING. There is exemption of \$1,000 for a single man and \$2,000 for a married man. Isn't that what you are referring to?

Mr. DURANT. No.

Mr. CRISP. The only Federal employees who pay the income tax are Congressmen and Senators.

Mr. MOORE. The only exceptions, as Judge Crisp remarked, are the Members of Congress, who have taxed themselves excess profits.

Mr. DURANT. The point that I made is to point out the possibilities of getting every dollar increase of income.

Mr. SLOAN. Let me ask you, Mr. Durant, has this plan of yours ever been put into operation substantially by any country that has it in operation now, or is it an entirely new field?

Mr. DURANT. I must plead guilty of not having a sufficient knowledge of economics to answer the question with positiveness. My impression is that there is something like this in operation in Germany.

Mr. SLOAN. In Germany?

Mr. DURANT. One of the few things in Germany worth while.

Mr. SLOAN. That would not be a strong recommendation at this time

Mr. DURANT. No; but there were many things in that country that if this country had followed it would not have been a bad thing.

Mr. SLOAN. Yes; we are trying to make arrangements to follow their army.

Mr. DURANT. I represent the eighth generation, so that I am not pro-German.

Mr. SLOAN. I did not mean that it was necessary to have a precedent. I wanted to know if it had been done.

Mr. DURANT. I believe that is the case with regard to Germany. I have only heard that that is the case.

Mr. HAWLEY. In taxing bank deposits would you leave the tax on the total deposit made by any person during the year or on the balance to his credit at a given time in the year or on the average daily, weekly, or monthly balance?

Mr. DURANT. I have only had one banker put to me the advisability, if the thing was enacted, of taxing deposits as they appear in the bank, rather than as the money is drawn out. My suggestion was to tax the money as it is taken out and not as it is put in. There might be good reasons for one as against the other, but the point I make is the simplicity in its collection, as the tax would be paid to the United States Government every month, so that there would be a constant flow of money coming into the Government monthly rather than sporadically.

Mr. HAWLEY. Would that be made by the bank?

Mr. DURANT. Supposing I drew from the bank in one month \$500, and the tax is one-tenth of 1 per cent, which would be 50 cents, which would be the tax. Supposing you draw from the bank \$5,000, the tax would be \$5. At the end of the month, the bank wherever you deposited, would render the balance on hand, and it would show in my case a tax of 50 cents and in your case \$5 less than the balance on the check book.

And on the question of this exchange of accounts. If a concern was to take its money from a bank for the purpose of placing it in another bank, it would have to so arrange that the bank would take care of this transfer if they were not going to collect the tax so that the second bank would collect the tax. In other words, the check would be drawn for transferring accounts. It would be a tax on every deposit excepting the two forms that I have named.

Mr. MOORE. Then you would have the heaviest part of the tax on that part of the transfer which is merely a formality rather than on the real contract and agreement. That means that the mere formality of paying would be the basis of taxation?

Mr. DURANT. Yes; because that is the greatest item in the thing. So that you have a contract for \$100,000, the tax would be collected from the \$100,000; I do not know just what you mean. I am not talking for taking off any of the tax on documents. I am offering as a suggestion on the document tax that it is a perfectly absurd tax

of one-fiftieth of 1 per cent on the transfer of \$100,000, because if you figure that out, figure the channels that are paying it, the ones who are interested, as Mr. Green was saying, the millionaire bachelor, he is the one who is paying this little picayune tax of one-fiftieth of 1 per cent.

Mr. SLOAN. What would you do in the case of overdrafts?

Mr. DURANT. In the case of the overdrafts the bank has to be responsible, if they allow it.

The CHAIRMAN. Does any other gentleman desire to ask any other questions?

Mr. STERLING. I want to get at the results of your idea. How much did you say one-tenth of 1 per cent on bank deposits would produce?

Mr. DURANT. It would produce \$390,000,000, assuming that the turnover is, as I have stated, estimated at 5 per cent daily.

Mr. STERLING. You would produce that each year?

Mr. DURANT. \$303,000,000 or \$304,000,000 in a year.

Mr. STERLING. Now, you say there are \$26,000,000,000 on deposit?

Mr. DURANT. Yes, sir; in the year 1917.

Mr. STERLING. Well, could you not tax deposits in on a certain day?

Mr. DURANT. No, sir. I am not taxing deposits. It is estimated in the banks.

Mr. STERLING. You would tax deposits as they are put in?

Mr. DURANT. No; one man suggested taxing them as they were put in. I would suggest taxing the bank deposits as they are withdrawn.

Mr. STERLING. Supposing a man made a deposit in the bank and the banker would set apart from that deposit one-tenth of 1 per cent, how much would it amount to in a year? That is, do you know how much one-tenth of all the deposits in the banks are in a year? You gave what was in in one day.

Mr. DURANT. I do not know that I could answer to that, that I would be willing to try to answer that without further investigation, because I have dealt with it from the point of view of taxing that which is tangible, and that which I have figured out.

Mr. STERLING. You are not taking State banks into consideration at all?

Mr. DURANT. Yes; the Treasury gives their figures. The Treasury gives, for instance, a total of 27,923, of which only 6,004 are national banks.

Mr. STERLING. I think your idea of taxing national-bank deposits would not be a bad idea except for one thing. You are very much mistaken that it would not keep a lot of deposits out of banks. It would keep a great deal of money out of banks.

Mr. DURANT. There is only one gentleman who has taken that position.

Mr. STERLING. You say that \$320,000,000,000 pass through the clearing house in a year, don't you?

Mr. DURANT. \$303,000,000,000 through 184 clearing houses last year. As reported by the Treasury Department, 184 clearing houses reported \$303,998,000,000.

Mr. STERLING. Now, have you any idea of the per cent of the business transactions of the country which go through the clearing house?

Mr. DURANT. No, I have not; except in this way. It was rather interesting to me, these figures of the clearing house. I got these figures subsequent to making up mine, and it is rather interesting that my figures on the proposition were \$390,000,000,000.

Mr. STERLING. Everything, that is, cash transactions through the banks, and everything else?

Mr. DURANT. The transactions through the clearing house are not as much as through the banks.

Mr. STERLING. I wondered what per cent it was? As to the \$303,000,000,000, we know they are transactions which have taken place in the country during the year.

Mr. DURANT. Absolutely unquestioned.

Mr. STERLING. That would produce \$3,000,000,000 at 1 per cent?

Mr. DURANT. Yes, at 1 per cent; but when you get into 1 per cent, you are getting into what you claim yourself would be a disposition on the part of the larger institutions and others to save that 1 per cent, but when you get down to the approximate sum of one-tenth of 1 per cent there is not enough to make any difference.

Mr. STERLING. Wasn't it your idea to tax the transactions that went through the clearing house? It wouldn't make any difference whether it was in the bank or not. If you paid cash you would have to pay 1 per cent.

Mr. DURANT. You are running two features into one. One of these that I put forth is the consumption tax of 1 per cent on the gross business, wherever it lights, or wherever it falls. That has nothing to do with the bank tax at all.

Mr. STERLING. I understand that. I am speaking about this one tax on business transactions. I am not running them together. I am just trying to get some idea of the amount you would produce. There is no doubt that it would produce revenue.

Mr. DURANT. The consumption tax would produce \$2,000,000,000.

Mr. STERLING. You know that it would produce \$3,000,000,000 just on the transactions that go through the clearing house. You tax all of them and it certainly would be more than \$3,000,000,000 if the clearing house transactions made \$3,000,000,000, which, with what the others paid, would certainly be four or five billions, that is, with 1 per cent on transaction.

Mr. DURANT. But when you are speaking of clearing house transactions, a certain proportion would not be taxed. Suppose a corporation pays out \$100,000 and pays it from one bank to another. That goes through the clearing house.

Mr. STERLING. There would be some of that.

Mr. DURANT. You see the inaccuracy of trying to arrive at the figures by using the clearing-house proposition as to what is the total volume of business. It only helps you to a limited extent if you take it as a basis of what you are going to get on the one-tenth tax on the banking proposition.

I would be very glad, if you care to have me do it, to put what memoranda I have in a little better shape and send it in. The main point is that I desired to appear before the committee on the matter of increasing revenue.

The CHAIRMAN. You are one of the very few that have suggested how to raise the tax.

Mr. DIXON. If I had \$1,000 in my local bank, I would be taxed \$1.

Mr. DURANT. You would be if you drew it out.

Mr. DIXON. Then, I pay my local merchant \$1,000, and he deposits it and pays \$1,000 to the wholesaler, and when he draws it out he pays \$1, and when the wholesaler draws it and pays it to the manufacturer, he pays \$1 tax, and when he pays it to his employees he pays another \$1. Have you estimated the total amount that would be collected from that tax?

Mr. DURANT. The only thing that we have got to go by are the figures which I gave as the 5 per cent turnover each day, and in my figures we arrived at \$390,000,000,000 annually, against the clearing house figures of \$303,000,000,000. This difference can be made up by taking into consideration the fact that a large volume of business does not go through the clearing house at all. No living man could tell you what that business is.

Mr. DIXON. When I pay my local merchant \$1,000 with a check, supposing, instead of depositing it, he sends it to the wholesaler, and then he indorses it and sends it to the manufacturer, there is no tax on the \$1,000 except when I draw it.

Mr. DURANT. That would be the result, but the question would be whether it would pay him to take the chance of holding out the check, and, besides, he would want to deposit the check to complete the record of his transaction.

Mr. GARNER. What proportion of the taxes for running the Government would you collect from consumption tax and what from income?

Mr. DURANT. I would prefer not to express an opinion about that, except as I did a few moments ago, if the war lasts a year longer—if the war lasts two or three years longer—I think the gentlemen on this committee, or men of the same caliber, might be better able to judge what taxes to take off than we are to-day. I think the question of the simplicity of the collection of the tax is the thing to be considered to-day.

Mr. GARNER. In the beginning you stated, and your testimony has shown, that you have given the matter of taxation considerable study, and I was just wondering if you would be willing to express your opinion as to how in ordinary times, not in war times, but in ordinary transactions of Government business, this revenue should be collected—how much from income and how much from consumption tax?

Mr. DURANT. I believe that everybody should pay a consumption tax, and thus contribute their share to the maintenance of the Government. I also believe that any incomes that may be determined to be too large or exorbitant should from that point on pay as they are now doing—a pro rata increase as the income increases.

Mr. GARNER. Do you believe in the theory of dissipating large fortunes by taxation?

Mr. DURANT. Do you think the word "dissipating" is just what you mean? "Dissipating" as is used in such an offensive way.

Mr. GARNER. Do you believe in decreasing the large fortunes of this country by methods of taxation?

Mr. DURANT. I do to a great extent; yes.

Mr. GARNER. That is done in two ways, if I understand it. The most direct way is by the inheritance tax.

Mr. DURANT. That is the most direct way.

Mr. GARNER. And the other is to take the incomes and cut down the earnings by having a graduated income tax, so that a man won't be able to accumulate such tremendous fortunes.

Mr. DURANT. Yes.

Mr. GARNER. And you believe in that theory of taxation?

Mr. DURANT. Yes.

Mr. CRISP. A moment ago I stated that Congressmen—Senators and Representatives—were the only ones of the Federal officials that paid the tax. I had reference to the excess-profits tax. That statement is literally true. State, county, and the municipal officials do not pay any tax, either income or excess-profits tax, under the existing law. I have introduced a bill, and it is now before this committee, requiring all State, county, and municipal officials, if they have sufficient income, to pay the tax, both income and excess-profits tax, and I hope when this bill comes out it will be included in it.

Mr. DURANT. My theory is that everybody should pay; that there should be no exemptions of any kind whatever.

Mr. SLOAN. Judge Crisp, the other countries of Europe do not include official salaries in income or excess-profits taxes.

Mr. CRISP. I could not answer that question.

Mr. SLOAN. Some of them do not.

Mr. CRISP. Whether they do or not, I see no reason why a man in this country that has an income from any source then holding office should pay a tax and a man who is holding office does not pay a tax. I think he ought to pay it.

Mr. DURANT. I think so, too; absolutely.

The CHAIRMAN. I want to say that the House agrees with that, too. These exceptions of salaries were not put in by the House. It was finally agreed in conference.

#### STATEMENT OF MR. E. L. HOWE, SECRETARY OF THE NATIONAL RETAIL DRY GOODS ASSOCIATION, NEW YORK CITY.

Mr. HOWE. I am secretary of the National Retail Dry Goods Association of New York City, representing about 600 retailers of dry goods and department stores. I am mentioned on the program as an attorney. I am unfortunately not an attorney, just a dry goods man, a merchant, of about 25 years' experience. We are appearing not to ask for any relief from taxation. We are appearing to give some of our views in connection with the framing of a tax bill, and I think that the basis that I have to suggest will convince the members of the committee that we appreciate the fact that they have to raise increased revenue, and that this suggestion makes that possible.

These stores I speak for are willing and glad to contribute all of their income that is necessary, and all of it if necessary without any question.

There are a few inequalities in the present tax bill that I would like to call your attention to, and I think that my good faith in making these suggestions and presenting the remedy is the answer to the question of our good faith.

Our first recommendation is that the present bills be repealed and one bill written which will make the entire question comprehensive and simple to understand to the average business man. That is one of the difficulties we have.

The CHAIRMAN. That will be done.

Mr. HOWE. My suggestion, gentlemen, is this, that we find a new basis in determining the excess war profits that will thoroughly differentiate between normal prewar profits and profits that have resulted from the production of war supplies, or any business that has been directly accelerated by the war. The present bill is, in our opinion, unnecessarily complicated, and does not successfully make this differentiation.

The theory behind the present plan of taxation, as I understand it, is, in so far as possible, not to disturb the normal prewar profits except as to normal tax, but is to take such proportion of that income as is derived exclusively from war production as is found necessary. Now, for the purpose of providing an example, it would seem to us a sound basis to tax what I would call war profits, not necessarily excess war profits, but war profits. I desire to present the following plan: Eliminate prewar profits from special taxation at the present time, except as to normal tax. Second, to determine prewar profits, eliminate capital as a basis of business. Take, for example, a period of five years or more if it is deemed necessary to get a fair average, beginning, say, with 1909 to 1913, and estimate the average normal net income for a corporation, partnership, or individual upon the following basis: Obtain the average net income for the prewar income by taking, not the percentage, but the volume of net income for a number of years and divide it by the number of years, and obtain the average in that way in volume, not percentage, subject only to the normal tax levy going back sufficiently far to get a fair average, and then draw a line at the average prewar income, and take all the rest above that as a war profit.

Provision should be made in this connection, in our opinion, for proper exemption allowance for capital increase in the taxable year over the prewar average. That is, if a man employed \$500,000 capital over the prewar average, provide an exemption on that, or 5 or 6 per cent. This exemption should not be in excess of the average return of the average capital invested in the prewar period, and in no event to exceed 10 per cent.

These two channels will give you great elasticity. You may increase your present rates on war profits, you may take 60 or 80 per cent, or you may decide to take it all, all of the war profits, and then subject your prewar or normal profits only to the normal tax on income. You can increase your normal tax, but your normal tax base is not changed. This gives business a stable base on which they can determine.

That base is a little different from the English law. I am not entirely familiar with it, but the English law tries to get rid of the profit in the prewar period. I am very sure that the stores of the country—I can not speak for other business—will accept this base. If you find you have to get a larger amount of revenue, we would still have the definite base to operate upon.

Now, I have figured out some examples of how this will work out. These figures are only estimates. They are not accurate. I will



say that we did not figure this out until we had determined what seemed a fair base. We did not know how it would work out. We figured on an 80 per cent basis of the war profits. That could be made 90 per cent or 100 per cent—take all of it. It will take care of the increases, if it is necessary to increase.

Here is a concern that sells \$240,000 a year. It has an invested capital—I am assuming these figures—of \$60,000, and a net income of \$18,000. Now, on the present basis of figuring, including the normal tax, they would pay \$4,153.80, and under the plan I suggest they would pay slightly less, including normal tax, \$3,920. If you wish to make that more, it is a question of bringing it up a little higher. That is only an example.

Mr. STERLING. The first one was where there was no additional capital put in?

Mr. HOWE. It provided for additional capital. It provided for \$40,000 capital, in 1913, and increasing it in 1918 to \$60,000, because their business increased from \$160,000, on which they had an exemption of \$2,000 on that increased capital.

The next is a larger business of \$2,400,000. On the basis of the present law, it would pay a tax, including the normal tax, of \$46,614, and under the method that I am suggesting, \$39,200.

The third is a business of \$9,600,000, on which they figure on the present basis a tax of \$188,000,048, and under the new method \$166,800.

That would appear that I was arguing for a smaller tax. I am not. I am only arguing for a base on which Congress can regulate the percentage.

If I may say in that connection, that I think at least it is the general understanding that it is the purpose to obtain from the war profits as large a proportion as possible. I have taken these figures—and I am sure of their accuracy, though they may be approximate—on the Steel Corporation. The Steel Corporation has a present estimated capital of, I think, \$880,000,000, and the present estimated sales, \$5,000,000,000, and their present estimated net income is \$500,000,000, the prewar net income, \$100,000,000, and the present \$500,000,000. The estimate of their increased capital investment is \$380,000,000, upon which they get a 10-per cent exemption. Taking 80 per cent of their income from war profits, they would pay, with a normal tax of 6 per cent, \$295,000,000. At present they are paying \$233,000,000. It works on larger businesses a little differently, and particularly those that have grown particularly during the war period.

Now, the stores are not manufacturing war goods. They are not in the war business. If they have grown since the prewar period, it has been largely because of a normal growth, and though it has also had a certain amount, I will agree, of indirect growth by reason of the war, it has not been of any great or appreciable amount, so that they can hardly be classified as making excess war profits.

Mr. GARNER. Then why are you calling them war profits?

Mr. HOWE. I am calling them that because made during the war, where everybody has to contribute.

Mr. GARNER. You would have two taxes, what is known as the war excess-profits tax and the excess-profits tax?

Mr. HOWE. No; a war-profits tax.

Mr. GARNER. And the basis would be upon prewar earnings?

Mr. HOWE. Yes.

Mr. GARNER. Suppose you should take this kind of a tax; suppose you allowed him 8 per cent on his investment, and then take 80 per cent.

Mr. HOWE. And 8 per cent exemption on what?

Mr. GARNER. Eight per cent on his business.

Mr. HOWE. On the volume?

Mr. GARNER. On his capital.

Mr. HOWE. The basis is the only difference.

Mr. GARNER. You want it on the basis of prewar earnings; but suppose Congress desired not to base it upon prewar earnings, but upon capital invested, and allow him 8 per cent on his investment, and then take 80 per cent of his profits.

Mr. HOWE. Well, that would take very nearly all of his profits.

Mr. GARNER. Wouldn't it do the same thing if you levied the rate high enough, taking as the basis his prewar profits? My first thought in this connection is to take war profits, and if possible, take all of that before you commence to take very substantially from the normal profits.

Now, many industries have undergone a great increase. Many industries have doubled and tripled and quadrupled. The normal store business has not done so; but they have increased 20 to 30 or 40 per cent, practically a normal growth, so that it seems to me unfair to take from them in the same proportion as from businesses that have been greatly benefited by war production.

Now, in separating these it seems to me that the stores should give in proportion, and they are perfectly willing to, but they do feel that those that have been benefited so greatly should also give in proportion to their benefits.

Mr. GARNER. Suppose, according to the theory of some economists, we should say this, that while this war is going on we propose to maintain all businesses and suppose we say that we will allow a business to make 8 per cent, and anything over that we will take 80 per cent of, regardless of how much they made before the war, looking solely to what their business has been during the war; we will let them have that 8 per cent profit, and anything over that we will take 80 per cent of it.

Mr. HOWE. My main criticism would be as to your rate of allowance, then. The Government, if I am correctly informed, has been granting, on the cost-plus basis, 10 per cent of volume. There is quite some difference between 8 per cent on the investment and 10 per cent of volume.

Mr. GARNER. But Congress has not been doing that; that has been the executive branch of the Government. And Congress has gone so far as to put into the appropriation bills the provision that it can not be done in the future.

Mr. HOWE. But 8 per cent is not sufficient. I would not want to say what it should be, I could not say what it should be; but as a matter of fact the investment is hazardous. There are depreciations from mark-downs from the prices they expected to get when they bought merchandise, and from one cause and another there will be very great losses. They run from 5 to 6, 7, and 8 per cent of the total volume of business from depreciations; so that it is not a

staple business that can be estimated on in advance; with any accuracy, in other words. There is a certain element of hazard all the time.

The CHAIRMAN. If I understood you right, if a man, B, say, was making during these five prewar years, say \$50,000, and after the war he was making \$75,000, there is a difference of \$25,000, and you would tax the \$25,000?

Mr. HOWE. The war profit, and at whatever rate you determine.

The CHAIRMAN. You would not tax the \$50,000?

Mr. HOWE. Yes; the normal tax.

The CHAIRMAN. And you would have no excess-profits tax at all?

Mr. HOWE. No excess-profits tax.

The CHAIRMAN. But if B, in the same business, with the same capital made before the war \$25,000, just half as much as A, he was just half as prosperous as A, and he now makes the same as A makes, namely, \$75,000, you would tax him on \$50,000?

Mr. HOWE. On \$50,000.

The CHAIRMAN. You would let the more prosperous man, the one more able to pay the tax, pay less tax than the other?

Mr. HOWE. I would not quite say that.

The CHAIRMAN. Would you not say, if A was making \$50,000 on the same capital before the war, and B on the same capital was making \$25,000 before the war, that A was a great deal more successful and able to pay the tax than B?

Mr. HOWE. That is hardly the theory we work upon.

The CHAIRMAN. I know it is not the theory you work upon, but it is a practical illustration of your theory.

Mr. HOWE. You mean two men engaged in the same line of business?

The CHAIRMAN. The same line of business.

Mr. HOWE. It is possible and probable that the war may have had something to do with that man's increased prosperity. We have to assume so. In other words, I can not quite see why we should put a premium on inefficiency and allow that man to escape because before the war he was not able to handle his business so efficiently as his neighbor. I would say that by giving that consideration we were putting a premium on inefficiency.

The CHAIRMAN. All right; let us take this case: A had been in business for years and years in the prewar period, and before that—an old established concern. B had just started in business, maybe in 1913, a year before the prewar period. Do you think that B could be just as efficient and able in handling that business and that B would make just as much profit as an old established concern?

Mr. HOWE. No, Mr. Chairman; I had thought of that situation. It seems to me that that is a thing that is very difficult to handle in a bill, and I was going to suggest—it has probably been under consideration—that these apparent inequalities of that sort would be individual cases that would have to be decided by a committee who would weigh them.

The CHAIRMAN. Let me tell you of some individual cases your theory would operate on. Ford, who made, I have forgotten how much, but several millions, before this prewar period, and practically the same amount after the war began, would pay nothing because he was making 80 or 90 per cent before the war and a little less than that since the war.

The Utah Copper Co., which made a tremendous profit before the war and made tremendous profits after the war, would, on the new capital put in, making not quite as much as it did before, pay nothing. In other words, your theory would cause an escape from taxation to the amount of \$550,000,000 in about 150 corporations in the United States.

Mr. HOWE. No; I would not say that.

The CHAIRMAN. I would say it.

Mr. GARNER. That is what it would do.

Mr. HOWE. Yes; I catch the point, but that is not making what is called an excess war profit, certainly. If a man made a large profit before the war, why not take that in the income tax or a normal tax? Would it not be much simpler to take those cases on a graduated normal tax?

The CHAIRMAN. The normal is just one feature of a tax. You mean a graduated income tax.

Mr. HOWE. Well, a graduated income tax. Would not that be simpler than trying to reach those by a necessarily complicated war profits and excess profits taxes?

The CHAIRMAN. I see, really, no application of an excess profits tax or an excess war profits tax, except that sometimes, in a few cases, it is difficult to tell how much capital was invested. Those cases are very rare.

Mr. HOWE. Yes; they are, of course.

The CHAIRMAN. Of course there must be some discretion also with the Secretary of the Treasury.

Mr. HOWE. Yes.

The CHAIRMAN. It would work out the inequalities which must exist, and because of that a section, 210, was inserted in the present law for that purpose.

Mr. HOWE. Yes; but, Mr. Chairman, now you have to raise, as I understand it, practically somewhere near \$8,000,000,000 in taxation.

The CHAIRMAN. Yes.

Mr. HOWE. That, we will say, is double the amount raised during the present year.

The CHAIRMAN. Yes.

Mr. HOWE. That means that on the present basis of figuring you are not going, in some cases, to take all of the war profits of war producing corporations, but you are going to eat in very heavily into the peace income of any war producing corporations, companies, and partnerships. You see that is inevitable. Now, I say you should take, if necessary, all of your extra war profits, but as to your prewar war profits, hold those in reserve. If the war goes on four or five years longer, we may have to raise four or five billion dollars more; whereas, when that is once eaten up you can not raise much more taxation from business.

The CHAIRMAN. You made a suggestion a while ago that we should distinguish between those companies or corporations or individuals making money direct out of the war and those that make it indirect, like merchants and stores, so that there would be a just distinction. Those that are making it direct out of the war must be only those who have contracts with the Government or subcontracts with the contractors with the Government.

Mr. HOWE. To a certain extent. Of course those that are surrounding these war industries—the cities—are getting a return from the money that comes into that city.

The CHAIRMAN. So are the merchants of Chicago and so on, and so are the merchants here, and all the retail merchants throughout the country.

Mr. HOWE. No, that is not true. There are cities that are getting practically no reflection from that at all.

Mr. GARNER. That is indirect.

Mr. HOWE. That is indirect.

The CHAIRMAN. The only distinction you can make between direct and indirect war profits is between those that have contracts with the Government and those who have subcontracts and those who have not. I think there is something in that suggestion of yours. I have thought about it often, and it may be that if we can work it out practically we could make that distinction.

Mr. HOWE. I have very hurriedly worked that out. We have not the figures to apply it to other corporations. You gentlemen have the figures for those corporations, so that this is more or less a matter of mathematics.

The CHAIRMAN. Now, I want to ask you this general question: Do you think that the retail merchants throughout the United States, whom you represent, big and little—

Mr. HOWE. I do. I represent both sides.

The CHAIRMAN. I say, both big and little—

Mr. HOWE. Yes.

The CHAIRMAN (continuing). Would pay less taxes under the theory which you wish us to adopt than they would pay under the present theory which is already enacted into law?

Mr. HOWE. I think that depends, Mr. Chairman, entirely upon the rate which you place on. It seems to me that that is a matter entirely in the hands of Congress and a matter of mathematics.

The CHAIRMAN. You mean the rate?

Mr. HOWE. You mean—

The CHAIRMAN. 8, 10, 15, 20, 40, 60, or 80 per cent?

Mr. HOWE. I guess I do not get your question. You mean under the same rate I suggest?

The CHAIRMAN. As under the present method.

Mr. HOWE. I guess I do not follow you.

Mr. GARNER. He differentiates between what you would do, put a rate on all the profits, and what he would do. He would levy only on the war profits.

Mr. HOWE. On the war profits?

Mr. GARNER. Under the present system we do not differentiate between the war profits and general profits, whereas your scheme would only levy a tax on excess and war profits.

The CHAIRMAN. What is before the war, and—

Mr. HOWE. I say, that is a matter of rate; whether you take 50 or 100 per cent of those profits. I would say that would determine, and I would say if you took 80 per cent of it—

The CHAIRMAN. Take the rate, under the present law?

Mr. HOWE. You mean on my method, there? I have got to take a very large figure, so that I have taken 80 per cent for that purpose.

The CHAIRMAN. Suppose you are goint to apply any rate, now, 80 per cent on all the profits made before the war—during the prewar period—and the profits made after the war or during the war, or 80 per cent upon the excess profits—that is, upon the profits made in excess of 8 per cent; now, which do you think the retail merchants generally would pay more under?

Mr. HOWE. I doubt if I could answer that offhand. It is quite complicated. My opinion would be, I am afraid, of little value on that.

The CHAIRMAN. Let me get at it in this way.

Mr. HOWE. Yes.

The CHAIRMAN. About how much do you think, as a rule, the retail merchants whom you represent made before the war—during the prewar period of five years?

Mr. HOWE. You mean, now, the net income?

The CHAIRMAN. Yes.

Mr. HOWE. I would say it would average between 6 and 7½ per cent upon the net sales—the net volume.

The CHAIRMAN. What do you think it would average now?

Mr. HOWE. Not very much less. It varies. In some cases it would be 8 or 8½ per cent; but I would hardly call it 8 per cent. I would say it would vary not very much, or from 6 to 6½ per cent.

The CHAIRMAN. I would say they would pay considerably less under your theory than under the—

Mr. HOWE. Yes; that can be regulated by going back a little more in getting your prewar average. If five years does not get that, you can go back 10 years. That will lower your average prewar profit. The thought I am trying to suggest is a basis so that it has sufficient elasticity to accomplish what you want to arrive at.

Mr. STERLING. Your idea is to get away from the difficulty of defining the word "capital," is it not?

Mr. HOWE. That is one of the ideas. I had several of the things it eliminates that I just wanted to call your attention to. It would eliminate the inequalities between corporations and partnerships relative to a taxation of income, if I understand; the inequality between large and small businesses in the same line, occasioned by large and other businesses, by the inclusion of real estate in capital. We find many stores lease their property, and others own their real estate and get the exemption of from 7 to 9 per cent upon real estate; and it would eliminate that. It would be a very simple elimination. I do not think that there is any inequality in that. Also the one where there is a large amount of borrowed capital. Pardon me; I did not catch your question.

Mr. STERLING. I say I do not see any inequality in that. Where a business man owns a small business house, he is entitled to a lease, and the other fellow pays the rent to the landlord, so that there is no inequality of burden there.

Mr. HOWE. He has the exemption. For example, assume that I am doing a business of from five to six million of dollars, and its working capital apart from its real estate will be \$1,250,000. They have a real estate investment of a million to a million and a quarter. They get a full exemption upon the two to two and three-quarter millions, of which one-half is their real estate.

Another house, next door, leases its property and has to pay its rent. It has a million and a quarter investment and is doing the same amount of business, and it may make the same amount of money, but it loses the exemption.

Mr. STERLING. It does not give the fellow who owns his property any advantage over the other fellow, because the other fellow has to pay rent, anyhow, and the other fellow gets the value of his capital in his exemption.

Here is a man with real estate. He pays that into his own business and it comes back as a credit to his account. He has that capital. He ought to get some benefit from it.

Mr. HOWE. It reduces the rate of profit upon capital invested. I am just going to ask, when I finish, that Mr. Wrizley, who is here, may say a word. That is a thing that he is particularly well posted upon, and I am going to ask you whether you would be willing to hear Mr. Wrizley for a few minutes.

The CHAIRMAN. How long will it take him? You had better finish now.

Mr. WRIZLEY. I do not want to take Mr. Howe's time, but just to illustrate his testimony.

The CHAIRMAN. Suppose you yield to Mr. Wrizley, then?

Mr. HOWE. Very well.

#### STATEMENT OF MR. MAURICE WRIZLEY, REPRESENTING JORDAN, MARSH & CO.

The CHAIRMAN. Whom do you represent and what business are you in?

Mr. WRIZLEY. A department store in Boston; Jordan, Marsh & Co.

The real estate phase of it is this, that if the capital invested in real estate is the same amount as the capital invested in the business—that is, 50 per cent in real estate and 50 per cent in merchandise—the percentage of earnings on the capital invested in the case of the one owning real estate is very much less than it is in the case of one owning only its merchandise. In other words, a corporation may earn, without owning real estate, at the rate of 25 per cent on its capital invested. If it owns its real estate, that percentage of earning may be cut down to anywhere between 12 and 15 per cent. So that when you get into the percentage on capital invested under the present law you bring a greater tax on the individual doing the same business under the same conditions, on the one who only owns his merchandise, as against the one who owns both.

The CHAIRMAN. Can you give a concrete example that you have in Boston, there?

Mr. WRIZLEY. I am very sorry, Mr. Chairman, but I had the figures and failed to bring them here. I did not expect that you would ask the question.

The CHAIRMAN. That is a matter of deduction only.

Mr. WRIZLEY. It works out in this way. I think I might properly cite this, for example. These figures may not be correct in percentages [consulting memorandum].

The capital invested in a business without owning real estate, say, is \$60,000. If the sales are \$240,000 and its net income is \$18,000 and its percentage on its capital invested is 30 per cent, it would pay

a tax of \$4,153.80 under the present law—that is, the total tax, normal and excess profits tax.

If the capital invested is doubled by reason of the real estate being of the same value, and all the other figures are equal, the earning percentage on the capital invested is reduced from 30 per cent to somewhere between 15 and 18 per cent, it may be; I can not give just the figures, but that is the idea of it. So that when you are going through and figuring the tax you are figuring the tax on the basis of a 30 per cent earning in capital in one case, and on the basis of a 15 to 18 per cent earning in the other case. The idea is this: That real estate earns 6 per cent, we will say—possibly can only earn 6 per cent—in the dry-goods business, and the dry-goods business itself may earn anywhere from 20 or 30 to 35 or 40 per cent, and by having the capital equal, you have to average or divide the 25 or the 25.5 or the 30.5, and it brings the ratio down or brings the percentage on capital invested down, so that you bring it down in entirely another bracket of your income return.

The CHAIRMAN. You mean that the fellow who rents has that disadvantage over the fellow that owns?

Mr. WRIZLEY. Yes.

The CHAIRMAN. Let us analyze that. You and myself start out in the same business, I on one side of the street and you on the other. We will start out with \$100,000 each. If I were in Boston I would say \$1,000,000 each, but down in my country I say \$100,000. I put \$30,000 in a building. You do not; you rent your building on the other side of the street for \$1,800. That would be about what you would get. About 6 per cent, you say it would earn?

Mr. WRIZLEY. Yes.

The CHAIRMAN. Now, I have \$30,000 tied up in a building and only \$70,000 to do business with—to go out and buy goods and discount my bills—while you have \$100,000 to do business with. You think I could do a better business by keeping my whole \$100,000 in merchandise, turning it over every two or three months, as you do, than by owning a building in which I have invested \$30,000 which I can not turn over more than once a year; and you say I can make more money by using that \$30,000 in buying merchandise, so that I can turn that over three or four times a year?

Mr. WRIZLEY. Yes.

The CHAIRMAN. Another thing, you have your deduction from your income of \$1,800. I have no deduction from my rent, at all. The only deduction I get is that if they do value my building at \$30,000 I have under this law, if I was making in any business before the war 7 per cent, a deduction of 7 per cent; or if I was making 9 per cent before the war, I have a 9 per cent deduction; or, for new business, I have an 8 per cent deduction; and that is the only practical way it works, is it not?

Mr. WRIZLEY. That may be so, Mr. Chairman.

The CHAIRMAN. I know it is so.

Mr. WRIZLEY. But if you invested in the real estate for investment purposes, real estate as a general thing does not pay but the same rate as another business.

The CHAIRMAN. But you leave out the difference between my deduction and the capital and your deduction and the \$1,800 rent.



Mr. MOORE. Let me ask a question which I think will probably help. Is it customary to tie up your \$30,000 in real estate? Would you not get that money back by mortgage on the real estate, or in some other form, and use it in your business? In other words, would Jordan, Marsh & Co., if their building was worth a million dollars, let the million dollars stand in the real estate, or would they borrow on the real estate that million dollars and utilize it in their business?

The CHAIRMAN. They would have to pay the interest on it, though.

Mr. WRIZLEY. They would have that privilege.

Mr. MOORE. Would not that equalize the situation with that of the man across the street?

Mr. WRIZLEY. I think it would.

The CHAIRMAN. Just one minute. Whom do you represent?

Mr. WRIZLEY. Jordan, Marsh & Co., Boston.

The CHAIRMAN. Oh, Jordan, Marsh & Co.? I did not catch the name of the firm before. I think I analyzed your proposition before. I think they rent their building?

Mr. WRIZLEY. We do.

The CHAIRMAN. And I think you have a competitor who owns a building there?

Mr. WRIZLEY. No; We have not any competitor right near us that owns a building. We say that there are——

The CHAIRMAN. I think we had that up before us.

Mr. WRIZLEY. I would not say we had any in the same city, but in other cities.

The CHAIRMAN. In other cities?

Mr. WRIZLEY. Yes.

Mr. MOORE. Jordan, Marsh & Co. are substantially the same as Marshall Field in Chicago or John Wanamaker in Philadelphia?

Mr. WRIZLEY. Relatively so.

Mr. MOORE. It is a big house.

Mr. WRIZLEY. Yes; it is a big house.

The CHAIRMAN. I just recall during the conference getting a copy of a letter——

Mr. WRIZLEY. I think I wrote it for you.

The CHAIRMAN. Yes; I recall it now. We did consider that pretty thoroughly, the very proposition you advance. But when you come to analyze it you will find that it is going to equalize itself.

Mr. WRIZLEY. Of course, that percentage does seem to us as being an inequality.

The CHAIRMAN. It equalizes itself, when you think of it.

Mr. WRIZLEY. I am not so sure.

The CHAIRMAN. I am sure.

Mr. WRIZLEY. Another thing I wanted to present on the figures of this plan was this: It has been said, and I have heard you say it here, asking about Henry Ford, what the earnings of Henry Ford's company are to-day and what they were during the prewar period; but if Henry Ford had increased his earnings in the taxable year over the average earnings in the prewar period, if he had increased them at all, our plan was that he would be taxed the normal tax on his prewar earnings and 80 per cent of the increased earnings over that period, and the allowance for capital which is proposed, that is for increased capital, during that period is fixed not at the earning value or relative value of earnings to business done, but is fixed at a

rate similar to an investment at 6 or 10 per cent instead of at the earning rate of 30 per cent.

The point I wanted to bring out clearly is this, that earnings in the dry goods business may not in percentage increase at all over the prewar period; it may be that our earnings may fall a little less than during the prewar period. We are up against it. We are up against it in the labor situation. The Government is competing with us.

The CHAIRMAN. Surely.

Mr. WRIZLEY. And in a great many other ways we are up against it. But this is the point: If we are making more money to-day than we did in the prewar period we want to pay the Government all that it needs to carry-on the war business; and the 80 per cent of the profits taken from us, if necessary, we are willing to give it.

Mr. Hull knows that a good many of the corporations and partnerships—firms—which are represented by the association are giving to-day, under the present law, 100 per cent of all their earnings over that period.

Now, we submit that if that is so it is not quite fair to allow the other man who has had three years to recoup, large surplus, on which to-day he is getting a tremendous exemption which relieves him of paying in the same proportion his excess or war-profits tax.

The Steel Corporation, according to the figures as I make them out—I think the figures were something over \$230,000,000 in total—after paying out their total tax to the Government still have left in their treasury somewhat over a hundred million dollars over the earnings of the prewar period.

The CHAIRMAN. They have left over about three times as much.

Mr. WRIZLEY. That is the point. Now, the present law is taking away from the majority of the retail stores to-day what you propose to take if necessary under a new bill, and that is to say, 80 per cent of all war profits. We do not come and ask that these war profits in our case shall be reduced. We come and say to you that we want to pay our just proportion of them as the other fellow, but we do not want the man who has had three years of war in which to earn tremendous surpluses and to pile up capital, to get the 9 per cent exemption on it, to have him get the advantage out of this proposition, while we, who are in the peace business and are getting indirectly a little war business, are paying a great deal more.

The CHAIRMAN. Well, to correct that, a graduated excess-profits tax would get that, unless you get in one of the high brackets.

Mr. WRIZLEY. Well, of course, you know how it is; Jordan, Marsh & Co. are capitalized conservatively. We have no good will in our capitalization—

The CHAIRMAN. Now, let us see about the so-called war profits of the mercantile business. Of course you might have made just as much if we had had no war, because prosperity comes and large profits come without any war. What percentage of profit did you make on your capital invested during the prewar years, say the three years before the war, 1911, 1912, and 1913? What percentage did you make on your investment, 5, 6, 7, 8, 9, or 10 per cent?

Mr. WRIZLEY. On the capital invested?

The CHAIRMAN. Yes.

Mr. WRIZLEY. I can not give you the exact figures, but put it somewhere between 25 and 30 per cent.

The CHAIRMAN. Somewhere between 25 and 30 per cent?

Mr. WRIZLEY. Yes, on our capital as allowed under the law.

The CHAIRMAN. That is for the prewar period?

Mr. WRIZLEY. For the prewar period, and about the same now.

The CHAIRMAN. About the same now?

Mr. WRIZLEY. There is no difference in that.

The CHAIRMAN. But in volume you have made considerably more during the war?

Mr. WRIZLEY. Well, more—

The CHAIRMAN. That is, you have made really more profit in dollars and cents?

Mr. WRIZLEY. Yes; but that does not increase the rate. The rate may be the same, but we may make more money.

The CHAIRMAN. You made 25 or 30 per cent before the war and you have made 25 or 30 per cent since the war. Have you had any more capital invested since the war?

Mr. WRIZLEY. Yes. We leave in our business all the capital necessary to run the business. The idea is to have as much capital as is necessary. We do not borrow any money. We have and keep the capital that is necessary. This year we bought liberty bonds. Now, do not misunderstand. Under the prewar plan—under this plan—if we made, let us say, \$300,000 more profit, we would pay a tax first of all on the prewar income, a normal tax.

The CHAIRMAN. That is the regular income tax that applies to everybody?

Mr. WRIZLEY. Now we are talking about the excess-profits tax.

The CHAIRMAN. Everybody else that does that does it in the same way as you do.

Mr. WRIZLEY. I am just taking our own case. Then we pay 80 per cent of that \$300,000, which is \$240,000. Now, if we have increased our capital to get some of that additional profit, if we have increased our capital, say—

The CHAIRMAN. Say to \$500,000; 8 per cent of that would be \$40,000.

Mr. WRIZLEY. \$40,000. Instead of taking—

The CHAIRMAN. You would take \$40,000 from the \$500,000, and then take 80 per cent of what was left?

Mr. WRIZLEY. No; we would take 10 per cent of that \$40,000, if it is only \$40,000 we have had—

The CHAIRMAN. No; I say suppose you had a capital of \$500,000; 8 per cent of that is \$40,000, and you would deduct that from the \$500,000, and what was left you would take 80 per cent of?

Mr. WRIZLEY. Yes; that is right. That is where Mr. Ford pays some tax.

Now, just one more thing and I am through. Suppose that Jordan, Marsh & Co., instead of making the same profit—that is, the same percentage—on its business to-day as in the prewar period, made to-day 1 per cent more. That 1 per cent on business is a considerable factor that you must consider. And suppose that it is \$100,000; 80 per cent of \$100,000 is \$80,000, which we pay to the Government, and you are trying to reach profiteers, and if profiteers are making

10 per cent as against  $7\frac{1}{2}$  per cent, you are reaching 80 per cent of that additional  $2\frac{1}{2}$  per cent, and that is our point.

The CHAIRMAN. Now, another point. Of course you know more about your business than anybody else, and I am not going to ask you a thing about your business, what you have made or what you have got in it, at all. I am going to ask you this, because I know you are acquainted with it. In your particular case, would your company pay more taxes to the Government to help win the war, under the system which is now in vogue and on the statute books or under the system or on the basis which you now propose?

Mr. WRIZLEY. Mr. Chairman, I can not answer that question because we have not applied any rates to this. We have simply offered a basis which is subject to your approval as a basis for such application of rates. If you want to change the rate of normal tax from 6 to 12, do so. If you want to raise from 80 to 90 or 100 in the other case, do it. We do not come and ask for any decrease of tax. We come and suggest a basis which we think is fair.

Now, what will the basis do which we suggest? It will eliminate the question which was brought out a few days ago by Mr. Palmer of New York when he cited a capitalization of \$500,000 and a \$500,000 borrowed money as against the other fellow whose capital is all paid in. It would eliminate the question as between the partnership and the corporation as to the income that is paid in one case on the personal income tax of the person, as against the dividends paid by the stockholder. Those are two things that it does eliminate, right there. It eliminates the question I brought up, of the real estate, whether or not it is a right assumption that real estate is a proper capital item to be considered in the excess profits figuring or not? It eliminates that. And it seems to me that it gets down to a basis, where I think you can reach almost anything you want in the nature of taxation by adjusting those rates.

The CHAIRMAN. Do not understand that we do not think there is some merit in your proposition. I see very clearly there is merit in it.

Mr. WRIZLEY. I came here two days ago and have attended for two days in order to get the mind of the committee, to see what I could suggest, and we worked out these figures we have suggested here, in the meantime.

The CHAIRMAN. Will you have gathered together all of these propositions and put them with your remarks?

Mr. WRIZLEY. Yes.

Mr. GARNER. I tried a while ago to draw your attention to a specific rate. For instance, take a prewar period and levy a tax of 80 per cent of war profits in excess of the average profit of the prewar period—80 per cent. Then take the other system of 80 per cent on the capital invested and excess-profits tax of 80 per cent on what is left. Now, which would you pay the most under?

Mr. WRIZLEY. I did not get that question.

Mr. GARNER. That is a question that has been asked.

Mr. WRIZLEY. That question was not asked me.

Mr. GARNER. Let me ask you, under which one of these plans would your firm pay the greatest amount to the Government—80 per cent on your profits, based on the prewar period, or 8 per cent on the capital invested and 80 per cent on the excess profits?

Mr. WRIZLEY. It would pay the most on the plan of 8 per cent on the capital invested and 80 per cent on the excess.

Mr. GARNER. That is the answer I wanted to get.

Mr. WRIZLEY. A very much greater figure. It would double the tax; and to-day we are paying 100 per cent on the war profits.

Mr. MOORE. If the chairman would permit, I would like to ask Mr. Howe one question.

The CHAIRMAN. Very well.

#### ADDITIONAL STATEMENT OF MR. E. L. HOWE.

Mr. MOORE. You represent a large number of dry goods houses?

Mr. HOWE. About 600, of all sizes.

Mr. MOORE. I understood you to intimate that many of them were not making war profits?

Mr. HOWE. Yes; that is, direct war profits.

Mr. MOORE. You say they are doing a normal business?

Mr. HOWE. Yes, sir.

Mr. MOORE. Is it not a fact that in the dry goods trade, as in others, all prices have advanced since the war?

Mr. HOWE. Yes.

Mr. MOORE. Could not that be clearly interpreted as meaning that those stores were showing more profits?

Mr. HOWE. Not necessarily. The costs of operating have increased materially, and the number of transactions has decreased. It has been only the increase in the prices which has permitted them to even make anything like a normal profit.

Mr. MOORE. You spoke of the risk which was involved in the business, from its very nature. You referred to stocking up with goods—

Mr. HOWE. With merchandise.

Mr. MOORE. It is perfectly patent to any one who purchases at this time that commodities like shoes and hats and clothing and underwear are undergoing great changes in price.

Mr. HOWE. Yes.

Mr. MOORE. And such commodities are found in retail dry goods stores, and I wondered just how you could reconcile that fact with the statement made that in many instances war profits were not being made by the people you represent.

Mr. HOWE. Because, Mr. Congressman, those extra profits, if there are any—I do not know that there are—are not made by the retailer. As a matter of fact, they are not made by the retail merchant. The retailer is paying from 25 per cent to 100 per cent higher for the merchandise that he gets.

Mr. MOORE. You mean the prices that he pays are going up just as his prices are going up to those to whom he sells?

Mr. HOWE. As a matter of fact, I think they are going up this year faster than he can adjust his retail prices.

Mr. MOORE. Will you show how you account for that price going up to the retailer?

Mr. HOWE. Because the producer and all those who are handling the goods are taking advanced prices. I will not say positively that they are advanced profits, but they are taking advanced prices, and by the time they get to the retailer, who is the distributor, they are very high.

Mr. MOORE. Does the cost of material and the cost of wages have anything to do with it?

Mr. HOWE. The cost of material and wages and everything they handle. Everything the retailer uses has increased in price.

Mr. MOORE. It has been suggested—I am not making the suggestion—that prices have advanced even to a point where something has been added to the taxes.

Mr. HOWE. Well, the net result which the revenue department has, showing the net income of the concerns, of course, will be the definite answer to that. Of course in 1915 I will say there was some appreciation of merchandise from which they derived some extra profit. Since then I think there has been very little profit. I think it has been very little, compared with a good normal profit based on what he has had to pay for his goods, as a rule. Take a woolen or cotton garment that might sell in the ordinary dry goods store. We all know that the price of raw cotton has gone up, and the price of wool has gone up. The Government has stepped in and commandeered wool. We all know, also, that the price of labor has gone up in the factories manufacturing cotton or wool; but there seems to be a difference of opinion as to whether the manufacturer or the jobber has not added to his increased war cost something in addition which we might, if we could trace it, ascertain to be an excess war profit.

Mr. HOUSE. Of course I am not posted as to the manufacturer and jobber, but I know that at the prices at which the goods are coming to the retailer there are being very decided advances. Whether they are all just or not I am not in position to say.

Mr. MOORE. When shoes that sold for \$5 a pair two years ago are sold now for \$12 to \$14 a pair, we know that some one must be making something somewhere along the line, or the cost of labor and of raw material must have gone up so extensively as to account for it.

Mr. HOWE. I am very sure that the retailer is not getting it, except that I say there might be a variation of one-half or 1 per cent fluctuation; but nothing of special moment; and this year I believe, if anything, will show an increase.

Mr. MOORE. You know our problem sufficiently to know that we have got to raise money?

Mr. HOWE. Yes; I appreciate that.

Mr. MOORE. And we have got to get it from the jobber and the retailer and everybody else.

DIERS—Hear Revenue Bill—Spool 115.

Mr. HOWE. Yes. I suggest that this gives you an elastic basis by which you can put on a rate that will raise the amount that is necessary to be raised.

You spoke of wool. We were informed that there was a large supply of woolen cloths in the hands of some jobbers and some manufacturers. Now just about this time that the retailer is going into the market to order his fall garments made up. We were fearful that, coming in with that small supply, they would bid the price up, so that we put in a complaint to Mr. Brookings, of the War Industries Board, and a request to take an inventory of those goods and see that they were properly distributed and that the price should not be bid up artificially. I only cite that as an instance of what we are doing to prevent these prices being raised very high.

Mr. MOORE. I am not putting this question any more to you in the dry goods trade than to the market man who has been getting higher prices for farm produce; I am putting the inquiry more with a view of having you know that we have got to raise money from all these sources, and ought to get it from those who are getting war profits, and as you have indicated that some of your people have not been making war profits but have been making only the normal profits, I wanted to put this question of higher prices up to you.

Mr. HOWE. Yes; as I say, by going back far enough in the prewar period you can get a fair prewar average, and by having that amount fixed it enables you, whether they are war profits or normal profits, to take such portion as you deem best; although in the main, with very few exceptions, the retailers are not making other than indirect war profits.

Mr. MOORE. You do not mean those who are making profits now? Of course every one receives the best protection that the country has to give and is equally interested in the war and should bear a proportion of its burdens.

Mr. HOWE. Absolutely; yes, sir.

Mr. SLOAN. The Government has not laid its hand on the retailers of the lines you represent, to keep down their prices?

Mr. HOWE. Not to my knowledge. There is some talk of it in the cotton situation.

Mr. SLOAN. There is talk of it, but cotton has not been commandeered, nor its price fixed in any way. It has not been even taxed.

Mr. HOWE. Not that I know of.

Mr. SLOAN. And referring to the suggestion of the gentleman from Philadelphia, farm products have been taken hold of, including wool, and wheat and meat, and have been controlled by the Government?

Mr. HOWE. Yes.

Mr. SLOAN. So that they have been controlled at the point of production, but along the lines of trade they have not been interfered with?

Mr. HOWE. Food, as I understand, is controlled practically through the wholesaler, the middleman in the matter, rather than at the point of production.

Mr. SLOAN. Food?

Mr. HOWE. Yes. That is my understanding.

Mr. SLOAN. Wheat has not been.

Mr. HOWE. Eliminating wheat; wheat has been treated separately.

Mr. SLOAN. And wool is not controlled in that way?

Mr. HOWE. Wool is practically commandeered—all the wool—for the Government use; so that there is very little wool for the civilian's use.

Mr. SLOAN. Do you know any reason why wool should be commandeered and cotton not?

Mr. HOWE. As I understand it, the Government has said that they needed all the wool to supply the needs of the Army and the Navy, the fighting forces.

Mr. SLOAN. But not the cotton?

Mr. HOWE. Cotton I have not so understood. In fact, our association has recommended to the War Industries Board a thorough investigation of the cotton situation all the way through. That involves the influence on the retail prices.

Mr. SLOAN. If it was now done, do you not think it would be a fruitful source of raising some revenue—so much on a bale, for instance?

Mr. HOWE. I do not know that I am qualified to pass an opinion on that. I believe everybody should sustain their proper share of the taxation, and we are perfectly willing to; only we would like to see it on as equitable a basis as possible. Is there anything else, Mr. Chairman?

The CHAIRMAN. No, sir.

Mr. HOWE. Shall I leave these examples with you?

The CHAIRMAN. Yes; let them go in the record.

(The matter referred to is here printed in full in the record, as follows:)

EXAMPLE 1.

PRESENT LAW.

Small store, sales, \$240,000.

1918: Capital invested, \$60,000; sales, \$240,000; net income, \$18,000; per cent on capital, 30 per cent.

\$8,400.....	
600, at 20 per cent.....	\$120.00
3,000, at 25 per cent.....	750.00
3,000, at 35 per cent.....	1,050.00
3,000, at 45 per cent.....	1,350.00
<hr/>	<hr/>
18,000.....	3,270.00
3,270.....	
<hr/>	<hr/>
14,730, at 6 per cent.....	883.80

Total tax..... 4,153.80

NEW METHOD.

Small store, sales, \$240,000.

1918: Capital invested, \$60,000; sales, \$240,000; net income, \$18,000; per cent net income on sales, 7.50 per cent.

1913: Capital invested, \$40,000; sales, \$160,000; net income, \$12,000; per cent net income on sales, 7.50 per cent.

Net income, 1918.....	\$18,000
Net income, prewar period.....	12,000

Net income excess.....	6,000
Allowance, 10 per cent on increased capital.....	2,000

Taxable.....	4,000
Tax, \$4,000, at 80 per cent.....	3,200
Normal tax, \$12,000, at 6 per cent.....	720

Total tax..... 3,920



## EXAMPLE 2.

## PRESENT METHOD.

Sales, \$2,400,000.

1918: Capital invested, \$600,000; sales, \$2,400,000; net income, \$180,000; 7½ per cent on sales, 30 per cent on capital invested.

\$57,000.....	
33,000, at 20 per cent.....	\$6,600
30,000, at 25 per cent.....	7,500
30,000, at 35 per cent.....	10,500
30,000, at 45 per cent.....	13,500
<hr/>	
180,000.....	38,100
38,100.....	
<hr/>	
Normal tax... 141,900, at 6 per cent.....	8,514
<hr/>	
Total tax.....	46,614

## NEW METHOD.

Sales, \$2,400,000.

1918: Capital invested, \$600,000; sales, \$2,400,000; Net income, \$180,000; per cent on net income, 7½ per cent.

1913: Capital invested, \$400,000; sales, \$1,600,000; net income, \$120,000; per cent on net income, 7½ per cent.

Net income 1918.....	\$180,000
Net income, prewar period.....	120,000
<hr/>	
Excess.....	60,000
Allowance, 10 per cent on increased capital.....	20,000
<hr/>	
Taxable.....	40,000
<hr/>	
Tax on \$40,000, at 80 per cent.....	32,000
Normal tax on \$120,000, at 6 per cent.....	7,200
<hr/>	
Total tax.....	39,200

## EXAMPLE 3.

## PRESENT METHOD.

Sales, \$9,600,000.

1918: Capital invested, \$2,400,000; sales, \$9,600,000; net income, \$720,000; 7½ per cent on sales, 30 per cent on capital.

\$219,000.....	
141,000, at 20 per cent.....	\$28,200
120,000, at 25 per cent.....	30,000
120,000, at 35 per cent.....	42,000
120,000, at 45 per cent.....	54,000
<hr/>	
720,000.....	154,200
154,200.....	
<hr/>	
Normal tax..... 565,800, at 6 per cent.....	33,948
<hr/>	
Total tax.....	188,148

## NEW METHOD.

Sales, \$9,600,000.

1918: Capital invested, \$2,400,000; sales, \$9,600,000; net income, \$720,000; per cent on sales, 7½ per cent.

1913: Capital invested, \$1,600,000; sales, \$6,400,000; net income, \$480,000; per cent on sales, 7½ per cent.

Net income, 1918.....	\$720, 0
Net income, prewar period.....	480, 0
Excess.....	240, 0
Allowance, 10 per cent on increased capital.....	80, 0
Taxable.....	160, 0
Tax on \$160,000, at 80 per cent.....	128, 0
Normal tax on \$480,000, at 6 per cent.....	28, 8
Total tax.....	156, 8

EXAMPLE 4.

SMALL DEALER WHO DOES NOT RECEIVE BENEFIT OF TWO LOWER GRADES.

Capital, \$25,000; sales, \$100,000; net income, \$10,000; exemption, 9 per cent on \$25,000, \$2,250, plus \$3,000 general exemption, equals \$5,250 total exemption.

Exemption.....	\$5, 250	
15.....	, at 20 per cent.....	
20.....	, at 25 per cent.....	
25.....	1, 000, at 35 per cent.....	\$350
33.....	2, 000, at 45 per cent.....	900
Over.....	1, 750, at 60 per cent.....	1, 050
	10, 000.....	2, 300
	2, 300.....	
	7, 700, at 6 per cent.....	462
		2, 762

EXAMPLE 5.

Each inc. cap.....		\$200,000.
1 dec. per cent prof.....		2½ per cent on sales.
1 dec. per cent prof.....		1½ per cent on sales.
1 inc. per cent prof.....		2½ per cent on sales.
\$600, 000	\$2, 400, 000	\$120, 000 5 per cent.
400, 000	1, 600, 000	120, 000 7½ per cent.
200, 000	800, 000	
Normal tax, \$120,000, \$7,200.		
\$2, 400, 000.....		144, 000 6 per cent.
1, 600, 000.....		120, 000 7½ per cent.
		24, 000
200, 000, at 10 per cent.....		20, 000
		4, 000
4, 000, at 80 per cent.....		3, 200
120, 000, at 6 per cent.....		7, 200
		10, 400
2, 400, 000.....		240, 000 10 per cent.
1, 600, 000.....		120, 000 7½ per cent.
800, 000		120, 000
200,000, at 10 per cent.....		20, 000
		100, 000
100, 000, at 80 per cent.....		80, 000
120, 000, at 6 per cent.....		7, 200
		87, 200

**STATEMENT OF MR. H. T. CUMMINGS, OF ROCHESTER, N. Y.,  
REPRESENTING THE NATIONAL ASSOCIATION OF MANU-  
FACTURERS OF FLAVORING SYRUPS.**

Mr. CUMMINGS. I represent the National Association of Manufacturers of Flavoring Syrups, an association made up of most of the largest manufacturers in this particular industry—the soda-water industry.

In availing ourselves of the opportunity to talk to you about the soda-water industry, we want particularly to call your attention to section 313 of the present revenue bill, which states that all prepared syrups and extracts intended for use in the manufacture or preparation of beverages, commonly known as soda fountains, bottling establishments and other similar places, are taxed, with the schedule with which you are familiar.

We understand that it is the intention of the administration to levy now higher taxes on so-called luxuries and semiluxuries. Assuming that we are so classed, let us say in the beginning that we are able and we are willing to assume an additional tax burden, and that our only purpose in coming here is to make an effort to have that burden so levied that it will not jeopardize the industry to an extent where it will fail to be revenue producing at all. At the present time the industry is already struggling under handicaps which before the war would have been considered insurmountable. In the first place sugar, our raw material, without which we can not hope to exist, has been tremendously curtailed. Those of us who were in business preceding last November are restricted to 80 per cent of our usual requirements. Those of us who went into the business following November 1 and preceding April 1 of this year are on a 50 per cent basis, and those who went into the business after April 1 are not permitted to have any sugar at all. Now, obviously, it is impossible for us to extend our business, and it is next to impossible even to retain the volume that we already have.

Mr. SLOAN. Has not the business been increased by the decrease in the use of ardent spirits?

Mr. CUMMINGS. Unquestionably it has been encouraged, but it has been impossible for us to meet that encouragement and that demand because of this limitation in the use of sugar. We depend upon the volume of sugar, and when they say that we are limited to so much sugar, it means that our volume is limited to that extent.

In addition to this handicap, like many others, we have been up against a very serious labor situation, and with us that is peculiar—that when these fruit crops come throughout the country, if we can not handle them when they come, we lose them, and shortage of labor means delay, and delay in handling fruit crops means loss.

In that connection, the freight-situation has been a handicap, in that many of us depend upon distant markets to get perishable supplies. The delay in getting those supplies to us results sometimes in tremendous losses.

The embargoes recently placed upon a great many imported articles have deprived us of raw materials upon which we depended in the past and which we are now struggling to find substitutes for.

Were this an industry in which the margin of profit in the past had been very large, these difficulties could not command much of our

attention; but the reverse is true. This is an inc. \$720,000  
 is very keen competition, and that competition has 480,000  
 margin of profit, and such a narrow margin that the 240,000  
 industry is not A No. 1, and that any severe shock, due 80,000  
 or any further restriction placed upon us will very likely 000  
 a breakdown.

Mr. SLOAN. Do you not raise your prices like these other bus-  
 institutions?

Mr. CUMMINGS. We do; but we believe there is a limit to that  
 sibility of raising prices.

We do not refer to these hardships in a spirit of criticism, because  
 we know they are inevitable, and we expect them, but we feel that  
 in your consideration of levying additional taxes you should be  
 familiar with these facts, in order that your efforts may not be carried  
 to an extreme where it will break the industry down. We would  
 make a point that in the breaking down of the soda-water industry  
 we would be facing a serious calamity. Far from being a nonessential  
 business, there are in this country 110,000 establishments engaged in  
 this business.

The CHAIRMAN. Engaged in the manufacture of sirups?

Mr. CUMMINGS. Not in the manufacture alone. I just meant to  
 say, that includes the soda fountains, it includes the manufacturers  
 and the bottling establishments. The soda fountains are quite  
 generally through the country in connection with drug stores, and it  
 has come to be true quite generally that these drug stores depend  
 for their revenues upon the soda fountain.

In these 110,000 establishments we may assume that there are  
 400,000 persons engaged, and receiving their living from this particu-  
 lar work.

Mr. MOORE. Are you including the drug stores in your 110,000  
 establishments?

Mr. CUMMINGS. I have attempted to include only those employ-  
 of the drug store who were engaged in the soda-fountain end of the  
 drug store.

Mr. MOORE. But are you including the drug stores in your 110,000  
 establishments?

Mr. CUMMINGS. If they have soda fountains; yes, sir. Moreover,  
 there are a great many agricultural communities in the country  
 which depend upon us to take their product. This is particularly  
 true of the fruit-raising States, such as Louisiana, Maryland, Dela-  
 ware, New York, California, Oregon, etc., and particularly those  
 States raising small fruits.

Mr. HAWLEY. What is the value of the fruit products you buy in  
 the course of a year?

Mr. CUMMINGS. I am not able to say.

Mr. HAWLEY. The total income?

Mr. CUMMINGS. I am not able to say. In addition to this there are  
 a great many manufacturing industries which depend upon us quite  
 largely for their business; you take the manufacturers of containers  
 whom we patronize very extensively, or the manufacturing chemists  
 etc.

We estimate that the capital invested in this industry is about  
 \$4,250,000. Aside from the revenue collected under the present  
 law, we pay on every gallon of extract we use a revenue to the Govern-

**STATEMENT OF** number of gallons; we pay a cent per pound on **REPRESENTING** about 135,000 tons of sugar annually. In addition **FACTURE** income taxes, and the excess-profits taxes if we are fortunate enough to have to pay them, and so forth, will bring the total

Mr. Ge up to a good many million dollars in the course of a year. factant perhaps more important than the fact mentioned are the facts largt soda water makes a wholesome and a needed substitute for induor. It is an established fact that sugar will take the place of alcohol and answer the desire of the man who has had liquor and has been deprived of it.

The **CHAIRMAN**. You are going to boost the price of sugar, now.

Mr. **SLOAN**. It takes the place, but does it satisfy?

Mr. **CUMMINGS**. I think that is debatable.

Mr. **MOORE**. In other words, has it the "authority," to use the professional joker's expression?

Mr. **CUMMINGS**. I think it is debatable whether it takes the place, but it will take the place in time. It may have to. It is even more firmly established than soda water that is pure and clean has a real nutritious value. Every glass of soda water served over the counter contains from 1 to 1½ ounces of sugar, and besides this it contains the fats and other nutritious substances put in through the sirup.

Perhaps the chiefest example of this is the experience we are now having with the cantonments. It is true we are shipping carload after carload of these bottled goods to cantonments and in the vicinity of cantonments.

Mr. **SLOAN**. They stop the shipping of that across the seas, didn't they?

Mr. **CUMMINGS**. The Y. M. C. A. has been buying for some time considerable quantities to ship to our troops in France.

The **CHAIRMAN**. Do you know how much the production of Coca-Cola sirup has increased or fallen off since October 3, 1917?

Mr. **CUMMINGS**. I don't know about Coca-Cola.

The **CHAIRMAN**. What do you say generally as to sirup? Has the production fallen off or increased?

Mr. **CUMMINGS**. I think that the production has fallen off; not quite to the extent we have been curtailed on sugar. It certainly hasn't increased, and the reason why it hasn't fallen off is because some of us have found some substitute that can take the place of sugar.

The **CHAIRMAN**. It would have increased in a greater rate had it not been for the sugar shortage, wouldn't it?

Mr. **CUMMINGS**. Yes, sir. So, in conclusion, I simply want to urge that you consider first of all in just how far this soda-water industry can be considered nonessential, and secondly, that you bear in mind that it is not in position to stand any severe increase in taxation. With those two suggestions I want to recommend that section 313 be changed so as to tax sirup and extracts if sold for not more than \$1.30 per gallon 6 cents a gallon instead of 5 cents, as at present; if sold for more than \$1.30 and not more than \$2, 9 cents instead of 8 cents per gallon; if sold for more than \$2 and not more than \$3, 12 cents instead of 10 cents per gallon.

The **CHAIRMAN**. This specific tax of so much per gallon, wouldn't it be better to put a gross tax of 4 per cent, or a percentage on the gross sales?

Mr. CUMMINGS. I think not, so far as we have had experience with this tax since last October. It seems to have been equitable amongst the various manufacturers and those engaged in the industry, and it has been easy of collection, and while we have no idea of just how much—

The CHAIRMAN (interposing). It is just as easy of collection. You have got to know how many gallons to get the tax; you have got to know how many gallons are sold and what it is worth, and the other basis would be, if you have a percentage on the gross amount sold, and you get that information now.

Mr. CUMMINGS. I think one objection to that feature would be this, that there are some of us making what we know as a single-strength sirup; that is, sirup which is diluted with water; there are others of us who are making a concentration of sirup—a sirup first diluted with sugar sirup and then with water; there are others of us who come within this tax who are making a concentrated extract which, when added to a sugar sirup, produces the sirup used at the fountain.

Mr. GARNER. If you levy a flat-rate tax on the gross sale of all soft drinks, wouldn't that be an equitable tax?

Mr. CUMMINGS. You mean at soda fountains?

Mr. GARNER. Anywhere.

Mr. CUMMINGS. I think it would be an equitable tax, but I think the burden of levying such a tax would be so tremendous that the net result would be much less than it is right now.

Mr. GARNER. Burden on the Government to collect it or burden on the people to pay it?

Mr. CUMMINGS. I mean a burden on the Government to collect it, because you have got to get every little Greek confectioner throughout the country, and those fellows have a faculty of getting away with those things.

Mr. GARNER. You say there are 110,000 establishments selling soft drinks in this country.

Mr. CUMMINGS. Yes, sir.

Mr. GARNER. Employing 400,000 people.

Mr. CUMMINGS. Yes, sir.

Mr. GARDNER. In which they sell \$250,000,000 worth of stuff a year.

Mr. CUMMINGS. No. I said the investments in the industry were about \$250,000,000 a year.

Mr. GARNER. What are the gross sales?

Mr. CUMMINGS. I don't know that.

Mr. GARNER. You think it is essential that these 400,000 people engaged in the sale of soft drinks, should continue in that occupation throughout the war.

Mr. CUMMINGS. No, I don't think it is absolutely essential.

Mr. GARNER. You think it is more essential that they should continue in that occupation than in some other occupation throughout the war?

Mr. CUMMINGS. I think for the time being that is true if we have reached the crisis where it is worth while to take and break down an industry of this size, all right.

Mr. GARNER. Are you willing to admit the premise we ought to levy as much tax against this industry as it can stand and continue?

Mr. CUMMINGS. Yes, sir.

Mr. GARNER. If we levy that tax, naturally there would be a reduction in the number of plants and number of people employed, wouldn't there?

Mr. CUMMINGS. I think there would be a tendency in that direction.

Mr. GARNER. If we levy a rate of tax that would get the largest amounts of revenue into the Treasury—there is a rate of taxation on any kind of business you can levy a little higher and you get less revenue, and levy it a little lower and you get less revenue.

Mr. CUMMINGS. Yes, sir.

Mr. GARNER. You are willing to admit that Congress ought to levy a tax on this business that will get the largest amount of revenue in the Treasury.

Mr. CUMMINGS. Yes, sir.

The CHAIRMAN. They tell me—I don't drink very much at soda fountains—that after we levy this tax on a glass of soda water, a glass of soda water at a fountain at 5 cents, the usual price, would be increased to 10 cents; some others sold at 10 cents would be increased to 15; and some from 15 to 25—in other words, while we levy a tax of about one-twelfth of 1 per cent on the 5 cents—did that generally prevail?

Mr. CUMMINGS. I wouldn't say that it did generally; but I would say this, that where it did prevail there were probably adequate reasons for it, because the added tax that had to be passed on was the slightest advance that man would have to stand. The sugar we were buying before the war for 4 cents is now costing us possibly 7 cents.

The CHAIRMAN. I know; but I am speaking about since October 3.

Mr. CUMMINGS. I wouldn't be willing to admit that advance you speak of as exact since October 3.

The CHAIRMAN. I have had several letters, and I have made some inquiries down here.

Mr. GARNER. It has done that at several places in Washington.

The CHAIRMAN. For instance, Coca-Cola, that always sold for 5 cents, they tell me you have to pay 10 cents now.

Mr. CUMMINGS. I don't know that in the case of Coca-Cola that much increase is justified; but I know that everything that goes into the business has been increased, and it has to be passed along. Take the one item of benzoate of soda. We paid 25 cents per pound before the war, and the price has been \$7.50 since the war. Now it is over \$3.

The CHAIRMAN. Can you calculate how many glasses of soda water this benzoate of soda would make?

Mr. CUMMINGS. No; it goes a long ways.

The CHAIRMAN. Would it amount to one-tenth of a cent a glass?

Mr. CUMMINGS. I don't think that it would.

The CHAIRMAN. Some of these consumers of soda water are complaining that when a glass of soda water increases one-fifth of 1 per cent they proceed to add on 5 cents.

Mr. CUMMINGS. I think that a certain amount of those advances is a necessity.

The CHAIRMAN. I am not criticizing that; I am asking you if it is justified.

Mr. GARNER. I want to ask you about this. Do you class Bevo as a soft drink that is now being manufactured by parties that used to manufacture beer? What do you think about that?

Mr. CUMMINGS. I am not in a position to say very much about them, because they haven't been classed with the association I am in and the business I am in, but I think generally they would be classed as soft drinks.

Mr. GARNER. You wouldn't advocate a different tax on them from soda water, being the same class of business.

Mr. CUMMINGS. It is classed as such.

The CHAIRMAN. Do soda fountains sell this Bevo?

Mr. CUMMINGS. It isn't mostly sold there. It is sold at stores.

The CHAIRMAN. They used to call it "near beer" or "nigh beer" down in my country.

Mr. GARNER. They say it looks like beer and tastes like beer, but when it gets into your stomach it hasn't got any authority. That is what some one said about it.

Mr. MOORE. Before you resume, while on the question of tax, what would you say of passing the tax on direct to the consumer?

Mr. CUMMINGS. I would say the difficulty of collecting the tax would be so great that the net result would probably be less than if you leave it where it is.

The CHAIRMAN. You intimated a great many of the hundred and ten thousand establishments are in drug stores?

Mr. CUMMINGS. Yes, sir.

Mr. MOORE. I suppose the main portion of them are in drug stores.

Mr. CUMMINGS. Yes, sir.

Mr. MOORE. Would it be difficult to collect a tax of 1 cent a glass when you have the drug stores located?

Mr. CUMMINGS. I think it would be difficult to feel sure at all that you are getting the tax; yes. And another thing, you are confronted there with the fact that you have a tremendous variation in the selling price of soda water. You get in New York—they are selling a glass of soda water for 2 cents. In another place it goes as high as 15 cents.

Mr. MOORE. Can you give any idea of the number of glasses of soda water consumed in a great city like New York?

Mr. CUMMINGS. No; I can't. But we have estimated that we have used approximately 135,000 tons of sugar a year and that each glass of soda water represents from one ounce to one and one-half ounces of sugar and it is a matter of computation of getting that into glasses.

Mr. MOORE. If a small tax was levied it would raise a very large amount of revenue especially in the present times. Business hasn't been so very productive, I understand, up till this recent hot spell, and due to conditions you described; but it has been increased recently?

Mr. CUMMINGS. Yes, sir.

Mr. MOORE. There is much greater demand for soft drinks in the last two months than before?

Mr. CUMMINGS. Yes, sir; it is a very seasonable business.

And just to finish the statement I was making there that we advocate a tax if sold for more than \$3 and not more than \$4 a gallon, 18 cents instead of 15; and if sold for more than \$4 and not more than \$5, a tax of 25 cents. You will notice these taxes are recommended by the gentlemen who appeared here on June 10, the bottling association.



Mr. GARNER. Let me ask you a question in line with Mr. Moore's statement. Suppose it is possible for the Government to levy a direct tax on each person that buys a glass of soda, suppose you require every person that buys a glass of soda to have a 1-cent ticket, stamped 1 cent for each glass he drinks. Would that interfere with your business?

Mr. CUMMINGS. No; I think not.

Mr. GARNER. Just like going into a moving picture show or anything like that. First, it would tend to keep the man from putting it up from 5 cents to 10 cents to pay the tax because the consumer would know how much he was paying and it would bring to his attention the fact that he was paying a tax when he drank this soda water.

Mr. CUMMINGS. It would have that advantage; but even then, I think that man can get away and avoid the tax just as moving pictures are doing to-day.

Mr. GARNER. Oh, yes; they cheat the Government in every way they can. But when you make a penalty for cheating the Government on that tax and catch a few of them I imagine they would pay it.

Mr. HAWLEY. A tax like that would bring in \$135,000,000.

Mr. GARNER. I think a person that wants a glass of soda water ought to be willing to pay 1 cent.

Mr. MOORE. You might do it as is done in moving-picture shows, put 1 cent on every 10 cents.

Mr. CUMMINGS. Very often the tax for a ticket is 25 cents, the man who buys it, where the tax really is only 1 to 2 cents.

Mr. MOORE. In all well systematized businesses you get a check, so that the checking system. I assume if such a system were established it would tend to regulate the business.

The CHAIRMAN. I imagine the Government would want a provision in the act if we should adopt this method of requiring a license from all who sell; if it doesn't cost but 35 cents a year, so they would have them registered, and men would be afraid to go in the business anywhere unless they had a license.

Mr. CUMMINGS. I am perfectly willing to admit a direct tax has some merit, but I can't help but feel you can get just as much revenue by levying it direct on the manufacturers, and it would be much easier of collection.

Mr. HAWLEY. In the tax arrangement you suggested there, how much would that increase the taxes over what you now pay per year, all such industries now pay per year?

Mr. CUMMINGS. I don't know as any of us have had any return on what the industry is paying under this present tax, but it would increase it, I would say, about 30 or 40 per cent.

Mr. HAWLEY. On the rates you suggest?

Mr. CUMMINGS. Yes, sir; because you see it gradually slides higher.

#### STATEMENT OF MR. A. B. BRUNKER.

Mr. MOORE. Give the name of the company you represent.

Mr. BRUNKER. Liquid Carbonic Co., with the main plant in Chicago, and branch plants in about 12 different cities in the country.

Mr. Chairman, I happen to be in a rather curious position, and responsible for one of the so-called nonessentials, and at the same

time laboring for a dollar a year for the Government here for the past month or two, acting as more or less of an executioner for industries of this kind. It therefore puts me in a position to comment on the situation from both sides in a way that most people would not be able to do.

Mr. MOORE. What particular Government agency are you connected with?

Mr. BRUNKER. Under Mr. Baruch, on the War Industries Board. Under something that I am not in any way connected with; that is, with chemicals that have to do with explosives. I am viewing with a great deal of alarm all of the tendencies to create a wide gap between calling off on one hand of the so-called nonessentials without providing the necessary war essentials which is the theory of the thing to keep the organizations as far as possible together where their organization involved and equipment involved are capable of turning over to war essentials. I feel that the situation is tending along lines which, rather than helping the war situation, will perhaps precipitate a business crises with all of the ramifications of these so-called non-essentials to the extent where we may very easily defeat our own purpose. And while this industry is like any other, it has been the custom of the many hearings at which I have been present—they come down with a flag in each hand and talk about the number of sons they have in the service, which is old stuff these days, and at the same time we can bear down on these particular industries in the way of taxes, etc., until we involve a panic and not help the war situation at all. I have not come here to argue whether the tax should be high or low, but it is a fact that the tendency has been for a month or two past, since we have realized the critical situation created by these two German drives, to get a little panicky and a little bit hysterical, to get to bearing down on these so-called nonessentials which will carry them down 60 or 70 per cent in many instances and put a lot of them out of existence entirely.

The CHAIRMAN. Don't you believe a soft drink to a soldier is just as essential as a cigarette?

Mr. BRUNKER. We can imagine in a war situation where clothing itself is not essential in life.

The CHAIRMAN. I know that there are millions and millions of cigarettes used and several brands of smoking tobacco sold to soldiers. It looks like a soft drink might be as essential as a cigarette?

Mr. BRUNKER. Certain forms of soft drinks use up certain acids that are put into munitions.

The CHAIRMAN. Why not commandeer those altogether and stop it?

Mr. BRUNKER. That is what we are trying to do.

Mr. MOORE. You are a mining engineer, are you not?

Mr. BRUNKER. Yes, sir.

Mr. MOORE. And a graduate of the University of Pennsylvania?

Mr. BRUNKER. Yes, sir.

Mr. MOORE. Now located in Chicago?

Mr. BRUNKER. Yes, sir. The other side of the question of non-essentials is this: When we get into a consideration of moving picture films, which involve the same sort of chemical that gun cotton and high explosives involve and consider on one hand whether by saving a few chemicals we are to cut off the entertainment of a Nation of 108,000,000 people, we have a serious problem to consider. The

Judge Advocate General of the Army in considering whether three or four hundred athletes in the professional baseball field are more needed in an Army of millions of men than the out-door amusement of hundreds of thousands of people per month is under the same mental strain as the war industries problem. We have a tremendous demand for these soft drinks and we are utterly unable to meet that demand due to 80 per cent tax on sugar for all old established concerns and 50 per cent for those beginning operation which has been pointed out in the last speaker's testimony, and absolutely cutting off any expansion whatever for any concern starting up after April 1. Now you have the question of increasing the tax on buying goods up to a point where it will bring a revenue to the Government without putting the industry still further under the water. I can very easily gain from my close contact with the sugar situation—I know we had 26,000,000 pounds of sugar going down to the bottom of the sea here a week or two ago by the lovely (?) attention of these German submarines outside New York harbor and off the eastern coast. There is going to be a bearing down and still further curtailment to this particular industry in the immediate future.

Mr. GARNER. But Congress in considering the theory of taxation that it will take one kind of business and levy a tax on that that will bring in the most revenue, it must consider the nature of the business. The tax this year may be a little too high and next year a little too low. What I was trying to point out was whether this industry was willing to put itself as a class on record where it is willing to be taxed to get the greatest amount of revenue for the Treasury and I was very glad to hear the gentleman say he was willing to that, representing the large number of people that he does.

Mr. BRUNKER. Don't think without any violent patriotism we want to go the limit. We are defeating our own purpose by putting too great a burden on these people. The sugar curtailment alone was 80 per cent last year.

Mr. GARNER. That wouldn't be a tax for revenue only, that would be a tax to destroy a business.

Mr. BRUNKER. Absolutely.

Mr. GARNER. I have no desire whatever to do that, but this is a character of business that ought to be taxed and in arriving at that we ought not to put it so high as to kill the business, but whether I would agree with you as to the rate which should be levied is different.

The CHAIRMAN. What have you to say to Mr. Garner's suggestion that when the consumer buys a glass of soda water, if it costs 5 cents to put on a cent, and if it costs 10 cents to put on 2 cents? What do you think of that?

Mr. BRUNKER. The point has always existed in the mind of us that considered it that, considering the large foreign class engaged in it and the low type involved, etc., it has always been considered by the people who are the principal factors in these concerns that the difficulty and expense would more than offset any gain and the surest way to get it was at the source.

The CHAIRMAN. That is what the moving-picture people said, the people wouldn't go and pay the penny or 3 cents or 4 cents, and wouldn't pay to collect the money, it would cost us twice as much to collect it as we would get. It has turned out that there has been more attendance of these moving-picture shows and nobody has

refused to go because he had to pay a penny or two pennies extra, and the Government has collected even more than we anticipated.

Mr. BRUNKER. Yes.

The CHAIRMAN. Don't you suppose the tax on the soft-drink business, like Mr. Garner suggested, would turn out somewhat like the moving-picture shows?

Mr. BRUNKER. It has impressed us as a tremendous burden upon the group of industries, and most particularly carbonic agencies, in collecting this tax, as it comes in in small dribblets, and turn it into the Government.

The CHAIRMAN. You wouldn't have anything to do with it.

Mr. BRUNKER. We would be very glad to be relieved of that burden, if it accomplishes all purposes—if it is advantageous to do it.

The CHAIRMAN. Don't you think that would be the best way—that we would get more money that way without hurting the industry?

Mr. BRUNKER. I think it would have many advantages. If we are wrong in our presumption of last year that it would involve such tremendous detail and cost so much money—

Mr. GARNER (interposing). Suppose we consult the administrators of the law, the Treasury officials, and suggest it to them, and they would suggest this tax, would you have any objection to it?

Mr. BRUNKER. I would not. But I feel sure (it is not up to me to speak for the Treasury Department) you have also a very large question involved here in the bottle industry where a tax would have to be imposed on those sales, under stamp tax.

The CHAIRMAN. No. We would have a license for every fellow who is going to sell, and he has got to collect that 1 cent or 2 cents or whatever it is going to be.

Mr. BRUNKER. What would you do on a bottle of coca-cola?

The CHAIRMAN. The same way.

Mr. BRUNKER. I am a little fearful about the machinery involved in getting it.

The CHAIRMAN. It wouldn't be any more difficult than the moving-picture show business?

Mr. BRUNKER. Yes; it would. Yes; I think it would be a very different problem.

Mr. MOORE. You take a Greek who runs an establishment downtown and sells by the bottle; he would be required to take out a license.

Mr. BRUNKER. Yes, sir.

Mr. MOORE. That would necessitate his checking up on his returns?

Mr. BRUNKER. Yes, sir.

Mr. MOORE. My thought is that if we did require an administration of this kind up there it would improve the business standards.

Mr. BRUNKER. There is plenty of room for improvement; but I think when you put this up to the Treasury Department they will interpose objections to the handling of it in that way.

Mr. MOORE. It would be much simpler, of course, in the case of Ogram's drug store down here on Pennsylvania Avenue, where the cash register is going all day, to check it up.

Mr. BRUNKER. I think that you, having been a resident of the larger cities mostly, have a different idea of the way the business is handled.

Mr. SLOAN. As a matter of fact, aren't the tax-paying people, little and big and everybody, paying readily? Hasn't it been the surprise that they are paying as liberally as they are, rather than objecting for the reasons conjured up by the people who have been heard in these hearings? I haven't seen any evidence of delay in paying taxes, or reporting taxes, or effort to evade taxes, either as to the amount or the paying of it.

Mr. BRUNKER. I know these things we have had to do with, as a fundamental principle, it is the surest way and the quickest way and the thing involving the least expense in the way of detailed machinery to go as nearly to the source as you can. We try in all this war, in our efforts to regulate war industries and nonessential war industries, to get as near the source as we can, because of the great amount of machinery in checking it out at the other end.

Mr. SLOAN. That is true in times of peace, but I think now in the war we will get along without evasion; even these Greeks, I think, will be prompt in paying the taxes that the Government will impose.

Mr. BRUNKER. I don't think it is the evading, but the gathering together of the machinery will take a tremendous effort, and one that will be more and more difficult. And let me say this, that the 400,000 people who dispense these drinks, there is no particular business that can adapt women to the business better than to this industry; so it isn't a question of having masculine help for this purpose.

Mr. MARTIN. Will you tell me why there is such a shortage of sugar in the country?

Mr. BRUNKER. Yes; the difficulty can be explained very briefly. The present shortage is due to attempting to accumulate a sufficient quantity of sugar to amply guarantee this season's packing and canning industry. The reason why that shortage has suddenly become acute is the fact that a certain amount of shipping was allocated to bring sugar into the country; since the first German drive started and the tonnage we had for transports was not sufficient, a large part of that we had for sugar had to be diverted.

Mr. MARTIN. There is a lot of sugar in Cuba?

Mr. BRUNKER. Yes, sir.

Mr. MARTIN. And the problem is to get the bottoms to get it over here?

Mr. BRUNKER. Yes, sir; and then the beet crop in the West. They are planting out there to make more in war crops, and in other things, and that makes some shortage.

Mr. MARTIN. Do you know what the tonnage is now in sugar in Cuba?

Mr. BRUNKER. I couldn't give you that; no.

Mr. MARTIN. Something like a million tons?

Mr. BRUNKER. Yes; I think so. And it is mostly a question of tonnage, as you say, and when they put down here a thousand tons at a time it doesn't help much.

Mr. MARTIN. They bring in about two or three thousand tons a month?

Mr. BRUNKER. Yes, I think that is it. There is an improved optimistic feeling in the committee of the Council of National Defense, if I may assume to speak for them, in the increased amount coming, due to the pressure of the department, and there will be more of an increase.

The CHAIRMAN. Isn't it a fact that sugar has been maintained at a more stable price than any other food product?

Mr. BRUNKER. I think that is an artificially maintained price. It would have gone to any price, if it had not been controlled.

The CHAIRMAN. I can't get much of that, but it is about the cheapest thing I can get.

Mr. BRUNKER. It never has been clear to me, in my dealings with this question, why, with our 100,000,000 population, with the present situation as to sugar in England and Italy and France, why we do not reduce somewhat the per capita use of sugar before we get to the crisis and have to—more of a crisis than we have already reached.

The CHAIRMAN. The gentleman who preceded you said we used about 135,000 tons of sugar in this country in the soft-drink business.

Mr. BRUNKER. Yes, sir.

The CHAIRMAN. About one-fifth of the tonnage of consumption in the United States?

Mr. BRUNKER. No; I think the total consumption last year was 4,400,000 tons.

Mr. MOORE. Mr. Chairman, may I have permission to extend two letters in the record?

The CHAIRMAN. Without objection they may be extended.

There was no objection.

(The letters filed by Mr. Moore are as follows:)

HON. J. HAMPTON MOORE,

*House of Representatives, Washington, D. C.*

DEAR MR. MOORE: This evening's paper contains a report of an argument made by Mr. Ballard before the Ways and Means Committee as to the excess-profits tax on the underlying street railway companies comprising the system of the Rapid Transit Co. of Philadelphia.

On behalf of the following companies whom we represent, viz:

The Philadelphia City Pass. R. W.

The Philadelphia & Darby R. R.

The Thirteenth and Fifteenth Streets P. R. W. Co.

The Germantown Pass. R. W. Co.

The Green & Coates St. P. W. R. Co.

The Fairmount Park & Haddington P. R. W. Co.

The Hestonville, Mantua & Fairmount P. R. W. Co.,

we desire to call attention to the following facts:

The original street railway companies of Philadelphia were pioneer enterprises in a new field. The men who subscribed the capital to build them were encouraged to take the risk by grants of liberal franchises. They took the risk and built the railways, and owing to the fact that they proved to be a convenience to the public, and that there was a rapid growth of the city to which the building of railways contributed, they increased in value over the original investment. When public convenience demanded large systems instead of separate small roads new corporations were formed which leased the smaller roads under leases substantially similar to each other, and which in effect turned over to the operating company the entire business of operating the road in return for a fixed annual sum per share to the stockholders of the underlying companies, representing a fair income on the then value of their shares. This in some cases was paid directly to the stockholders, and in others to the underlying corporations to be distributed to the stockholders, but it could neither be increased or diminished by profitable or unprofitable operation. In every case the operating company assumed all obligations of the underlying company, which went out of business for every purpose except the mere maintenance of a corporate existence, the expenses of maintaining which were paid by the operating company.

The stocks of these underlying companies became practically securities in the nature of bonds or ground rents having no element of business risk, and no possibility of assessment or diminution of income, and as such they have been for many years dealt with on the market and are now held by estates, charities, and individual investors as permanent and safe investments. There is really but one business of

operating street railways in Philadelphia, and that is carried on by the Philadelphia Rapid Transit Co. The underlying companies do not also carry on this business and are not even in the position of holding companies since they do not share in the profit and loss.

In any amendment of the tax laws the burden of paying the tax should not be imposed on the underlying companies in relief of the Philadelphia Rapid Transit Co. This would be to interfere with the contract between the underlying companies and the Philadelphia Rapid Transit Co., which Congress could not do. The true remedy is to so frame the law that there should not be double taxation on the same business. The stockholders of the underlying companies should, of course, pay an income tax on their receipts, and this they would do in any event under the income-tax law. But on the one business of operating the street railway lines of Philadelphia there should be but one tax, viz, the one paid by the Philadelphia Rapid Transit Co. The underlying companies are practically out of business. The amounts per share paid to their stockholders do not represent profits from operation nor have they been affected by the war. The business is an entire one, conducted by one company, and to tax it on excess profits and then tax the underlying companies for also carrying on the same business is a result which we do not believe the framers of the original act contemplated.

The remedy is, we submit, to provide that where a company was formed before 1913 to carry on a single business by the leasing of other companies which were kept alive solely for the purpose of preserving the franchises and of distributing a fixed sum to their stockholders, the business, so far as the excess-profits tax is concerned, should be considered one business, subject to but one excess-profits tax, to be paid by the operating company.

We would esteem it a favor if you would bring these facts to the attention of the committee. It would give us pleasure to present our views orally if the committee desire to hear them and will fix a time.

Yours, truly,

PRICHARD, SAUL, BAYARD & EVANS,  
Per FRANK P. PRICHARD.

PHILADELPHIA, June 12, 1918.

HON. J. HAMPTON MOORE,  
Washington, D. C.

MY DEAR SIR: I see in this morning's newspapers that Ellis Ames Ballard, Esq., of our bar, appeared before a committee of Congress, of which you are a member, and urged that the Philadelphia Rapid Transit Co., of this city, be relieved by legislation of the payment of the "excess-profits tax" as provided by the act of October 3, 1917, which has been assessed against each of the underlying railways companies of this city, for which the Philadelphia Rapid Transit Co., as lessee, is liable. His suggestion was, as I read it, that such "excess-profits tax" be levied in some way directly upon the stockholders of the underlying railway companies. Regarding this I feel that Mr. Ballard should have urged rather that the stockholders of such companies ought not to be subject to any such tax, since they have no excess profits.

You are probably aware that the underlying street railways here were built in years 1857 and 1859 by persons long since deceased, that the stock held by them has been sold and resold many times, and the present holders, with possibly a few exceptions, have paid such prices for the stock that the income derived therefrom is not more than 5 per cent. I can instance my own case. I am the owner of stock in two of the underlying companies; one, the Fourth & Eighth Street line, for which I paid over \$100 a share, on which I receive \$5.25 a year; the other, the Thirteenth & Fifteenth Street line, for which I paid, say, \$250 a share, on which I receive a dividend of \$12 a year.

Therefore I submit that no additional tax should be placed on the underlying stockholders.

Very truly, yours,

JOSHUA R. MORGAN.

And thereupon, at 5 o'clock and 10 minutes, the committee adjourned until Saturday, June 15, 1918, at 10 o'clock a. m.

# REVENUE BILL

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No. 8

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## HEARINGS

BEFORE THE

## COMMITTEE ON WAYS AND MEANS

HOUSE OF REPRESENTATIVES

WITH REFERENCE TO

## THE NEW REVENUE BILL

[THIS PRINT OF THE HEARINGS IS SUBJECT TO REVISION  
BEFORE THE FINAL PRINT]

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JUNE 15, 1918



WASHINGTON  
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1918



COMMITTEE ON WAYS AND MEANS.

HOUSE OF REPRESENTATIVES.

SIXTY-FIFTH CONGRESS, SECOND SESSION.

CLAUDE KITCHIN, North Carolina, *Chairman*.

HENRY T. RAINEY, Illinois.

LINCOLN DIXON, Indiana.

CORDELL HULL, Tennessee.

JOHN N. GARNER, Texas.

JAMES W. COLLIER, Mississippi.

• CLEMENT C. DICKINSON, Missouri.

WILLIAM A. OLDFIELD, Arkansas.

CHARLES R. CRISP, Georgia.

GUY T. HELVERING, Kansas.

GEORGE F. O'SHAUNESSY, Rhode Island.

JOHN F. CAREW, New York.

• GEORGE WHITE, Ohio.

JOSEPH W. FORDNEY, Michigan.

J. HAMPTON MOORE, Pennsylvania.

WILLIAM R. GREEN, Iowa.

CHARLES H. SLOAN, Nebraska.

NICHOLAS LONGWORTH, Ohio.

GEORGE W. FAIRCHILD, New York.

JOHN A. STERLING, Illinois.

WHITMELL P. MARTIN, Louisiana.

WILLIS C. HAWLEY, Oregon.

ALLEN T. TREADWAY, Massachusetts.

JOHN E. WALKER, *Clerk*.

# REVENUE BILL.

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COMMITTEE ON WAYS AND MEANS,  
HOUSE OF REPRESENTATIVES,  
*Saturday, June 15, 1918.*

The committee met at 10 o'clock a. m., Hon. Claude Kitchin (chairman) presiding.

There were also present Representatives Rainey, Dixon, Garner, Dickinson, Oldfield, Crisp, Helvering, White, Moore, Green, Sloan, Fairchild, Sterling, Martin, Hawley, Treadway, and Kitchin.

## STATEMENT OF MR. MARION DORIAN, REPRESENTING THE COLUMBIA PHONOGRAPH CO.

The CHAIRMAN. Please state your full name and your business.

Mr. DORIAN. Marion Dorian, representing the Columbia Phonograph Co., with my offices in the Woolworth Building, New York, City.

The CHAIRMAN. All right, sir; proceed.

Mr. DORIAN. I have been associated with that one company for 21 years. Previous to that I practiced law in this city. I only want to state that to qualify.

You gentlemen, like myself, will probably remember in your boyhood days playing taddy. We used to take a portion of a broomstick and whittle off both ends of it and put it on the ground and knock it around—I have played it in this city—and that has happened to some of the industries of to-day, my own included. They are whittling it at both ends.

We are taxing the industries very heavily by way of income tax, corporation tax, and excess-profits tax, and in our case the gross sales tax. We are curtailing their operations. The Fuel Board and the War Trade Board have requested—and the request is tantamount to an order, as we of course understand—that we curtail our industry at least 30 per cent, with the intimation that they may perhaps be forced to ask us to increase that curtailment. They have even mentioned as high as 50 per cent. We are curtailed in the matter of transportation. We can not get it. We are using at this time, at enormous additional expense and at great inconvenience and with great handicap to the operations of my company, motor trucks to convey our products to near-by points. Our factory is located in Bridgeport, Conn. We have to ship where we can by these motor trucks to such near-by points as New York and Boston, and from there try to get transshipment.

We use in the manufacture of talking machine records, that is, the disk form of records, large quantities of imported gums and shellac. We have had the supply of shellac curtailed and we can not find any substitute.

Mr. MOORE. Where do those articles come from?

Mr. DORIAN. The shellac and gums such as we use come principally from Ceylon and Singapore.

Mr. MOORE. What kind of gum is that?

Mr. DORIAN. The copal gum. We use that as binder, and the shellac we use as a surface for the records.

Many people are under the impression that these records are of vulcanized form, or some form, of rubber. There is no rubber whatever in them. The disk is made principally of a combination of clays, gums, and the shellac surface. We use the shellac as the only substance that we can find that will give us a surface with the hardness, the resiliency, and the smoothness, and the talking machine manufacturers of the country have spent large sums of money and a long time trying to find some substitute of domestic origin. It has been an absolute failure.

Those are some of the conditions under which this industry of mine are operating to-day. We are whittling it at both ends, and if that process continues long enough, just what happened to our taddies in the old days will happen to the industries; in other words, they will get down to a point where they are not of any service whatever. I want to suggest that thought to you gentlemen. Not that I feel that it is not already in your minds, but I want to suggest it in regard to this particular industry on which I have spent so many years of my young life. We have loyally and cheerfully and heartily met all the demands that could be laid upon us or any other American institution. We expect to do that to the end, and we do not claim any credit for that, or assert it as a virtue, because if we were not so disposed we would have to do it anyhow; we recognize that. But we feel that in coming before you gentlemen we can be sure that any reasonable argument, any logical argument, which we can present to you will have full and fair consideration.

Now, under the present law we are taxed 3 per cent upon our gross sales, and that is a tremendous burden to this industry, and I am here to urge you gentlemen that if in the framing of the new measure there is a possibility of omitting that tax, it be done. Of course, your answer will be, "You will pass it on to the consumer." True; and there is no other way it can be; but there is a limit, commercially, to what can be done in that direction.

Mr. MOORE. I have wondered, hearing other gentlemen make that same argument, why the manufacturer complains of this direct tax, this consumption tax, when he admits that it is passed on to the consumer. Wherein does he suffer if he does not pay it?

Mr. DORIAN. He does not suffer in the direct effect upon his pocket as to that particular sale; but anything of that kind which is imposed upon the handling of commercial transactions to-day—particularly to-day—is an additional handicap to the operations of that concern.

Mr. MOORE. I have regarded it as though he, the manufacturer, were merely the collecting agent of the Government for that 3 per cent, as in your case, for instance, where, since the levy of the tax, he adds to his price and takes it back from the consumer.

Mr. DORIAN. He does more than that.

Mr. MOORE. Is he really acting, "under the rose," as the agent of the Government in collecting that 3 per cent?

Mr. DORIAN. He is acting as the agent and the collector for the Government; and more than that, he immediately pays it to the Government and takes his chances of being reimbursed, and in many cases he is not.

Mr. MOORE. That again brings up the question, Wherein does he suffer except for the clerical labor, the bookkeeping, that may be necessary for him to collect and remit the tax?

Mr. DORIAN. If you raise the price of your product at any stage, whether it be due to the tax or any other cause—and we have many other causes which affect the price; in other words, we are paying now for materials, which are indispensable to us, 500 per cent more than we did before the war.

Mr. MOORE. Let me put it this way. Suppose that the records which you have been selling for \$1 prior to the passage of the law now sell for \$1.03, the 3 cents being set apart by you to be paid to the Government; wherein does the manufacturer suffer on that arrangement?

Mr. DORIAN. Let me state right at that point, if you will, that you can not pass on that 3 cents as an exact amount, because under the conditions of doing business of to-day—I am speaking of the manufacturer—he has got to take into consideration the middleman or jobber and the retailer or ultimate consumer. He has got to arrange that increased price so as to take care of all those intermediate discounts or profits.

Mr. MOORE. That is a matter of definition of business only, is it not?

Mr. DORIAN. It is a matter of doing business itself—the process of doing business.

Mr. MOORE. But it is in relation to your own people—your own employees?

Mr. DORIAN. We will put on that price, that tax; we will notify the trade of the tax, and that in consequence of the tax they must pay for it; but when we notified the trade of that increase, when we increased the price we also stated that in consequence of the increased cost in accounting for and collecting that tax, the increased cost of material, and the increased cost of labor—in fact, all these other costs—we would be compelled to raise the price of our product. We had not raised it before, notwithstanding all these increased expenses to us, exclusive of the tax. At that point we had to raise the price or quit, in plain English.

Mr. FAIRCHILD. Is it not a fact that the industry you represent is one of the most successful in the country?

Mr. DORIAN. I am glad you asked me that question, because I can answer truthfully that that is not true as to the industry as a whole. There may be some instances.

Mr. FAIRCHILD. I had in mind the Victor machine, because I am more familiar with the process of operation of the Victor than with that of the Graphophone Co.

Mr. DORIAN. During last summer, when I was selected by my company to look after its war revenue, I met that question from Members of the House and from many Senators, and you give me the opportunity to say something which will interest you gentlemen, and which it will give me pleasure to say.

The talking-machine industry, the talking machine as an art, is distinctly an American institution, and had its birth right in this city, and the gentlemen who were instrumental in giving it a start in life were stenographers, and a number of them were official reporters of the House of Representatives of the United States, and it had a long and a hard struggle, and it has only recently, within a few years, emerged onto solid ground.

The industry gives employment directly and indirectly to at least 50,000 to 75,000 people, and if you assume that each of those has a few members only in the family, the employment to the population in the United States must run into hundreds of thousands of people who are dependent on this industry for their livelihood.

The company which I represent has had its branches in Europe. I spent 10 years in Europe in the service of the company—five years making my headquarters in Paris, and five years in London—traveling all over Europe in the interval in the interests of our company. The Germans and the French, and latterly the English and the Swiss, have copied the American models, and due to the inequalities of the patent laws of those countries, we were more or less helpless. Now the industry is in strong competition, or was prior to the war, with the German, Swiss, and French and English manufacturerers, and when this war is over there will be a flood of German machines, Swiss machines, and French machines coming into this market and into the export countries.

Mr. FAIRCHILD. Of course you can not judge as to what will happen as to German industries after the war, as to the entrance of their products into this country.

Mr. DORIAN. We can look at it as a possibility, unless there should be some conditions that would act against it. I meant to say, by that, that the patent situation had so changed in the last few years that we have not the monopoly we had.

Mr. FAIRCHILD. I am thoroughly familiar with these developments of other industries abroad and in this country; and how do you differentiate between your industry and the hundreds of other industries that have had their birth in this country. Of course this country has been the place of birth of every factor of development of industrial importance that you can think of.

Mr. DORIAN. That is true.

Mr. FAIRCHILD. It is the great inventive field of the world. The telegraph, the telephone, the talking machine, the writing machine, the flying machine, for instance, are all inventions that have had their origin here in the United States, and Germany has never originated anything of importance; it has simply copied things produced in this country.

Mr. DORIAN. That is true.

Mr. FAIRCHILD. Now, I should like to know in what your industry differs from other industries in the specialty line, of which there are a great many.

Mr. DORIAN. If I get your thought correctly, you are speaking of such specialties as typewriters and adding machines, and our industry is not in that class at all. It is a musical instrument, and it appeals—

Mr. FAIRCHILD. And cash registers. I know well, and you know yourself, because you say you have been abroad 10 years, that there

is a very large line of development that is being employed in the northern countries of Europe, and wherein does your industry differ from those industries and wherein should you be entitled to special consideration?

Mr. DORIAN. I will tell you, Congressman, a number of reasons why our particular product should have consideration at the hands of this committee. As I have just stated, it is not a utility; it is not an office appliance; it is not an office fixture; it is a musical instrument, and it is a musical instrument par excellence for this reason: You take a piano or an organ, or any instrument requiring skill to operate or play it, years of study, years of practice, are necessary.

There are thousands and perhaps hundreds of thousands of pianos in homes in this and other countries to-day which are mute simply because there is no member of the family who can perform on them who can operate them. A talking machine, on the other hand, can be operated by a child 5 years, 4 years, 3 years of age just as well as by an adult.

Mr. GARNER. Do you class your business as one of the essential or one of the nonessential industries?

Mr. DORIAN. We have filed an argument with the War Industries Board in which we have set up the argument that it is really an essential at this time.

Mr. GARNER. An essential industry at this time?

Mr. DORIAN. During war times; yes, sir.

Mr. GARNER. Then, if you class it as an essential industry, of course there would be no object in such a taxation as is calculated to restrict it during this war?

Mr. DORIAN. Yes.

Mr. GARNER. And that is the reason I wanted to know in just what classification you desired to be put. I would like to hear some argument from you as to why it should be classed as essential at this time. I am frank to say to you as one member of the committee that I do not think it is an essential industry.

Mr. TREADWAY. May I ask you, Mr. Garner, if you do not also refer to a possible definition of what luxury may be?

Mr. GARNER. Yes; and especially do I consider that the question demands that as to how far we shall go to restrict industry, labor, and material not essential to the war, that they may be put into the industries essential for the conduct of the war.

Mr. TREADWAY. If it is not an essential industry, would it not be classified within the scope of the President's address, where he refers to luxuries?

Mr. GARNER. I am inclined to think so, and I, for one, can not see where the talking machine is an essential industry either in time of war or peace.

Mr. DORIAN. Now, if you gentlemen will indulge me a few minutes and let me tell it to you, I will do it, and it will not burden you, and I think it will interest you also.

Mr. MOORE. Do not forget, while on that question, that it is essential in the Army camps.

Mr. DORIAN. We have filed with the War Industries Board an argument, and we have given the board these facts.

The talking machine for a number of years—five years at least—has been very extensively used in the public schools of the land in

instructing the youth of the land in the rudiments of music, in gems of English literature, in history, in folk songs. It has been used in recreation rooms of the schools in drilling the children with the aid of music in calisthenics, in marching, in drilling, and all that sort of thing, and we have filed with that board a letter from the Commissioner of Education of the United States here at Washington, in which he mentions all of these points and urges the continued use of this instrument throughout the country and says that the limit of its potentiality in that respect is beyond conception.

I have filed similar letters from the commissioner of education of the State of Massachusetts, from the commissioner of education of the State of New Jersey, and from a number of other educators of national and in some cases international repute, from all over the country; one from Missouri and one from Pennsylvania.

The Young Men's Christian Association have given us a letter which I have also submitted to the board, in which they say that any interference with their use of the talking machine and talking methods in their uplift work and in their entertainment work in cantonments and in the camps and in the trenches would be a great calamity.

Mr. SLOAN. Do you mean to say that taxes should be cut down especially on this instrument.

Mr. DORIAN. I am talking about it as an essential industry, in response to Congressman Garner's question. The Knights of Columbus are using and propose to use an enormous number of these machines, and they have a large number in use, for a very simple reason, because of their portability.

The playing piano or organ or any other instrument which has to be transported, which is bulky, is not adapted to these needs. A soldier will take one of these talking machines and a bunch of records and sling them over his shoulder and carry them into the trenches; and they do it; and when they leave the trench they will leave everything else, but they will take that talking machine with them.

Mr. GARNER. Could you tell me the number of men engaged in the industry in the manufacture of these instruments?

Mr. DORIAN. I could not. I could tell you how many we have.

Mr. GARNER. Could you approximate it?

Mr. DORIAN. I was saying here a few moments ago that the people who are directly or indirectly supported by this industry must run into the hundreds of thousands.

Mr. GARNER. In our own country.

Mr. DORIAN. Yes.

Mr. GARNER. Engaged in the industry?

Mr. DORIAN. Engaged in the industry or engaged in the sale of the product of the industry. In normal times we would have a factory force of 3,000 people. At the present time our force is about 4,500.

Mr. GARNER. Has it increased very materially in the last few years?

Mr. DORIAN. It has, yes, sir; not due to the war. If that is your idea of it, I will say we have no direct benefit from the war. Indirectly, I should say we had.

Mr. GARNER. In the last 10 years has it not materially increased—this industry?

Mr. DORIAN. It has had a natural growth.

Mr. GARNER. And it must be a prosperous business.

Mr. DORIAN. It will be if you do not continue whittling that taddy away.

Mr. GARNER. How much does the industry spend in advertising in a year?

Mr. DORIAN. I could not give you those figures. I would not attempt to give you even an approximation, because I might mislead you. I know our company spends hundreds of thousands of dollars.

Mr. GARNER. Hundreds of thousands worth in advertising?

Mr. DORIAN. We can not get along without it.

Mr. GARNER. Of course, it is not necessary to advertise your goods so far as the cantonments are concerned.

Mr. DORIAN. We do not.

Mr. GARNER. Because probably the Y. M. C. A. and the Knights of Columbus and other similar organizations will take all the machines necessary for their cantonments and the soldiers; but your advertisement goes more to the general public?

Mr. DORIAN. Yes.

Mr. GARNER. If the Government could just take your advertising and use it for war purposes, in the Treasury, do you not think that would be a fair division?

Mr. DORIAN. We have given the Government a good proportion of our advertising for war purposes, and for Red Cross purposes. May I ask you gentlemen to indulge me just a moment, and after that I will answer just as many questions as I am able to?

Mr. TREADWAY. May I ask you one question?

Mr. DORIAN. Yes, sir.

Mr. TREADWAY. It is this. You were speaking about the use of talking machines in cantonments and among the soldiers?

Mr. DORIAN. Yes.

Mr. TREADWAY. Can you tell me what percentage of your business is represented by that business at the present time?

Mr. DORIAN. I could not, because we do not handle that business direct.

Mr. TREADWAY. Do you not think that is pretty essential in your argument that you should be favored either through the priorities board or through taxation, as to what part of your business goes to the Army, or any division of it, at this time?

Mr. DORIAN. I could probably secure data on that subject and submit them to this body.

Mr. TREADWAY. I should think that the whole argument would be based on that feature, if I may suggest.

Mr. DORIAN. The use of the machine is so generally known that I had not thought it necessary to prepare anything of that kind. Let me finish, along the line of essentials.

The talking-machine record of to-day is 75 per cent patriotic; that it is to say, it is composed of patriotic selections, either songs, marches, or military airs, and in that way the talking industry is doing a wonderful work, because music is considered the fourth essential in human life. I believe food comes first, shelter next, raiment next, and then music. The effect of music is just as pronounced upon the human body and the human intellect as food itself. All of you gentlemen know the effect of music upon you. Now, the talking machine industry is doing a wonderful work in that way, and it is not doing it entirely from selfish motives, because they could put



out other classes of music; but we need that sort of thing now, not only the soldiers but the people at home, those who have sons and husbands and brothers away; they need the uplifting influence of that music, so that the talking machine in that direction is doing a wonderful thing.

It is doing something else. Its records are doing a tremendous amount of Americanization work in this country to-day. Its records and machines are being used in factories where there is a very large foreign element employed, men, women, and children. One series of records which have been manufactured by us and which are being used by the Safety First League has on the surface of the record—and they reproduce it in the factories—rules for safety. On the other side of the record there may be some national air or hymn or some address.

We sent the first recording expedition to France, and we secured a record by Gen. Pershing. We did that. You gentlemen have heard of it. It was an expensive and difficult proposition. We got the record, and it is being distributed in this country, and our company does not get one cent out of that proposition. On the other side of the record there is a patriotic address by Mr. Gerard. Now, there is a class of work which the talking machine is doing. And what I say as applicable to our company is equally applicable to the other talking-machine companies. I do not represent any of them. I come here solely on behalf of our company.

The influence of music is recognized. This instrument and this record are educators, and if you are putting a tax on them you are taxing an educational feature. I do not think that that should be done. I submit it to you gentlemen as a clean-cut proposition.

Mr. MOORE. For one, I am willing to concede everything you say about the talking machine being an educator and about its influence upon the public being for good, but you know what we are doing here as a committee.

Mr. DORIAN. Absolutely.

Mr. MOORE. We are endeavoring to raise additional revenue for the Government.

Mr. DORIAN. Yes.

Mr. MOORE. And we have got to raise a great deal more for 1919 than we have raised for 1918.

Mr. DORIAN. And for 1920 more than for 1919.

Mr. MOORE. You have heard me say that to other witnesses.

Mr. DORIAN. Exactly.

Mr. MOORE. That is our whole point. Supposing we grant everything you say in regard to the elevating qualities of the graphophone or of any other instrument of that kind which dispenses music and disseminates information, how are we going to raise more money for industries like yours without unduly embarrassing them? It is not a question of reduced revenue with us. It is a question of increased revenue, and your argument, up to date, while very interesting as to the benefits of the graphophone, has not helped us a particle, as I can see, as to the raising of more money.

Mr. DORIAN. I am absolutely in accord with you, Congressman. I had reached a point where I was trying to show this committee that this industry instead of being singled out, as it has been in the minds

of some people, as a target, should be given special consideration. Now, our company will never raise an objection to any tax upon its profits.

Mr. MOORE. Do you argue for a reduction of the taxation?

Mr. DORIAN. Yes, a reduction of this gross sales tax.

Mr. MOORE. What would you have taken off?

Mr. DORIAN. I would argue to have it all taken off, because you are impeding an industry, you are handicapping it, you are shackling that industry.

Mr. MOORE. If we took that tax off your industry we would have to put it on some other industry. What would you suggest?

Mr. DORIAN. You do not necessarily have to do that, if I have correctly understood the situation. You are going to increase your income tax and your excess-profits tax, and make adequate provision for that in that way.

Mr. MOORE. Do you intend to submit an amendment to the existing law?

Mr. DORIAN. No; I do not, Mr. Moore.

Mr. MOORE. For our consideration?

Mr. DORIAN. No; I do not. I was simply making this argument.

Mr. MOORE. Let me ask you, has the Government requisitioned any of your machinery or working force?

Mr. DORIAN. No; it has not, for a simple reason.

Mr. MOORE. Has it done so in the case of the Victor or any other company?

Mr. DORIAN. I understand it has, in the case of the Victor. The condition is different there. Early last year I personally saw the War Industries Board and placed our entire plant at its disposition, and gave them specifications as to what our equipment was. They carefully went over it and they said that we had very little machinery there which the Government could use. We have repeated that offer a number of times. We have solicited some classes of work which we could do for the Government, or some subcontract work which we could do.

Mr. MOORE. But up to date no connection has been made?

Mr. DORIAN. We have submitted several models of specially constructed articles which might be used. We have done that upon request.

Mr. MOORE. Does that have reference to special articles or some special parts?

Mr. DORIAN. It was a special motor, a motor of precision, that I have in mind, which I understood was to be used in connection with airplane work.

Mr. MOORE. Answering Mr. Garner, I understood you to say that in normal times you would have on your pay roll about 3,000 people at your establishment in Connecticut, and that at this time you have about 4,500, an increase of 1,500 people.

Mr. DORIAN. Yes.

Mr. MOORE. Are they all skilled mechanics?

Mr. DORIAN. They are not. A large proportion of them are female employees.

Mr. MOORE. My recollection is that the point in regard to the Victor Co. was that they had skilled employees who were capable of making special parts, and therefore the Government requisitioned them and also their plant.

Mr. DORIAN. The Victor Co. had a large plant there devoted exclusively to cabinetwork—woodwork. We have no such department in our factory.

Mr. MOORE. You make machines only?

Mr. DORIAN. We make machines and records, and our cabinetwork is made in outside factories. We have a number of cabinet factories all over the country that make our cabinets for us, so that we have no such equipment as that in our factory in Bridgeport.

We have released a great many employees for military service, and for war-industry service, and have replaced them wherever possible with female help.

Mr. MOORE. Have you lost any men due to the fact that others were paying higher wages than you?

Mr. DORIAN. We have lost a great many that way.

Mr. MOORE. Did you lose them to the Government or to rival concerns?

Mr. DORIAN. Well, both. Bridgeport, you know, is a munitions center.

Mr. MOORE. Yes.

Mr. DORIAN. And we have lost a great many of them here; and we have great difficulty to keep just skilled clerical help, for the same reason.

Mr. MOORE. You would be willing to do Government work if the Government could find any suitable to your plant?

Mr. DORIAN. We expect to do some; and if the curtailment, the whittling at this end of our industry were replaced by something of this kind that would enable us to keep our organization going, keep our plant running, I do not think even if we were injured we would make any complaint.

Mr. GARNER. You have not whittled it off at the end since the war began. You say you have increased it 33½ per cent.

Mr. DORIAN. We have curtailed our output 30 per cent.

Mr. GARNER. How did you increase your number of employees 33½ per cent?

Mr. DORIAN. Now, you see, that is not a fair way to take my answer. I began by saying that the Government was now curtailing us, and you were taxing us. I am speaking of now.

Mr. GARNER. Yes.

Mr. DORIAN. If that curtailment continues to such an extent as is indicated by the War Board and is made 60 per cent, we will not have but 40 or 60 per cent of employees; we will not have half of that number.

Mr. GARNER. I was not fortunate enough to be in here when you began your statement.

Mr. DORIAN. I thought perhaps you had not caught that idea, or that I had not expressed it clearly.

Mr. GARNER. As I understood, you told Mr. Moore you in normal times employed 3,000 people.

Mr. DORIAN. Three thousand people.

Mr. GARNER. And at present you were employing 4,500. Now, my deduction from those statements was that you had not curtailed your business up to this time.

Mr. DORIAN. That is true. This curtailment of 30 per cent has been worked out, I should say, within the last 30 days.

Mr. GARNER. By the War Industries Board?

Mr. DORIAN. No; we anticipated them. They suggested we might have to do it.

Mr. GARNER. A 10 per cent tax did not curtail your business?

Mr. DORIAN. No; that was——

Mr. GARNER. Would a 30 per cent tax curtail your business?

Mr. DORIAN. I think it would.

Mr. GARNER. So far as I know, no tax levied by this Government has ever decreased the production of any article, outside of oleo-margarine, the tax on which was not levied for revenue but for prohibitive purposes, and I have heard this same story—not questioning your motives, but your judgment—in each instance, from the automobile people, and from other persons coming along, objecting, saying, "If you tax us it will decrease our business, and we can not get along," and afterwards it has been shown that it has increased instead of decreased their business. Now, we levied this tax last October.

Mr. DORIAN. Yes.

Mr. GARNER. And since that time you have increased your business until the War Industries Board had to come in and say to you, "This is a nonessential industry, and we in our power are going to decrease your production and transfer the labor and material into another channel." Is not that a fact?

Mr. DORIAN. They have not put it in that form, at all. They have said to us that it is a question of transportation. We asked them the direct question, "Is it a matter of labor?" They said, "No, it is purely a question of transportation."

Mr. GARNER. Anyway, they are taking up your business as one of those that is not essential to the conduct of the war, and therefore they are restricting your output in order to save the transportation for something that is more essential; is not that a fact?

Mr. DORIAN. That is the theory of it, yes.

Mr. STERLING. Mr. Dorian, does your company manufacture anything but the graphophone?

Mr. DORIAN. It manufactures what is known as the dictaphone; that is a dictating machine.

Mr. STERLING. The graphophone and the dictaphone?

Mr. DORIAN. That is all; and the records.

Mr. STERLING. And the records. Now, what tax did your company pay on the gross sales last year?

Mr. DORIAN. Under the existing law?

Mr. STERLING. Yes. What did you pay this last year?

Mr. DORIAN. We have estimated, Congressman, that it would run around three-quarters of a million for the year; that is on the gross sales.

Mr. STERLING. That is under the law that was passed last year?

Mr. DORIAN. Yes.

Mr. STERLING. Do you know what the entire music business paid?

Mr. DORIAN. I do not, no, sir. I understand that under that section of the law they estimated a revenue of \$7,000,000.

Mr. STERLING. \$7,000,000?

Mr. DORIAN. Yes; that was the estimate.

Mr. STERLING. Do you think that the fact that a good many of your instruments are used in the Army is any reason why the tax should be curtailed?

Mr. DORIAN. I put that forward as an argument that the industry is an essential industry, and I put it forward as an argument why the industry should have consideration. I will say this, that this argument is advanced in entire good faith. Now, as Congressman Garner may say, my judgment may be very faulty, very defective, and that of course is possible. We feel that with the curtailment of output, the possible shutting off entirely of raw material, and the heavy burden of taxation, we are going to be up against it.

Now, Congressman Moore has said you have got to raise large sums of money. You certainly have, and the industries of the country recognize the fact. They are loyally supporting you in that, and the bulk of that must come from industries. Now, if you render it impossible for the industries to produce the revenue for you, you are not going to get it. There is the whole proposition, as I see it.

Mr. STERLING. Does the Government buy these instruments for the Army, or do the Red Cross and the Y. M. C. A. and the Knights of Columbus and a number of other charitable organizations buy them? They are bought for the Government out of money contributed by the people, and by people who are able to pay it—is not that true?

Mr. DORIAN. Presumably that is true; yes. In that way you have contributed, and I have contributed, and every gentleman on this committee has contributed toward the purchase of those instruments.

Mr. STERLING. Did you sell more machines or manufacture more machines last year than you did the year before?

Mr. DORIAN. Last year, 1917?

Mr. STERLING. Yes.

Mr. DORIAN. We did; yes.

Mr. STERLING. So that the 3 per cent tax on gross sales has not hurt your business any, as yet.

Mr. DORIAN. I am not talking about that. I have not made myself clear to you gentlemen.

Mr. STERLING. I am just asking for information.

Mr. DORIAN. No; it has not.

Mr. STERLING. How high can we put the tax on those instruments without curtailing production?

Mr. DORIAN. I think you have got it as high now as you can put it, and I suggest that as an alternative to you gentlemen.

Mr. STERLING. Production has increased now, under this 3 per cent tax. Do you not think we could make it 5 or 6 per cent and still not hurt the business?

Mr. DORIAN. No; I do not.

Mr. STERLING. And not throw any people out of employment, and not reduce your sales any?

Mr. DORIAN. I will just illustrate my view in this way. We heard something her the other day about the excess profits of surgeons, which suggests a smile to me. You can put a patient on the operating table, perhaps, and operate on him, look at him and you think he is getting along fine, and then you look at him again, and he is dead under the operation. Now, you can try anything that you gentlemen in your wisdom determine to, but you may kill your patient. That is the thought I would put before the committee.

Mr. STERLING. I will tell you how I feel about it personally, and it is not because I want to tax your industry.

Mr. DORIAN. Yes.

Mr. STERLING. I feel we ought to put the highest rate on musical instruments that we can, in order to get the most revenue from it.

Mr. DORIAN. Let me ask you why—

Mr. STERLING. This is a problem we have got to solve.

Mr. DORIAN. And I want to help you. That is my object in appearing before you, of course, and it would be unbelievable that I would not be actuated by interest in my own company.

Let me put this suggestion before you gentlemen. You have got to raise revenue; that is certain. And you have got to raise a lot of it; that is certain. And before we get to the end of it, you have got to raise more. Now, why has there been in the minds of the legislative body the need to select this industry—to discriminate against this industry? That question was up last summer when we were discussing the matter before the Senate Finance Committee.

Mr. STERLING. In what way did we discriminate against the industry?

Mr. DORIAN. We feel that a few industries are selected. Why not tax them all? If you are going to pick out one or two—

Mr. STERLING. All of what?

Mr. DORIAN. All industries.

Mr. STERLING. Now in what way do we discriminate against them?

Mr. DORIAN. We feel a few industries are protected. Why not tax them all if you are going to pick out a few?

Mr. STERLING. All of what?

Mr. DORIAN. All of the industries.

Mr. STERLING. You say yourself it is a class of industry that should be taxed. I think you should discriminate in favor of those essentials that come first, like food, shelter, clothing, because we have them as essentials, even if we concede your classification is right, and certainly we ought to give the other three preference with regard to taxation.

Mr. DORIAN. Let me suggest this proposition: If your minds run in that channel, that if you find you must make this tax, then you leave it just as low as possible because if we find—

Mr. STERLING (interposing). I don't care whether you call it as low as possible or as high as possible, I am willing for you to say we should make it as low as possible in order to make it produce the most revenue, or as high as possible to make it produce the most revenue. I think that is the point we have arrived at. We have got to find out what rate will produce the most revenue. If you can help us on that, I think we will appreciate it.

Mr. DORIAN. It seems to me that is a simple proposition. If 3 per cent, the present tax, is, in your judgment, too low, you think 5 per cent will produce the necessary revenue, you must put it 5 per cent and let the industries survive if they can. It seems to me that 5 per cent as an alternative to my proposition would be the limit that this industry can stand as a tax.

Mr. STERLING. You think it would?

Mr. DORIAN. I think it would.

Mr. TREADWAY. That is your opinion based on what? You have given us no basis.

Mr. DORIAN. I have given you what we estimate would be our payment on gross sales during the present year, if the present rate continues.

Mr. TREADWAY. Where are we going to get the tax?

Mr. DORIAN. The normal tax, the corporation tax, the excess profits tax. We are quite willing you should make the tax on the profits as far as your wisdom dictates. What we want to prevent is anything that will further jeopardize the existence of the industry. Curtailment, lack of raw material, lack of labor, lack of transportation constitute a menace at this time.

Mr. TREADWAY. Don't all of those things you bring up apply to every industry to-day outside of your importations of shellac from Japan—lack of labor, lack of material, all of those arguments apply to every industry in the United States to-day. Why should we discriminate in favor of your industry?

Mr. DORIAN. I wouldn't so regard it as a discrimination in our favor. We are now selected as one of the few industries to be taxed by this special taxation.

Mr. FAIRCHILD. Practically, every industry in the country is making the same complaint that you are making, complaints of overtaxation. You complain that you are overtaxed. The same complaint that you make is made by a great many other manufacturers of other articles also.

Mr. DORIAN. Yes.

Mr. FAIRCHILD. What we have got to do is to increase taxation and not reduce taxation.

Mr. DORIAN. I recognize that you gentlemen have one tremendous problem, and the country recognizes that, and the country recognizes that you are going to do the best with it that you can.

I am here, as many other gentlemen have been here, to tell you what they think they know about their own industries. On taxation as a general proposition I profess ignorance. I am not a student of taxation. But it does seem to me that if you have had this same line of argument from every line of industry, there must be some germ of truth in it, because I can tell you that I would not come here at the behest of my company, or any other company, and make these statements to you, if I didn't feel them to be true, and I presume these other gentlemen who have come here and made similar statements to you are just as high principled in that respect as I am.

Mr. FAIRCHILD. If you think your industry is overtaxed, will you indicate to the committee what industries are undertaxed?

Mr. DORIAN. No; I am not here to plead my industry, and say put it on him. That has been done, and the minds of some of you gentlemen in Congress and in the Senate have been poisoned by that kind of argument. I know it to be a fact that during last summer the same argument was first presented, but not by the talking machine industry, but by other lines of musical instruments, suggesting that the talking machine industry was the great prosperous one, and I have found in my talks with Members of Congress and Senators that that idea has been lodged. Well, leave it there if it is there. I certainly wouldn't stand here before you and say, "Leave me alone and put it on him"; no. You gentlemen are in better position than I to find out where it ought to go, and if you think it could go on our industry, put it there. We are going to loyally and heartily, and in all energy possible, support you in anything that you do. We just hope that we survive.

Mr. SLOAN. Taxation is relatively the same as everything else in this country. The inquiry is for you to say yours is too high or too low, so that the proper thing may be done. I think it is for you to say that yours is too low relative to others, or too high, and insist upon showing us what ones are too low relative to yours.

Mr. DORIAN. I am not in position to do that. You have had gentlemen here before you and they gave you just that sort of hint, and you are probably pretty well fixed in that regard. I am not able to do that.

Mr. SLOAN. Would you object to telling us what profits your company made last year?

Mr. DORIAN. I wouldn't have any objection in the world, and I should do it immediately if I could. I will undertake to furnish that to the committee.

Mr. SLOAN. Can you furnish us an estimate?

Mr. DORIAN. I can not.

Mr. FAIRCHILD. Do you know about the profits of your rival company, the Victor?

Mr. DORIAN. I don't know. According to reports, they are enormous. I have no means of knowing how accurate they are, or how large they are. I can say this, that our company made no such profits as that.

Mr. FAIRCHILD. Your line is considered as being one of the most prosperous and successful in the whole country. And it now has a great prosperous future before it.

Mr. DORIAN. It has a prosperous future before it, yes; but it has been through many periods of quite the reverse. But it is prosperous to this extent, that it is doing an immense volume of business, but it is not making a tremendous profit on that business.

Mr. TREADWAY. Some of that prosperity is due to war orders, is it not?

Mr. DORIAN. We have no war orders.

Mr. TREADWAY. You supply the training camps, and so on.

Mr. DORIAN. Yes.

Mr. TREADWAY. So there is really a distinct war profit in your business.

Mr. DORIAN. Absolutely so.

I thank you gentlemen for hearing me.

**STATEMENT OF MR. EUGENE C. BROKMEYER, GENERAL ATTORNEY FOR THE NATIONAL ASSOCIATION OF RETAIL DRUGGIST.**

Mr. BROKMEYER. To save the time and patience of the members of your committee, I have prepared a statement which I will read with your permission.

The CHAIRMAN. All right, sir.

Mr. BROKMEYER (reading):

NATIONAL ASSOCIATION OF RETAIL DRUGGISTS,  
Washington, D. C., June 15, 1918

The WAYS AND MEANS COMMITTEE,

House of Representatives.

GENTLEMEN: The National Association of Retail Druggists, on behalf of the 50,000 druggists of the United States, respectfully submits the following for your careful consideration:



The pharmacists of the country yield to no class of citizens in their general desire and purpose to make every possible sacrifice which may contribute to winning the war. No industry or profession has thus far made greater sacrifices. It should and must be conceded that this is no time to plead special interests or private concern. The National Association of Retail Druggists does not appear before you, through its official and legal representatives, with any such end in view.

This association does appear for the purpose of impressing upon you the effect of proposed legislation upon the public welfare. If its contentions are not correct, so far as the public welfare is concerned, this association neither asks nor expects its representations to receive consideration at your hands.

According to official announcement, it is proposed to tax incomes, excess profits, and luxuries in the new revenue bill receiving your attention. Doubling of existing taxation of these subjects has been suggested. Before asking for a hearing by your honorable committee, the general attorney of this association inquired whether "luxuries" should be understood to include medicines. He was informed that presumably "luxuries" would include medicines, because luxuries and propriety tax preparations were treated and taxed alike in the revenue act of 1917.

This association contended that "the poor man's medicine" was not a luxury in 1917, and it so contends in 1918. The Congress of the United States decided that "the poor man's medicine" was not a luxury in 1914, when it struck from the revenue bill the proposed tax on proprietary medicines. The fact that more revenue is needed by the Government in 1918 than was required by it in 1914 does not make "the poor man's medicine" a luxury. If it is the purpose of Congress in making additional tax levies to place the increased burdens on those best able to bear them, "the poor man's medicine" should not and can not logically or justly be placed in the category of luxuries. The hundreds of thousands of citizens of moderate or reduced circumstances, who can not afford to employ a physician every time they suffer from minor ailments, or even from those more serious, and who depend entirely upon household or stock remedies accessible and obtainable in the average drug store at nominal prices, have a much larger and more important interest in the cost of these preparations than the retail druggist. What is more, they are deeply interested in the remedial or curative value of the preparations, whereas the druggist is not so much concerned in that respect. It may surprise your committee to learn that more than 50 per cent of the prescriptions presented to the largest chain of drug stores in the United States last year called for proprietary preparations. This is the estimate of reputable physicians as to their value to the public.

Mr. MOORE. You mean to apply that to all medicines used; patent medicines were prescribed to the extent of 50 per cent?

Mr. BROKMEYER. Yes, sir.

Mr. RAINEY. Are these medicines that are prescribed those that are advertised in the papers, and known as patent medicines?

Mr. BROKMEYER. The term "patent medicine" is very much misunderstood—all proprietary medicine. May I call your attention to this in that respect. In the revenue act of 1917 which taxes proprietary prescriptions, the language is so broad and the construction of it by the Treasury Department is so broad that it goes far beyond what is conceived and believed to be the usual patent medicines. Every preparation prepared by retail druggists in accordance with his own private formula, every tincture, however simple, every label which states its virtues, all of these are included in the proprietary tax of 1917, so that the general impression of the patent medicine, as the Member just stated, the ones that advertise are not the only ones. I may mention this that Senator Simmons, in his majority report last year, justified a tax of 2½ per cent on proprietary medicines from the theory that they were patent medicines, and the proprietor enjoyed a monopoly, which is not a fact, because all patent medicines are not patented. There are only 1 or 2 per cent of proprietary medicines that are really patented.

Mr. SLOAN. What is true about them?

Mr. BROKMEYER. They are proprietary medicines, and their proprietor enjoys protection by a trade-mark, but while that is true it so happens in proprietary medicines you have a dozen and sometimes a score of cures or remedies for, say, colds, of one thing and another, and they enter into competition with one another, so they do not enjoy the monopoly that Senator Simmons thinks they do.

Mr. MOORE. A physician writes a prescription for a cough medicine, a medicine we call proprietary medicine.

Mr. BROKMEYER. Yes, sir.

la Mr. MOORE. And the patient takes that prescription down to Mr. Stone's store and obtains a bottle of some well-known compound.

dis Mr. BROKMEYER. Prepared medicine.

d Mr. MOORE. That is the practice, you say, to the extent of 50 per cent of prescriptions written by the physicians in the United States?

Mr. BROKMEYER. Yes, sir.

Mr. MOORE. I don't care to mention the name of any particular patent medicine, but let us take any one of those regularly advertised. Is it the habit of practicing physicians to the extent of 50 per cent of them to give a patient a prescription for that particular bottle of medicine that requires no compounding on the part of Mr. Stone in his store?

Mr. BROKMEYER. The testimony of Mr. Liggett, as the head of a chain of 156 drug stores in this country, before the Senate Finance Subcommittee last year, was to the effect that 50 per cent of the prescriptions presented to his stores during that year by reputable physicians called for proprietary preparations, or stock preparations, known as "nonsecret remedies," found on the shelves of the average druggist.

Mr. MOORE. That is a surprising statement. Let me follow it up by this inquiry. Do the particular proprietary medicines thus prescribed by physicians and sold over the counter of Mr. Stone's store, or any other drug store, escape the taxation by reason of a prescription?

Mr. BROKMEYER. They do not. It is caught by the 2½ per cent tax on the manufacturer's selling price, and that is a point that I desire to present here.

Mr. MOORE. I thought you were making the point of the possibility of escape on patent medicines that are prescribed by physicians.

Mr. BROKMEYER. No; they do not escape. They are taxed—the manufacturer's tax applies to those preparations at the time of manufacture.

Mr. HAWLEY. Is the 50 per cent of proprietary medicines prescribed by physicians in their prescriptions for their patients—are those the proprietary medicines we find generally in the country press, or are they those advertised in the trade journals?

Mr. BROKMEYER. In the main, those advertised in the trade journals.

Mr. MOORE. What is your opinion as to the accuracy of Mr. Liggett's statement?

Mr. BROKMEYER. From such inquiry as I have made from druggists in various parts of the country, it is correct.

Mr. MOORE. I see Mr. Stone sitting there by you. Will you verify those statements, Mr. Stone?

Mr. STONE. I will to this extent: What he means by this is that a prescription that has been very popular this last winter, the bulk of the prescription is a compound made by Park, Davis & Co. A great many prescriptions will prescribe that by itself, and a great many of them will add a grain of codene to it, and I think Mr. Liggett is classing those with his figures of 50 per cent. The formula is published on the label by the manufacturer, and it is what we term in pharmacy a nonsecret preparation.

Mr. MOORE. The physician might add for the purpose of that prescription the use of what is in that bottle with something added thereto.

Mr. STONE. Probably sometimes adds thereto.

Mr. MOORE. Generally you would confirm that statement that physicians are in the habit of prescribing 50 per cent of proprietary medicines?

Mr. STONE. What we term in pharmacy business as nonsecret medicines.

Mr. STERLING. Does the tax curtail the sale of these proprietary medicines?

Mr. STONE. I should say it would.

Mr. STERLING. Has it done it in the last year?

Mr. STONE. We haven't noticed it yet for the reason that there is a great increase in population in the city. I am speaking of the District of Columbia. I am on Pennsylvania Avenue in a transient location, where we are more or less affected by the coming and going of people.

Mr. STERLING. You say it is largely increased?

Mr. STONE. Yes, sir; in volume. The cost has doubled and trebled in many cases.

Mr. STERLING. What do manufacturers tell you about business generally over the country; has it increased or decreased on proprietary medicines?

Mr. STONE. I don't know that I could answer you. I am not in touch with manufacturers of proprietary medicines. We get our drugs from jobbing houses here.

Mr. STERLING. What do jobbing houses tell you?

Mr. STONE. They are affected just like the rest of us—increased cost and output.

Mr. STERLING. Do they tell you they are selling more or less proprietary medicines than before?

Mr. STONE. Most of them are selling more on account of increased population.

Mr. STERLING. Jobbers throughout the country. You don't buy only through jobbers here in Washington, do you?

Mr. STONE. Very largely. We personally belong to a druggists' wholesale association here, and we buy principally through that corporation.

Mr. SLOAN. Who has been paying that tax on proprietary medicines, yourself, or who?

Mr. STONE. We have had to shoulder a great deal of it. We can not increase our prices according to the way it is increased to us.

Mr. SLOAN. Have you increased the price on proprietary medicines, or on prescriptions which call for these proprietary medicines?

Mr. STONE. We have had to increase it.

Mr. SLOAN. Well, I was just trying to find out whether you did or not. What per cent did you increase it?

Mr. STONE. We do not increase it to the percentage that the wholesaler charges us, or the manufacturer.

Mr. SLOAN. They increase it higher than the Government tax amounts to?

Mr. STONE. Take the drug, permanganate of potash. Before the war we bought it for 18 cents a pound, and to-day we—

Mr. SLOAN (interposing). That is a specialty that the great demand for powder manufacture brought about.

Mr. WHITE. You said 18 cents a pound before the war?

Mr. STONE. To-day we are paying over \$5 a pound for it. Take, for instance, quinine. We paid 27 cents an ounce before the war, and to-day we are paying 83 cents. We can not increase the price for an ounce in proportion for the reason they used to buy it by the ounce, and to-day they buy it by pills.

Mr. WHITE. When you were increasing your price, did you take into account the Government tax?

Mr. STONE. No, sir; we only increased our price because the price has increased against us. We have never increased our price unless the price—

Mr. WHITE (interposing). Did you take into account the Government tax at all in increasing your price?

Mr. STONE. No, sir; except in so far as it is added on such preparations as alcohol.

Mr. STERLING. That tax is imposed on the manufacturer, isn't it?

Mr. STONE. He pays the direct tax.

Mr. BROKMEYER. In reply to that inquiry, I must say that the druggists find that they can not pass that tax on to the consumer as well as the manufacturer can to the druggist, because the prices have been established for years, and the people have been accustomed to buy at those prices, and the effect is a reduction in sales. The margin of profit at the average drug store is very small, between 1 and 10 per cent. It is a penny business, you might say, one of infinite detail.

Mr. SLOAN. Even the manufacturers' increase due to the tax is very small compared to the increase due to the general demands on articles like potash and all these other matters, independent of that.

Mr. BROKMEYER. If you will pardon the suggestion right there, perhaps it might be more correct to say that the cost in raw materials from 1 to 1,000 per cent or more has been one of the big factors in the production.

Mr. SLOAN. The tax has not been one of the things that increased your prices?

Mr. BROKMEYER. Except the fact that it accumulates. Don't understand that if it is the purpose of your honorable committee to apply a tax of this sort, or increase taxation generally so that it will affect the retail merchant generally, we will cheerfully subscribe to that. But if that is not the case we contend that there should be a differentiation between drugs and medicines and luxuries, and we gladly subscribe to the fact that you increase the tax on luxuries and

we handle them in great amounts, and we must continue to advocate that a great taxation must be levied on all luxuries.

Mr. SLOAN. What do you call luxuries?

Mr. BROKMEYER. In the drug store we are willing to concede that everything should be comprehended in the definition luxuries except essential drugs and medicines which should include perhaps tooth paste, tooth brushes, and dental articles.

Mr. HAWLEY. Do you call soap a luxury?

Mr. BROKMEYER. Not unless it should be castile soap. Generally speaking, such as is used for the bath and things of that sort I would not regard soap as a luxury. But drugs and medicines are virtuous. Don't misunderstand me. I am not leading anything for any fake medicines, and right here, if you gentlemen will indulge me, I will state that as best proof that there is a misunderstanding as to what is patent medicines all I have to do is to refer you to the last report of the Bureau of Chemistry. Dr. Alsberg claims that the statute passed in 1908 has enabled the Department of Agriculture through his bureau to eliminate a very great per cent of the fake medicines that have been on the market. That is his claim. And in addition the Post Office Department has eliminated a large part of these fake houses by putting fraud orders on them and stopping them from using the mails. And besides that, the Treasury Department has reached a lot of them through the black list as alcoholic compounds, and so that we no longer hear of the old patent medicines, if we look into them, as we used to. So in the statement of this subject of proprietary medicines I will ask you gentlemen to bear in mind that proprietary medicines as such, including worthy and meritorious preparations prepared by local druggists, such as tinctures, are different from the old fake remedies that were advertised long ago.

Now, I will resume my written statement [reading]:

The general demand for proprietary preparations is perhaps best shown by the stocks carried in not only the 50,000 drug stores of the country but the 150,000 general stores in rural districts and the thousands of wagon peddlers who serve rural communities. "The poor man's medicine," therefore, is entitled to and deserves careful consideration when it comes to taxing it the same as luxuries, such as cosmetics, perfumery, and similar articles.

It is frequently overlooked that in the rural communities every rural store carries a stock of drugs, and the rural communities are dependent in a large measure upon the general stores for these remedies.

Mr. STERLING. How are we to tell which of these patent medicines are fraudulent and which are virtuous?

Mr. BROKMEYER. As I said before, the chief of the United States Bureau of Chemistry claims most of the frauds have been eliminated, and the black list of the Treasury Department will tell you which are alcoholic compounds, and the Post Office Department has prevented their being mailed by issuance of fraud orders [reading]:

Confining your attention solely to the consideration of the public welfare further, the revenue act of 1917, against the protest of this association, increased the tax on distilled spirits used for medicinal purposes, thereby further adding to the cost of "the poor man's medicine." If it is proposed to again increase the tax on alcohol for medicinal purposes, this association again respectfully records its protest, on the ground that the effect of such increased taxation together with any increase in the tax on proprietary preparations and the increased cost of raw materials will be to place "the poor man's medicine" beyond the reach of the consuming public, either

as to its selling price, or as to the possibility of a continuance of its manufacture and sale. As pointed out to this committee last year, alcohol is and must be generally used as a solvent, or preservative, or because of its therapeutic value, in the manufacture of medicinal preparations, or the compounding of physicians' prescriptions, so that any increase in the tax on medicinal alcohol must add to the cost of both the poor and the rich man's medicine.

Your honorable committee may well consider how long the public is to be able to obtain necessary drugs and medicines for the preservation of health and life. It is no exaggeration to say that drug stores are closing every day in many sections of the country. Their operation has been made impossible by a number of causes. These include shortage of help, the result of the draft; increase in the salaries of drug clerks and shorter hours of work; advances in the cost of supplies ranging from 100 to 1,000 per cent; a serious curtailment of necessary supplies in the way of so-called "non-essentials," etc.

In short, this association repeats: The question here involved is simply whether or not the people shall continue to be able to obtain drugs and medicines necessary to the preservation of health and life. The retail druggists, who are closest to the people when it comes to the compounding and dispensing of drugs and medicines and who therefore are in the best position to judge the situation, respectfully give warning in all seriousness and sincerity that the public welfare is seriously menaced, so far as the pharmaceutical service indispensable to its needs is concerned.

This is neither the time nor place to advert to the policy of the Government respecting drugs and medicines in an administrative way, except so far as the administrative and legislative policies together may affect the public welfare. Suffice it to say that only recently drugs and medicines have been omitted from the list of articles receiving preferential consideration in the supply of coal and coke and raw materials and the transportation thereof. This association has too much respect for the intelligence of your honorable committee to undertake to argue that ships, aircraft, food, clothing, and the like are more essential to the public welfare than drugs and medicines, or more important considerations in the winning of the war.

For the foregoing and other reasons, which this association will not present lest they consume too much of your valuable time, it is earnestly requested that "the poor man's medicine" be spared from additional taxation and not be treated in the same manner as luxuries.

I may say in connection with the draft there has been unwittingly and unintentionally on the part of the Government a discrimination against pharmacists. The Government has wisely exempted the medical profession and divinity students and horse-doctor students, exempted them from the draft to the extent they are placed in deferred classes, with the result that the coming supply of doctors and horse doctors and ministers and dentists is properly cared for and anticipated; but no such provision has been made with respect to pharmacists, with the result we are being caught at both ends. The draft is taking the drug clerks on the one hand and we have no supply for the future in the way of students. The problem with the druggist to-day is all that he can do to keep his store open. At some stores they are having prescription hours, 8 to 12 in the morning and 4 to 6 in the evening, and so on. That is a pretty serious problem. In the large cities there may well be a curtailment of the number, but if it continues, we are going to come to the point that when you retire at night you may be confronted with an unexpected illness, and you may not be able to get a prescription filled when necessary, and it may be too late when you get it after running around for a while.

In that connection, gentlemen, the Government in its wisdom last winter, when Secretary McAdoo's attention was called to it, had the priority list to include drugs and medicines, placing them in the same class with munitions of war, clothing and food, coal, etc. He did that unhesitatingly. Dr. Garfield, appreciating the need of drugs, excepted drug stores from his suspension order. On the other hand,

drugs and medicines have been omitted on the recent priority list, and we don't see where the druggist is going to get his drugs. Those propositions are putting the retail drug stores in such a position that some of the drug stores are feeling indifferent to it, because there is no profit in it. I am surely and sincerely apprehensive as to the final outcome.

I thank you for your consideration.

**STATEMENT OF MR. HENNEN JENNINGS, CONSULTING ENGINEER OF THE UNITED STATES BUREAU OF MINES.**

Mr. JENNINGS. I have a written statement here that I would like to read [reading]:

Gentlemen, I am asking a hearing from your committee on the following grounds: I am a consulting engineer to the Bureau of Mines, with nominal salary, in connection with the gold industry.

I was requested by the Director of the Bureau of Mines to make inquiry as to the effect of the present economic conditions and new taxation on the gold industry. I returned from my trip to California on December 12 and made an informal preliminary report on December 22, and shortly after embodied my views in an article on the "Gold industry and gold standard," which was published by me in May, with the approval of the Bureau of Mines.

In my visit to Montana and California I met some of the most prominent men connected with the gold-mining industry, many of whom were members of the California Metal Producers' Association. This association has requested the Bureau of Mines to have me appear before you and have communicated with you on the subject, presumably because they approve of the views I have given in my published article. That article was written as a public duty and not in the interest of any corporation or group of individuals.

Mr. Callbreath, who was to have appeared before your committee this morning, is, on account of ill health, unable to be present, and he has informed me that your committee wished me to give my views as to the gold industry and taxation at the time allotted to him.

I have been connected in different capacities with gold mining—between 30 and 40 years—in California, Venezuela, South Africa, England, and Montana and have examined mines in Mexico and Alaska and am conversant with difficulties and cost of producing gold.

I have given much time and thought to the article on "The gold industry and gold standard," which I believe contains much that is pertinent to your inquiry and which I beg to put in evidence.

My aim is to show that the gold industry differs from all other industries in that it is impossible for it to obtain any excess profit during this war period; but, on the contrary, it is proportionately burdened as the price of other commodities used in its obtainment advance and as long as the integrity of the gold standard is maintained by this and other countries.

The advantages of upholding the gold standard should and does rest with the countries that produce the most gold and hold the greatest reserves. We hold the greatest reserves. Great Britain and her colonies and dependencies produce 62.6 per cent of the gold of the world; the United States, second, with 19.3 per cent, while within the territories of the central powers less than 1 per cent is mined.

The production of the gold of the world was at about a standstill for some years before the war. It is now on the down grade. Our liberty bonds are pledges in gold. How can they be redeemed or faith and belief in them kept up if gold outputs are allowed to dwindle, while the bonds multiply manyfold?

Gold is no mere luxury; it is a necessity for the credit and financial unity and strength of the allied countries.

It is thus vital that gold mining should be encouraged as far as possible and burdened as little.

To make clearer my views I ask the privilege of referring to my pamphlet and giving you some figures and reading some passages.

Mr. JENNINGS. In the early part of the pamphlet I have, I endeavored to give some general history of gold output, and I make the statement "that the trading value of gold has been stabilized by history in that no superabundance was ever obtainable, and it has always been necessary to extend labor and intelligence to an extent largely commensurate to the borrowing value of the gold obtained." It will be seen that the mining and the search of gold has extended two, three, or four hundred years before the era of Christianity.

An interesting statement is the comparative modernness of great productions of coal, as also other outputs of minerals. The early records of gold mining throughout the world, and before the discovery of America, and from that time for 424 years, efforts have been made to obtain, and with some success, the total amount of gold produced, and it has been given by statisticians as about \$16,000,000,000, of which nearly 50 per cent has been mined since 1894, or as much as in all the other 400 years previously.

The gold mining has more or less pioneered the other mines of the world, and the modernness of mining can be appreciated by the statement that the output of gold during the last 18 or 20 years, and copper 15 and petroleum 11, have equaled all that we know of since the beginning of 1800; and probably the output of mines in the last 20 or 30 years of the world of all the fundamental minerals—that is to say, iron, coal, copper, petroleum—has been greater than all the records of history. This has resulted in the great modern activities of all industries, because mining has produced the requirements and the raw materials that has aided man by science and discovery and invention to manufacture force. It has been a power for the service of man equal to between two and three billion men's muscular work. I make this little preface to show you the part that gold and mining has played in the industrial world. You will find these statistics regarding gold production on page 5, in which all of the industries of the world producing gold are given from 1912 to 1916, and the universality of gold mining is shown and its limitations are suggested.

I have already spoken of the gold output of the warring nations. The greatest gold fields of the world at the present time are the Witwatersrand Mines in South Africa. The tabulated statement is interesting in showing the cost and yield and dividend. It shows that although this is the greatest gold mine in the world and has cheap labor and coal in proximity the dividends from these producing mines do not amount to over 22 per cent of the whole output. Therefore the margin of profit is not so very great in the greatest gold mine in the world.

I also show the yield in mining costs, on page 12 of the different gold mines of this country, and on page 10 show the production of gold in the United States by States for the years 1914, 1915, 1916, and 1917. It will be seen that the great production of gold has not been from the phenomenally rich mines per ton, but from the ones of moderate yield and comparatively low grade, such as the Homestake mine, which is one of our greatest mines in South Dakota, and the Alaskan Treadwell group of mines. The lowest cost of mining in the world is the Alaska gold and Alaska jewel mines. All the figures are given in the pamphlet.



I would like to read this passage:

"As labor and supplies go up, so must the cost of winning gold be increased, and the purchasing power of gold decrease. An index as to the decreasing purchasing power of gold is obtained by noting some of the increases in costs of supplies used in its obtainment, some of which are given in the table below.

"The advance in cost of hydroelectric power has been small. The cost of coal and petroleum varies in different localities, but where necessary to use for power seriously advances the cost of operations."

In this I show that only an advance (in California, this is), an advance that at the time of 20 per cent in the cost of labor. It has gone up 10 per cent more. The increase in the labor is accounted for on account of the inability of the low-grade mines to pay high wages on the small margin of profit, and it has resulted in California and in Alaska in the best men going away from the gold mines and seeking employment in copper and other mines where they can get higher wages. Steel in California has gone from 40 to 200 per cent; manganese, 170 per cent; explosives, 75 per cent; machinery, etc., 75 per cent; and miscellaneous 10 to 200 per cent.

The operators also feared that the Government might consider gold a luxury and rule against it in obtaining supplies. Therefore they were nervous on this ground; but I believe, if you take the broad view that I do, that gold is not a luxury. It should be encouraged in its production and no such ruling made against it. The trouble of it is how it can be helped in any very great way. Gold has a fixed price. It is the one thing that is fixed, being the standard of value. It is so many grains an ounce. A troy of gold has a value of \$20 and some fraction.

Mr. RAINEY. What fixes the value of gold?

Mr. JENNINGS. That has been fixed by international agreement and custom.

Mr. RAINEY. I think it was fixed by an act of law in England.

Mr. JENNINGS. Yes; I have forgotten how far it does go back to, but the exchange of gold, its value is based on its gold content, gold content of the coin, so many grains, so many grams.

Mr. RAINEY. How is that international agreement evidenced?

Mr. JENNINGS. The coinage in the different countries is known to the other countries, and it is all regulated on the basis of weight or purity of gold in the coin.

Mr. RAINEY. Isn't it all based on the price England is ready to pay at any time—the Bank of England—in the act referred to.

Mr. JENNINGS. That may be. We have made our dollar (I have forgotten it; it was many years ago) on so many grains of gold.

Mr. RAINEY. Right in that connection, leading up to something, we recognize you as an authority on monetary standards. Do you think gold is going to be the standard of value when the war is over in the world?

Mr. JENNINGS. What other standard can we get better?

Mr. RAINEY. I am leading up to another standard. And you think it is to the interest of the allied nations to maintain gold as the standard because they have got 90 per cent of the gold production of the world in their bounds?

Mr. JENNINGS. Yes, sir.

Mr. RAINEY. What is it that gives gold its money value? The fact that it is valuable in the arts, the fact that it is valuable as jewelry, and desirable on those accounts has given it its value from almost the beginning of time, hasn't it?

Mr. JENNINGS. That gives it its stress value.

Mr. RAINEY. It has been always the precious metal of the world

Mr. JENNINGS. Yes, sir.

Mr. RAINEY. How much is an ounce of it worth?

Mr. JENNINGS. \$20 and a fraction. I have forgotten.

Mr. RAINEY. Now, certainly in the world there has developed a precious metal, valuable in the arts, more valuable in the arts than gold, more valuable than gold or any other metal in chemistry, which is worth per ounce, we will say, eight or nine times as much as gold. Is not that metal now the precious metal of the world?

Mr. JENNINGS. It is more precious; yes, sir.

Mr. RAINEY. Do you know what the value of iridium is now?

Mr. JENNINGS. No; it changes so rapidly.

Mr. RAINEY. It can't change in this country any more, because we have placed a value on iridium of \$170 an ounce.

Mr. JENNINGS. Iridium is found in connection with platinum. That is \$105 an ounce.

Mr. RAINEY. We have just placed \$105 the value per ounce on platinum.

Mr. JENNINGS. Yes, sir.

Mr. RAINEY. Do you know what the value of palladium is per ounce?

Mr. JENNINGS. No, sir.

Mr. RAINEY. We have just placed a value of \$130 an ounce on that. They are worth more than gold now. They are the precious metals in the world. We can't fight wars without them. They are used in so many wars that that gives them, inasmuch as this is a world war, a still added value. I want to present this question to you for your consideration. I don't know whether you will be able to answer it now, but you will be in the record. Germany controlled nearly all the world's supply of platinum, palladium, and iridium until 1901, and until the war broke out she was the controller of the American supply which came from the Ural Mountains, and so on until the outbreak of this war. It doesn't exist any more. Russia produced 80 per cent of these metals which are the most precious metals in the world, and Germany controls the supply in the Ural Mountains. If, after the war is over, Germany should still continue to be a large manufacturing country and still retain control of these three precious metals and should monopolize these metals—one of which is worth over nine times as much as gold, and the cheapest of them, platinum, which is worth over five times as much as gold, what effect would it have upon the gold standard in the world?

Mr. JENNINGS. In the first place, I don't think simply the preciousness of gold makes its utility of the standard. Overpreciousness makes it impracticable and overpreciousness is the trouble with platinum and iridium. There isn't enough to act as trading counters.

Mr. RAINEY. The Russians have never developed the Ural Mountain supply as the Germans will develop it.

Mr. JENNINGS. No; it is a very small amount in quantity compared to gold the output of gold throughout the world. The universality of gold as shown in this table shows that it is appreciated as to its reasonableness, and in this table it is shown that gold is mined in 60 different countries. Therefore, its universality and its not over preciousness is in its favor.

Mr. RAINEY. It has always been the most precious metal in the world until the last two or three years?

Mr. JENNINGS. No; platinum has always kept even with gold—at least, as a rule.

Mr. RAINEY. But we never realized its value as we do now.

Mr. JENNINGS. We need it for special purposes, I grant you, but it isn't simply precious.

Mr. RAINEY. Do you know about the world's supply of platinum—the world's stores of platinum?

Mr. JENNINGS. My memory is not clear on that. It is comparatively a small number of ounces. I shouldn't think it would amount to—I don't like to guess, but it is very small compared to gold. I can get you an accurate figure from the bureau any time you like, but I have an idea somewhere in the neighborhood of 100,000 ounces.

Mr. SLOAN. Platinum became valuable largely when electricity and lighting came into vogue, did it not?

Mr. JENNINGS. Yes; it has been used for a good many purposes. We are using it in the production also of nitrogen.

Mr. SLOAN. For the last half century platinum has run almost parallel with gold—its value?

Mr. JENNINGS. Yes, sir.

Mr. SLOAN. But this is true, in urging its use for a good many purposes. It don't burnish like gold, it is not as desirable for the vision as gold, and it yields to certain acids (anything that has lead in it), so that it may be lost in a very short time?

Mr. JENNINGS. It is really more valuable in arts now, for electrical purposes, and chemical purposes, and in laboratories—and it is very useful.

Mr. SLOAN. It has an element of preciousness in not being in quantity enough to make it bulky.

Mr. JENNINGS. Yes, sir. I have tried to make the point in this little booklet of showing you money, the basis of money is faith; there is no reality to money beyond an inducement to workers to produce. The production of the worker. Gold has, by its very history, extending over so many years, and being regarded as the counter of value by the human race, has inbred a belief in its value. It has been supported in that belief very curiously by almost the constant difficulty of attainment that nature has demanded for her gold, efforts from man equivalent to the value man has placed upon gold as a trading counter. Therefore its great reality is the basis of work of hand and brain to get it. You just read some of our prospectuses of sanguine gold miners, and you would think that gold would flood the world, but it hasn't.

Mr. SLOAN. It is more generally distributed the world over than any other important metal.

Mr. JENNINGS. Its broad distribution, that is given on this page here, on pages 5 and 6.

Mr. SLOAN. Do you know any important section of the globe where the existence of gold has been excluded by careful research?

Mr. JENNINGS. No, sir; I do not at the moment

Mr. SLOAN. It is found in every State in the Union, is it not?

Mr. JENNINGS. In small quantities. Platinum, unfortunately, we produce but very little of it. We have some platinum in connection with our dredging operations in California. It is obtained in cleaning up the gold, but I think it is but a very small per cent. And the other places that it is found is Colombia, in South America, and it is more encouraging there than any place outside of Russia. Russia, as has been stated, is the great supplier of platinum.

Mr. SLOAN. Yes; in the Ural Mountains, but the very limited bounds of production or area of platinum would exclude it being a standard for the world, wouldn't it?

Mr. JENNINGS. Yes, sir.

Mr. SLOAN. And its value would also exclude its feasibility of being handled.

Mr. JENNINGS. Yes, sir.

Mr. SLOAN. And it must have some weight—some general indestructible weight, and pass in the laboratory. Platinum will stand more heat. It will yield to the fumes quicker than gold. Isn't that true?

Mr. JENNINGS. Yes; it is quite indestructible, as a whole.

Mr. SLOAN. Yes; I quite agree with you about its general indestructibility.

Mr. RAINEY. The world's production of gold in 1916, from your interesting compilation here, page 6, amounts to \$457,000,000.

Mr. JENNINGS. Yes.

Mr. RAINEY. The world's production of platinum, 89,000 ounces.

Mr. JENNINGS. Eighty-nine is it?

Mr. RAINEY. Yes; 89 ounces. At the present value of platinum that would be worth nearly \$100,000,000.

Mr. JENNINGS. Yes.

Mr. RAINEY. Therefore before the war, that is on the basis or 1916 output, and the present platinum value, the value of gold mined in the world is only four times the value of platinum mined in the world, so the difference isn't so great after all in value.

Mr. JENNINGS. You say 100,000 ounces?

Mr. RAINEY. No; roughly it is worth \$100,000,000 at the present time.

Mr. JENNINGS. Isn't it \$10,000,000?

Mr. RAINEY. The world's production of platinum is about 90,000 ounces.

Mr. JENNINGS. It is \$10,000,000, I think.

Mr. RAINEY. I am just guessing at this.

Mr. JENNINGS. Figures are getting so colossal these days it would be very easy to get them wrong. I think I am prepared to come to the point you wish me to come to, as to the taxation of gold.

Mr. RAINEY. Yes; it is about \$10,000,000. I was mistaken.

The excess war profits tax has been somewhat of a puzzle to many of the operators. The crux of the whole matter is how rightly to determine the rate per cent earned on the invested capital; that is, the result of dividing the net income by 1 per cent of the capital.

If the rate obtained is between 7 and 9 per cent there is no tax to be paid. If above 10 per cent it progressively mounts until a taxation of 60 per cent of all net profits can be imposed.

Difficulties at once arise in the interpretation of what is invested capital and what net income, and what are the legal deductions from ordinary income allowable before net income is ascertained. Invested capital may have an inflated showing in some system of accounts kept, while in others it may be over conservative in order to provide against the exhaustion of the mine.

The interpretation of the returns and the bookkeeping of a gold-mining corporation becomes a most serious matter. It would seem from a reading of the law that a premium is placed on making a showing of high or inflated capitalization; also that large outputs and high yearly incomes are so penalized, and especially with low capitalization, that it would become a temptation to decrease outputs and take two or three times the usual length of time for mining the gold, as when once mined all hope for further profit of working is gone.

To illustrate, let us assume an invested capital of \$1,000,000 and a net income of \$1,000,000 in sight in the ground and with little hope of more, but which may be taken out in one or more years. What is the proper course for the management to recommend to its shareholders? If it is taken out in one year the rate is 100 per cent and the company must pay the Government \$479,400. If in five years, the rate is 20 per cent and the company would have to pay a tax equal to \$23,900 by 5, or \$119,500. If in 10 years, the rate is 10 per cent and the company would have to pay a tax equal to \$1,400 by 10, or \$14,000.

Should a small group of miners or prospectors form a small company of, say \$10,000 to \$100,000 capital, and expend the entire capital, but strike it rich and take out as net profit an amount equal or more than the capital put in, in such case, would not they be obliged to turn over to the Government nearly half of their profits? And under such conditions is not the search for new gold discovery greatly discouraged by the tax?

It is the writer's view that the elimination of all excess-profit taxes on gold mining and the encouraging of maximum outputs might in reality bring in greater revenue to the Government than the tax, for larger dividends paid to shareholders would mean greater revenue from individuals.

Those are the main points that I want to show you in connection with gold, the necessity for it, mining production in order to stabilize your credit which has been pledged on the gold basis.

Mr. OLDFIELD. How much with respect to the curtailment of production do you estimate the present tax of the law?

Mr. JENNINGS. It is very difficult what to say. There are so many factors in it. It depends on the locality.

Mr. OLDFIELD. Would that be involved in placer mines?

Mr. JENNINGS. Yes, sir; in all classes of mines. Some of them are just on the verge of profit, and some of them are making liberal profits. So gold mining, no matter how rich it is; as I hope I have shown, can't make an excess profit during this war. It must make a loss during the period compared to what existed before the war. And that is the reverse of most any other commodity.

I think there is this difference: If we could do, which is a very difficult matter, you want to raise revenue, and I appreciate that, but you also want to get the maximum amount for your revenue you raise. If under present conditions; the real standard is the difficulty of obtaining gold, and we are having inflation of values which the governor (which is a governor) is not sensitive but it takes time to adjust, it will in the end lower issues of gold \$2 certificates where we ought to be issuing them for \$1 for prices that existed before the war. And as we get back that lower price, so automatically will the gold mines be encouraged to go on. They will be shriveled up and stopped if the price is advanced beyond certain limits. If prices go up that way, we are pledging our credit unnecessarily. If we could bring lower prices in certificates and gold—I think it is not only a simple matter of one or two gold corporations, but it is a matter of great public concern demanding the thought of our best financiers—this gold production and gold standard.

Mr. OLDFIELD. I think your argument is quite convincing with reference to prospecting, but this committee would have to have the right to take for granted the patriotism of mining operators not to curtail production.

Mr. JENNINGS. If you appeal to them on patriotic ground I think they would respond and they would also respond readily. In some cases that I know they would rather jog along with hardly any profit in order to hold together their organization they have at the present time in the business. It is a public-spirited thing to do, but certain conditions come about that you must shut down when you are at an absolute loss. You can't continue it. And there are a good many mines on that ragged edge now, and it takes all of the allurements for new mining of gold with the advanced cost, and I think gold mining ought to be recognized as a necessity for stabilizing our credit and given its place in the freighting of its necessities. And it doesn't make as much demand on railroads as many other things because the product of the mines is very concentrated and supplies getting in are small comparatively, especially if you can use hydroelectric power and do away with coal. And I think a ruling as to its necessity, its usefulness as an upholder of credit, should be established. I really think those cases might come. I don't oppose the taking off of ordinary taxes from gold mining at all—the ordinary taxes. I think it is just that they should pay, but they are not getting an excess profit, and therefore the excess profits tax on gold is illogical, and by stimulating gold I do not think that the individual who holds gold-mining stock and obtains dividends should have any preferential action in his favor whatever. The individual should be treated as all others. It is simply the industry itself. The corporation or group of people that are working the gold mines should not be taxed for something they do not get. They don't get excess profits by the war and it is not possible for them to do it.

Mr. RAINEY. I find that the world's production of crude platinum for the back years, prior to the war, is 313,529 ounces, of which Germany produced 300,000 ounces.

Mr. JENNINGS. Of platinum?

Mr. RAINEY. Yes, sir. At the present prices, prewar production of platinum would amount to something like \$34,000,000. I don't find any data here as to the world production of irridium, which is worth much more than platinum, nearly twice as much. In other words, at the present prices, and prewar production, the production of platinum amounts to about one-eleventh of the value of gold production in the world. That is about the ratio.

Mr. JENNINGS. Yes.

Mr. RAINEY. And if gold is valuable on account of its preciousness and value, it occurs to me that irridium, palladium, and platinum might make a desirable monetary metal after the war on account of its value and scarcity; and if irridium is worth 9 times as much as gold, if Germany should make gold a secondary metal, as we used to have silver the secondary metal, the ratio would only be there about 1 to 9 in order to make platinum the precious metal and give gold the ratio of silver we used to have when it was 16 to 1. So I think that question is worthy of your consideration to make a study of the standards.

Mr. JENNINGS. Yes, I will look into that question further. But it isn't simply the question of preciousness of gold that I am urging at all. For instance, if you want simply the preciousness of material, we have diamonds which per weight is so much more precious than iridium, and yet you wouldn't think of diamonds as a standard.

Mr. RAINEY. It wouldn't be desirable as a medium of exchange because of the difficulty of handling and coining it.

Mr. JENNINGS. Yes. What we want is a medium of exchange. The great usefulness of gold exchange seems to me is that it is understood in so many different parts of the world, and the difficulty of obtainment is big, and it is taken in one country and another on the basis of the weight and purity, owing to the certificate of coinage, simply on the weight and purity. But its ductility makes it easy of coinage. It is much easier to coin than platinum. The difficulty of platinum is it would not be as easy to coin as gold and it has a great many qualities of appealing to mankind as a counter of exchange that has taken place so many hundreds of years. Of course; I think we can not ignore that the precedence of history has given a preference to gold.

Mr. RAINEY. Ductility of platinum depends on the amount of iridium you put in it. It is just as ductile as gold before you put in iridium and palladium. You have made a very interesting statement.

Mr. SLOAN. Mr. Shorthill, a resident of York, Nebr., secretary of the Farmers' Cooperative Elevator Association of the Northwest, desires to submit a provision to the proposed bill preventing a profit of mutual selling and buying associations to the extent that such profits are returned to the members, not, however, to exempt any part held as undistributed at the end of the year and necessary to meet the immediate prospective expenses of the association's business, and he asks to include the statement in the record. He is obliged to leave.

(The statement referred to will be supplied later.)

The CHAIRMAN. All right; let it go in.

(Whereupon at 12.30 p. m. the committee adjourned until Monday, June 17, 10 a. m.)

# REVENUE BILL

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No. 9

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## HEARINGS

BEFORE THE

## COMMITTEE ON WAYS AND MEANS

HOUSE OF REPRESENTATIVES

WITH REFERENCE TO

## THE NEW REVENUE BILL

[THIS PRINT OF THE HEARINGS IS SUBJECT TO REVISION  
BEFORE THE FINAL PRINT]

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JUNE 17, 1918





COMMITTEE ON WAYS AND MEANS.

HOUSE OF REPRESENTATIVES.

SIXTY-FIFTH CONGRESS, SECOND SESSION.

CLAUDE KITCHIN, North Carolina, *Chairman.*

HENRY T. RAINEY, Illinois.

LINCOLN DIXON, Indiana.

CORDELL HULL, Tennessee.

JOHN N. GARNER, Texas.

JAMES W. COLLIER, Mississippi.

CLEMENT C. DICKINSON, Missouri.

WILLIAM A. OLDFIELD, Arkansas.

CHARLES R. CRISP, Georgia.

GUY T. HELVERING, Kansas.

GEORGE F. O'SHAUNESSY, Rhode Island.

JOHN F. CAREW, New York.

GEORGE WHITE, Ohio.

JOSEPH W. FORDNEY, Michigan.

J. HAMPTON MOORE, Pennsylvania.

WILLIAM R. GREEN, Iowa.

CHARLES H. SLOAN, Nebraska.

NICHOLAS LONGWORTH, Ohio.

GEORGE W. FAIRCHILD, New York.

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WHITMELL P. MARTIN, Louisiana.

WILLIS C. HAWLEY, Oregon.

ALLEN T. TREADWAY, Massachusetts.

JOHN B. WALKER, *Clerk.*

## REVENUE BILL.

COMMITTEE ON WAYS AND MEANS,  
HOUSE OF REPRESENTATIVES,  
*Monday, June 17, 1918.*

The committee met at 10 o'clock a. m., Hon. Claude Kitchin (chairman) presiding.

There were also present Representatives Rainey, Dixon, Garner, Dickinson, Oldfield, Crisp, Helvering, O'Shaunessy, White, Moore, Green, Sloan, Longworth, Sterling, Martin, Hawley and Treadway.

### STATEMENT OF MR. FREDERICK JENNINGS, OF BOSTON, MASS.

Mr. JENNINGS. I represent what is known as the Expressmen's League of Boston. The Expressmen's League is made up of about 200 members. They are the owners of various express lines that run from Boston to various points in New England. Some of the express companies are corporations and some are owned by individuals.

Mr. GARNER. There are 200 different firms, corporations, or organizations that handle express business out of Boston?

Mr. JENNINGS. Yes, sir. Boston is probably the only place in the United States that has a similar condition of affairs.

Mr. GARNER. I was about to say that that is something new to me.

Mr. JENNINGS. It was my experience recently to try to find a similar condition and I was unable to do so. I want to say at the outset that we do not come here to-day to object to any tax; on the contrary, we have been working with the Internal Revenue Office at Washington and Boston with a view to collecting the tax. From our experience, however, we believe we know of two ways to levy a tax without increasing any burden. One way is to increase the rate of the parcel post. I imagine that the members of this committee have probably heard of this suggestion before, but we want to present it to you from our standpoint. You may well imagine that the introduction of the parcel-post system caused a great hardship to the express companies, but we do not place it on that basis. When the parcel-post system was inaugurated, or just prior thereto, it cost 64 cents to send a bundle from Boston to a point within the 150-mile limit; that is, a bundle weighing 5 pounds. To-day you may send a bundle weighing 5 pounds within that same limit for 9 cents.

Mr. GARNER. Would it interfere with your argument if I asked you a question?

Mr. JENNINGS. Not in the slightest.

Mr. GARNER. You are not opposing the parcel post as a policy of government, are you?

Mr. JENNINGS. No, indeed.

Mr. GARNER. Well, that brings us to another basis. What is your idea about the Government charging the cost of transporting the articles that go through the mail? Should they charge less or try to get the actual cost of the transportation?

Mr. JENNINGS. They should make the parcel-post end of the Postal Service bear its share of the burden.

Mr. GARNER. You agree to the theory, then, that the Post Office Department ought not to be a money-making institution?

Mr. JENNINGS. Yes; I agree to that.

Mr. GARNER. And that each piece of mail, as nearly as possible, should pay its way, the cost of handling it and transporting it from one point to another.

Mr. JENNINGS. That is right.

Mr. GARNER. If the parcel post is based on that system and if it is paying its way, what criticism would you have to make of the rates?

Mr. JENNINGS. I should say that as the Government has seen fit to raise the letter rate, a rate that affects every individual in the country—

Mr. GARNER (interposing.) But let us get back to the original premise. It costs the Post Office Department \$320,000,000 a year to run its business. The parcel-post rates, let us assume for the sake of the argument, are based on the cost of transportation; that is, the cost of handling the parcel-post business and the transportation of it. If that is true, then why should we make the rates higher? I anticipate that you are going to say that the letter-rate postage more than pays its way, but on the second-class matter we are losing from \$70,000,000 to \$80,000,000 a year, and if we could raise that rate we would be able to cut the letter postage to one cent, but my information is, and I would like to know whether you have any information on that subject, that the parcel-post rates are based upon, as nearly as possible, the actual cost of transportation.

Mr. JENNINGS. I think I can perhaps answer that—

The CHAIRMAN (interposing). And makes a little profit?

Mr. GARNER. I do not know exactly about that.

Mr. JENNINGS. We will assume that when this rate was fixed at 5 cents it was a fair and reasonable rate; no one denies that it was a fair and reasonable rate, but everybody knows that since that rate was fixed the cost of doing everything has increased and yet not one cent has been added to the parcel-post rate.

The CHAIRMAN. They pay the railroads no more for hauling the parcel-post matter than they did before.

Mr. JENNINGS. The cost of everything, as I understand it, in connection with every kind of business, has increased.

The CHAIRMAN. But the Government has contracts with the railroads for hauling it at so much, and they have the salaries of the postal clerks, the rural carriers, the postmasters, and the clerks in the post offices.

Mr. JENNINGS. I understand, but there are demands being made every day to increase those salaries. I understand further, although I may be wrong, that the purpose of this hearing is to find a way to get money.

The CHAIRMAN. That is right.

Mr. GARNER. In that connection I want to say, as one member of the committee, that it was not the purpose of this committee, in adjusting or undertaking to adjust the second-class mail matter, to raise revenue, but it was more its purpose to have it adjusted upon the proper basis of what they should contribute to the Post Office Department for hauling their business. We did put an additional 1 cent on the letter postage for the purpose of getting additional revenue, but we will probably fail in that because the increase in salaries that has been put into the post-office bill since the passage of the last revenue bill will probably absorb the entire increase obtained from the 1-cent postage. But it is rather anomalous that to-day we have a number of gentlemen appearing here advocating the taking off, the reduction, or readjustment of the rates on second-class matter, and you are appearing now asking that the rate on fourth-class matter, or parcel-post matter be increased.

Mr. JENNINGS. Of course, I am not here to say what your policy should be.

Mr. GARNER. I understand that.

Mr. JENNINGS. I assume you are here to find ways for raising money. Now, if that rate of 5 cents was a reasonable rate when you started and everything has increased since then, it can not be said that it is a reasonable rate to-day. Your chairman has said that you have contracts with the railroads, and that your expenses have not increased, but for some reason you have seen fit to increase the letter rate in order to pay expenses.

Mr. GARNER. No; we increased that rate primarily, at the time we passed the law, for the purpose of raising revenue, but since the passage of the revenue bill there have been these increases in salaries to which I have referred and which will probably absorb all of the increased revenue that will be obtained from that source. I would like to have you submit later, if you are not prepared to do it now, a brief statement showing whether, in your judgment, the present rates on parcel-post matter are such as to result in that matter paying its way, because my idea of the theory of the Post Office Department has been that each piece of mail should pay its way, that is, the cost of transporting it and the cost of handling it, and that the Post Office Department should not in any way be a money-making or a money-losing institution.

Mr. JENNINGS. If this committee has adopted the policy of not using the Postal Service for raising revenue, I have nothing further to say on that point, but if, on the contrary, you have already increased the letter rate for the purpose of raising revenue, then I say that you should increase the parcel-post rate.

Who is affected by the parcel-post rate? It is the person who uses it. Now, we can eliminate for the minute all the mail-order houses and take the individual who sends by the parcel post. He should not be allowed to send a parcel for less than a reasonable rate, and if you fixed that rate under previous conditions it should now be changed. Take the analogy of a tax for street betterments. If a man has a sidewalk or a sewer passing by his house, no gentleman here would say that the cost of that should go into the general tax levy, but that the man who receives the benefit should pay the cost of it. Therefore, gentlemen, it seems to me that I am driven to the first proposition, that if you are going to use the Postal Service to get revenue,

then there is an opportunity, because there is one thing that has not been touched yet. To send a bundle by express between these same points that I have spoken of, the same kind of a bundle, would cost between 20 and 25 cents, and yet you send by parcel post the same bundle for 9 cents, and still you have not touched it, have not touched the rate for some years, in fact, never have touched it. It strikes me, gentlemen, that there is one place where you can get revenue and lots of it, and still not do any injustice.

Now, some gentlemen might say that we want to be competitors of the express companies; we want to have the rates so fixed that they will send by parcel post, so that the Government will have the inside track. All right, but see the difference between 9 cents and 20 cents. You could double your rate and still get all the business and still make the man who sends the parcel pay the cost.

Mr. WHITE. Have express rates increased?

Mr. JENNINGS. Slightly. The effect of the parcel post has been to drive expressmen out of business; that is what has happened.

Now, gentlemen, I want to take up the second proposition, and that is in regard to the tax now in effect upon the parcel-post rates. You will recollect that the parcel-post section of the revenue act says that there shall be a tax of 1 cent for each 25 cents or fraction thereof, but that there shall be no tax under 25 cents; but when you come to the express law—and so far we have been able to stand up under it, and, you understand, gentlemen, we do not pay the tax; we do not pay it—you say 1 cent for each 20 cents or fraction thereof, and say nothing about a minimum. Just look at that. Every package—not every package, but a large percentage of the packages—sent by parcel post, by reason of the decreased rate, carry a rate under 25 cents. Think of it. Think of the number that are sent under 25 cents and which do not pay one cent of tax. But the minute you send a parcel by express the tax attaches immediately. In other words, there is a discrimination, and there can not be any two ways about that. There is a discrimination between the parcel post and the express companies.

Mr. GARNER. Did you appear before the Finance Committee of the Senate when the last revenue bill was under consideration?

Mr. JENNINGS. I did not.

Mr. GARNER. Do you know anything about the history of this particular provision in the bill?

Mr. JENNINGS. I understand from hearsay only that there was a discussion of this; that it was put in and taken out somewhere. But I think if I can satisfy you gentlemen that there is a discrimination you will remove it. What is going to be the effect if you remove the discrimination? If you do justice to the express companies, what is your committee going to do? You are going to raise thousands and thousands of dollars simply by removing the discrimination. When you send an article by freight it has a tax on it of 3 per cent of the charge.

Now, I want to say right here, gentlemen, that I think this act can be worded differently, so that you can remove lots of the difficulties. We have been for months trying to find out what a terminal meant. The law says over regular routes between fixed terminals. Now, if you will just use the word "locality" instead of terminal it will take away a lot of the difficulties. A man says, "I do not have a termi-

nal. I carry my goods to my barn, and I do not have a terminal." That is not what it means, gentlemen; it means locality. In New York City the retail trade says, "We are not collecting any tax," and here we have been collecting \$10,000 a month in Boston—perhaps more; and in New York not a dollar. Why? They have taken the act and say, "We have no terminal; we go here and everywhere." They come to us and say, "We carry the bundles from the merchants to the houses of the customers, the houses of the consignees; we do not have any terminals." That is not what it means, but they are taking advantage of it.

Mr. MOORE. Are you going to suggest an amendment to the act?

Mr. JENNINGS. Well, I would suggest a change in that word. My main purpose in coming to Washington is to remove the discrimination which I have shown exists.

Mr. MOORE. May I ask you one or two questions about your business?

Mr. JENNINGS. Yes, sir.

Mr. MOORE. The Government has recently taken over the large express companies—the Adams, the United States, and others—has it not?

Mr. JENNINGS. I had not known that; I understood there was talk of it, but whether they have actually done it or not, I do not know.

Mr. MOORE. I understand they have been taken over, but your companies have not been taken over.

Mr. JENNINGS. No, sir.

Mr. MOORE. You say you represent 200 express companies running out of Boston?

Mr. JENNINGS. Yes, sir; to different points in New England.

Mr. MOORE. That is an unusual condition, like unto which there is no other example in the United States?

Mr. JENNINGS. No.

Mr. MOORE. How large are those companies?

Mr. JENNINGS. Various sizes; they operate by the use of large trucks.

Mr. MOORE. Are they privately owned, or are they incorporated?

Mr. JENNINGS. They are made up of corporations and individuals.

Mr. MOORE. Individuals who have united into one association, which you represent?

Mr. JENNINGS. Yes, sir.

Mr. MOORE. Just how do they operate—by motor trucks?

Mr. JENNINGS. They operate in all ways. For instance, in going to Portland they would collect the articles in Boston, put the goods in a freight car, and deliver them the next morning in Portland.

Mr. MOORE. They use the Boston & Maine road, do they?

Mr. JENNINGS. Yes, sir.

Mr. MOORE. They use the railroads?

Mr. JENNINGS. Yes, sir.

Mr. MOORE. They have a joint arrangement by which they do that?

Mr. JENNINGS. Yes, sir.

Mr. MOORE. Does the Jordan & Marsh Co.—that being your largest company in Boston and taking that as a sample department store—use your companies?

Mr. JENNINGS. Yes, sir; a great deal.

Mr. MOORE. Or do they use the parcel post?

Mr. JENNINGS. They will use the express companies for near-by places; they will send out, we will say, by one company 200 or 300 bundles a day, and they take them at a special rate. The rate averages about 12½ cents.

Mr. MOORE. If they use your companies do they obtain an advantage over the parcel post?

Mr. JENNINGS. Yes; I should say so.

Mr. MOORE. If the parcel-post rates are lower than the rates of your companies this query arises: Why do they not use the parcel post altogether?

Mr. JENNINGS. The rate is now lower, but they do not use it because they have this rate which is so small—we will say, 10 or 12½ cents—and they would rather have one man to deal with, and the man comes and gets the goods; if they use the parcel post they must take the goods to the post office, and that extra expense, the difference between 9 cents and 12 cents—

Mr. MOORE (interposing). Then, in order to have that handling of the goods, which they do not obtain through the post office, they would prefer to pay the extra rates that your express companies charge than to use the parcel post?

Mr. JENNINGS. Well, they do use them to a certain extent, but they also use the parcel post for more distant points; that is, our companies that run to Portland, to Springfield, and to Worcester are the ones that are hard hit by the parcel post.

Mr. MOORE. You have spoken of certain disadvantages which you say your companies suffer, but the question naturally arises: Why do your companies continue to live and do business if the parcel post gives such decided advantages to the shippers, as you have indicated?

Mr. JENNINGS. The answer is that many have not lived, but those that have lived do a different class of business to make up the deficit, namely, trunks and the goods of householders, bringing them into Boston.

Mr. MOORE. Then your companies hold their business by reason of the fact that they can carry packages which the parcel post will not carry?

Mr. JENNINGS. Oh, yes, indeed.

Mr. MOORE. And that they also come to a store and make a complete transfer without rehandling?

Mr. JENNINGS. That is it.

Mr. MOORE. Which would be necessary if the parcel post were used?

Mr. JENNINGS. Yes, sir.

Mr. MOORE. That is your point, is it?

Mr. JENNINGS. Yes, sir.

Mr. MOORE. As to these inequalities, you say that under the revenue law everything which you carry is taxable up to 20 cents?

Mr. JENNINGS. Everything, whether it is 20 cents or over or less, no matter what it is.

Mr. MOORE. And there is an exemption on what is carried by the parcel post up to 25 cents.

Mr. JENNINGS. Exactly.

Mr. MOORE. And you set that out as a discrimination against your companies?

Mr. JENNINGS. That is right.

Mr. MOORE. Have you made any calculation as to what additional revenue would be produced if we attempted to equalize those conditions?

Mr. JENNINGS. No; I have not. I have not the information at hand and I imagine your guess would be as good as mine. But if you acted upon my suggestion every bundle that is carried by the parcel post and carries a rate of less than 25 cents would be taxed at 1 cent.

Mr. MOORE. That is, less than 25 cents.

Mr. JENNINGS. Yes; if you removed the discrimination and made all bundles bear the same tax.

Mr. MOORE. I understood you to say that under the law now—and I think that is the fact—the tax does not go on unless the parcel-post rate is above 20 cents?

Mr. JENNINGS. Twenty-five cents.

Mr. MOORE. That is the fact?

Mr. JENNINGS. Yes, sir.

Mr. MOORE. But everything you accept for express carriage is taxed up to 20 cents?

Mr. JENNINGS. Yes; and over. Now, to illustrate—

Mr. MOORE (interposing.) Then your contention is that you do not escape anywhere, while the Government does?

Mr. JENNINGS. Yes, sir; that is right.

Mr. GARNER. Suppose we levied a percentage tax on the gross receipts from each package, carried either by the parcel post or by the express companies, that would be a fair tax, would it not?

Mr. JENNINGS. It would be fine. That brings up another point: You can see the tremendous amount of bookkeeping the expressmen have to do. For illustration, they carry a bundle and charge 10 cents; that is, for a bundle of a certain size; if it is twice that size it is 20 cents, or if it is three times that size it is 30 cents. Now, in keeping their books they must keep an account of the bundles, as they carry them, and you can see the tremendous amount of bookkeeping that is made necessary.

Mr. HAWLEY. Are deliveries made by your company to near-by points more expeditiously than those made by the parcel post?

Mr. JENNINGS. Well, I think so; I may be a little proud in saying that, but I think so.

Mr. SLOAN. Do your companies take the place, to a large extent, of the railroads on short hauls; that is, reasonably light commodities?

Mr. JENNINGS. Do they take the place of the railroads?

Mr. SLOAN. Yes.

Mr. JENNINGS. Yes; I would say so.

Mr. SLOAN. Then they are becoming a distinctive factor in distribution, especially in New England, on short-haul freight, as well as on what we used to call light express articles?

Mr. JENNINGS. They take both classes, and I should say as to that that they are taking the places of the railroads, because they take the entire transit.

Mr. SLOAN. Is not that one of the growing features of transportation right now—that the express companies are carrying light commodities outside of the railroads?

Mr. JENNINGS. I should say so; although I must say this, that the nature of the business carried on by the express companies of Bos-



ton has not changed; they have done this for years, and this league must be 20 or 30 years old.

Mr. SLOAN. But it is extending throughout New England, is it not?

Mr. JENNINGS. I could not say that. My information is that it is carried now as it always has been for years back. Now, gentlemen, I do not want to take any more of your time; but I do want to make this clear: That to-day every bundle that goes by express is taxed and there is no tax, until it gets to 25 cents, on the parcel post. If you take a bundle for 10 cents by express it costs 1 cent; if you take it for 20 cents it costs 2 cents; but if you send it by parcel post it costs nothing.

Mr. SLOAN. Your business is between the merchants and the homes, while the parcel-post business is between post office and post office.

Mr. JENNINGS. Yes, sir.

The CHAIRMAN. Has the business of your companies fallen off—that is, the volume of it? Have you found any decrease in business since this tax went into effect?

Mr. JENNINGS. Has the rate decreased?

The CHAIRMAN. Has your volume of business decreased?

Mr. JENNINGS. Oh, yes, sir; some companies have gone out of business.

The CHAIRMAN. Since the tax was imposed or since the parcel post was established?

Mr. JENNINGS. Since the parcel post and also since the tax.

The CHAIRMAN. Would you mind appending to your remarks a statement showing the volume of business of these express companies, say, in the month of September and in the month of May?

Mr. JENNINGS. I would like to do that very much, but I know of no way to get at that. Here are 200 express companies, some of them with 5 teams and some of them with 10 teams, all keeping their books in their own way. They make no reports to the State or to the Government, and there is no record that they would keep of it.

The CHAIRMAN. Are they not required to make returns to the Interstate Commerce Commission?

Mr. JENNINGS. No; some of them may that go out of the State; but the great bulk of them do not.

The CHAIRMAN. Most of them carry on their business within the State?

Mr. JENNINGS. Yes, sir.

The CHAIRMAN. My question was whether the volume of business of these express companies had largely increased?

Mr. JENNINGS. That is not so, not with us, at least. So, gentlemen, in closing, I want to say this: That if you increase the parcel-post rates to a point below the express rates, the Government will still get all the business, and the man who uses the parcel post will pay for it, as he should. In the next place, if you remove the discrimination which is now so unjust and tax the transportation of all bundles alike, whether they are carried by the Government or by private individuals, you will then increase your revenue and give everyone a fair show. Furthermore, if you want to make that 20 cents to everybody, instead of 20 cents and 25 cents, you would have something that would be easier to handle and still further reduce the discrimination.

Mr. MOORE. I suppose no package is carried at a rate less than 5 or 10 cents.

Mr. JENNINGS. Eight cents, where they have a large volume of business, and that is the lowest rate I know of.

The CHAIRMAN. Your real opposition, or the opposition of your companies, is not so much to the tax, but to the parcel-post system, is it not?

Mr. JENNINGS. To no tax on parcel post and the tax on express rates.

The CHAIRMAN. Your real opposition is to the parcel-post system, which really competes with the business of your companies?

Mr. JENNINGS. No.

Mr. SLOAN. If we did not have a parcel-post system you would not be here complaining at all?

Mr. JENNINGS. No.

Mr. SLOAN. What you are complaining about is that the parcel post is about to put you out of business, and that when we do levy a tax against you and your business we discriminate in favor of the parcel post as against your business?

Mr. JENNINGS. That is right.

The CHAIRMAN. What is the average charge for parcels that are transported by your express companies.

Mr. JENNINGS. In doing business with the department stores I would say from 12 to 12½ cents.

The CHAIRMAN. I mean, in general.

Mr. JENNINGS. In general the rate would probably be—of course, it would depend on the size; but the general rate would be 20 cents, I should say.

The CHAIRMAN. Do you mean to say that the average fee of the express companies is about 20 cents?

Mr. JENNINGS. They are in two classes. Those that are carried for merchants and large department stores I should say would average 12½ cents.

The CHAIRMAN. And the other would average about 20 cents?

Mr. JENNINGS. Yes, sir.

The CHAIRMAN. So you would take a parcel from a merchant and charge 12½ cents?

Mr. JENNINGS. Yes, sir.

The CHAIRMAN. And you would send it off by the railroads, as you do sometimes over the Boston & Maine Railroad?

Mr. JENNINGS. Sometimes, yes.

The CHAIRMAN. And a pound would cost 20 cents.

Mr. JENNINGS. Not by the railroads?

The CHAIRMAN. I mean, you would charge 20 cents?

Mr. JENNINGS. It would depend on who is the sender, no matter how it goes; the sender being a department store the rate would be cheaper.

The CHAIRMAN. Leaving out the first class you mentioned and the second class you mentioned, you would carry a pound, say, for 50 miles, and charge at least 20 cents.

Mr. JENNINGS. Yes, sir.

The CHAIRMAN. While the post office charges 5 cents for that?

Mr. JENNINGS. Yes, sir.

The CHAIRMAN. If the difference between 5 cents and 20 cents has not hurt you gentlemen, how can there be any difference between 1 cent and no charge at all? How can that so greatly affect you as to threaten the existence of the business?

Mr. JENNINGS. We have now reached the point where it is being equalized—that is, it has reached its level—they are sending certain goods by the parcel post and certain goods by express. Now, then, this tax comes in and makes another inducement to take business away from us and apparently without any reason.

Mr. SLOAN. Would you be willing to have this apparent discrimination removed and have the parcel post limit of weight removed—it is 50 pounds now, is it not?

Mr. JENNINGS. I think it is 75 now.

Mr. SLOAN. Would you be willing to have that removed from the parcel post so that they would come in competition with you on the heavier articles?

Mr. JENNINGS. If you could fix the rate. Of course, everything you do, every burden you add hurts; that is all. But I do not want this committee to understand that I am here objecting to the parcel post, because I am not. I simply suggest to you that if you see fit to raise the rate, you will still get all the business and not hurt anyone.

Mr. GARNER. When you say you are not objecting to the parcel post, are you not really mistaken about that? I asked you whether or not the business of the Post Office Department ought to be based on the idea of each parcel paying its way and you said it should. If the parcel-post rates are based upon that theory, that each parcel shall pay its way as nearly as possible—it is impossible to get to it absolutely correct—and those rates will put you out of business, you would be compelled to object to the parcel-post system or else go out of business.

Mr. JENNINGS. There would be no other alternative, but you have also stated that the additional rate placed on letter mail was for the purpose of raising revenue.

Mr. GARNER. Yes; we did that for the purpose of getting more revenue.

Mr. JENNINGS. All right. If you do that, why can not you do the same as to parcel post—use that for the purpose of getting revenue—and still get the business?

Mr. GARNER. Outside of war times, the Post Office Department is used simply for the convenience of the people. Now, if the rates applied to parcel-post packages were sufficient to cover the cost of handling them, and that would put you out of business—

Mr. JENNINGS (interposing). Then we would go. That is all there is to it, and we would have no complaint to make.

**STATEMENT OF MR. J. W. SHORTHILL, REPRESENTING THE NATIONAL ORGANIZATION OF FARMERS' COOPERATIVE ASSOCIATIONS, OMAHA, NEBR.**

Mr. SLOAN. Give your full name and present address.

Mr. SHORTHILL. My name is J. W. Shorthill, of Omaha, Nebr.

Mr. SLOAN. What is your business?

Mr. SHORTHILL. I am secretary-treasurer of the National Organization of Farmers' Cooperative Associations, a national federation of State councils of farmers' grain dealers.

Mr. SLOAN. Are you also holding a position under the Government at this time?

Mr. SHORTHILL. I am connected with the Food Administration's grain corporation. I am a member of the board of directors.

Mr. GARNER. Where are the headquarters of that corporation—in Washington?

Mr. SHORTHILL. At 42 Broadway, New York.

Mr. GARNER. And your temporary residence is in New York?

Mr. SHORTHILL. No, sir; I am residing in Omaha.

Mr. GARNER. I thought that, being a director of the corporation, your temporary residence might be in New York.

Mr. SHORTHILL. No, sir; I am just the same as any other director; my residence might be up there or it might not be.

I will not take up your time to explain the purposes of this organization, of the organizations which I represent, their objects, or the cause of their organization. I will simply state that the purpose at the beginning of the entire organization was to operate on a cooperative basis for the purpose of establishing and maintaining competition in the markets and in the handling of the commodities that are being handled. I am not appearing before your committee for the purpose of making any objection to this legislation, but only for the purpose of asking that some points which have been obscure be cleared up, so that the law will be applied uniformly, and so there will be no question as to what it means regarding those points. The suggestions which I am offering to the committee are following out exactly the rulings of the Commissioner of Internal Revenue that are followed by the collectors in my home State, but we find that on some of the points there has been very much variation and dispute, due to the fact that two different constructions may be put on the same provisions of the law. I have prepared an amendment, in which the language may not be just what it ought to be, but in which I believe the idea is so clearly set forth that it can not be mistaken or misinterpreted.

Mr. MOORE. Where does it come in?

Mr. SHORTHILL. I am basing my statement on Document No. 379 which contains the law of September 8, 1916, and I refer to that law on page 15.

Mr. MOORE. What section?

Mr. SHORTHILL. Paragraph 4 of the section designated 11. I understand that the purpose of Congress in passing this legislation was to exempt those institutions which were organized to operate not for profit, and it is following out that spirit of the law that I wish to speak.

Mr. MOORE. This is an exemption from income tax.

Mr. SHORTHILL. Yes, sir; exemption from income tax.

Mr. MOORE. Let me read paragraph 11:

Farmers', fruit growers', or like association, organized and operated as a sales agent for the purpose of marketing the products of its members and turning back to them the proceeds of sales, less the necessary selling expenses, on the basis of the quantity of produce furnished by them.

That is one of the elements not to be taxed under that income-tax clause.

Mr. SHORTHILL. Yes, sir; the intent obviously being to deal with cooperative organizations, the basic feature or definition of which is contained in turning back the proceeds of sales, less the necessary selling expenses. That is the basis of the cooperative organizations. The first fault we have found in the administration of this clause is in that it applies only to sales for members and not to purchases. The Commissioner of Internal Revenue has stretched it just sufficiently to cover its application to purchases for members, and the enforcement of it has been made in that spirit. So we believe that that point should be cleared up.

Mr. MOORE. Let us understand that, if a farmers' fruit growers' or like association, acting as a sales agent for the farmer, sells his products and deducts the selling expenses, there is no tax.

Mr. SHORTHILL. Yes, sir; that is true.

Mr. MOORE. And your contention is that that does not apply to purchases which, perhaps, are excluded?

Mr. SHORTHILL. Yes, sir; it is formed quite often to handle commodities which are purchased for its members, as well as for handling products sold for them.

Mr. MOORE. Your opinion is that where such an association purchases for its members there should be no tax?

Mr. SHORTHILL. That the law should be applied in the same way as in regard to sales made for members.

Mr. MOORE. Suppose they purchased coal and coke, household commodities, or something of that kind, would you still insist that there should be no tax?

Mr. SHORTHILL. Yes, sir; and that is the principle embodied in the State laws recognizing cooperative companies in many of our leading States.

Mr. MOORE. What has the department held as to that?

Mr. SHORTHILL. They have held that those returns which actually came from the business transacted for members and that were actually paid back to the members on the basis of the business transacted were not subject to tax under this law.

Mr. MOORE. Now, just what has the department held in regard to that?

Mr. SHORTHILL. The department has held that the same rule should apply in regard to purchases as applies in regard to sales. In other words, the department has held just the thing which I am suggesting should be included here.

Mr. MOORE. That there should be no tax?

Mr. SHORTHILL. Yes, sir. If the committee should desire a copy of the decision or ruling on that question, I would be glad to furnish it.

Mr. MOORE. They have held your way both ways?

Mr. SHORTHILL. Yes, sir; but it has not been uniformly applied in all the States. Some of the collectors have objected to this construction of it. Another construction which has been placed on this paragraph is this, that unless every penny of the surplus accumulated be returned to the members this cooperative company is not exempt from taxes on anything.

Mr. GARNER. That is what I wanted to ask you about: What are the assets of this association?

Mr. SHORTHILL. They are just the same as those of any other corporation. They are simply organized under the ordinary corporation laws, and they have assets just the same as other corporations. They have capital stock, to begin with, and then, if there is any increase, or if there is the creation of a surplus fund, or if there is any addition to it it becomes a part of the surplus fund, just as in the case of any other corporation.

Mr. GARNER. In other words, this corporation has a capital stock?

Mr. SHORTHILL. Yes, sir.

Mr. GARNER. And it accumulates a surplus fund or undivided profit?

Mr. SHORTHILL. In some cases it does and in some cases it does not.

Mr. GARNER. You surprised me when you said that some collectors in the various States ignored, or, rather, did not adhere to the rulings of the Chief of the Bureau of Internal Revenue. I did not know that any subsidiary officers ignored the rulings of their superiors.

Mr. SHORTHILL. I do not know that they have ignored them, but, in some way or other this matter has not become uniformly applied. It may be because the question has not been taken up in those particular States.

Mr. GARNER. Have you called to the attention of Mr. Roper the fact that some of the collectors are not carrying out his instructions as to how the law should be applied?

Mr. SHORTHILL. In those cases where it has come to my attention I have; but my contention is this, that this Commissioner of Internal Revenue might make one application of this law and another commissioner might make another application of it. We hope that the spirit of this law will be continued after this war is over, and that we will still have taxes on incomes and excess profits. We want to know whether our cooperative concerns are going to be placed into the class of concerns which are taxed on excess profits and which set out to make excess profits and large incomes. It is the purpose of our corporations to operate upon a more reasonable margin of income, and then at the end of the time to distribute it back to the members.

Mr. STERLING. What are your organizations handling mostly—grain?

Mr. SHORTHILL. They were primarily organized to handle grain, but many of them handle coal, and that works in very conveniently, especially in connection with the handling of grain. Some of them handle binder twine, and they handle a great number of other commodities. For instance, in the State of Illinois and in Iowa they handle a great amount of tile.

Mr. STERLING. The grain associations of Illinois sell stock to their members?

Mr. SHORTHILL. Yes, sir.

Mr. STERLING. They do not simply handle the grain of members of the organizations, but they buy grain from nonmembers. Now, as to the profits derived from sales and purchases made for outsiders, would not they be subject to this law just the same as the profits of individuals or other corporations?

Mr. SHORTHILL. I have not gotten to that point, but that is one of the things I wanted to talk about. You will understand that all of these companies for which I speak are operating as cooperative companies purely, and we want this law made so plain that there can be no question as to the sort of companies that it will apply to, and so that they will know exactly where they are at.

Mr. GARNER. But you do not ask that a corporation be exempt from such taxes as Judge Sterling has referred to?

Mr. SHORTHILL. No, sir; and I expect to make that plain. I will be very glad to leave with the committee the amendment that I suggest and that I have written out.

Mr. MOORE. Suppose you read it now.

Mr. SHORTHILL. While it does not affect our interests in any way, we do not see any reason why you should have the word "farmer" in that section. We do not see why any company of people should not have the same privileges that a company of farmers has if they are operating on the same principle.

Mr. TREADWAY. Would not the cooperative principle be abused to the extent that it would seriously affect the revenues, if the corporation scheme was carried out to the extent of exempting the returns from taxation or from certain forms of taxation? Would it not be true that people all the way down the line would get up some form of cooperative association, and, if that were done, where would our revenue come from?

Mr. SHORTHILL. The revenue would be at exactly the same place as it would be if you did not make any provision for this at all, because, if no provision is made, those cooperative concerns will proceed to operate much more closely to the market, and they will be placed in a much more dangerous situation as to the future success of their business and also as to the success of their competitors.

Mr. TREADWAY. You speak of the competitors of the cooperative organizations.

Mr. SHORTHILL. They have competition at almost every place where they operate.

Mr. TREADWAY. With other cooperative organizations?

Mr. SHORTHILL. With other corporations and individuals. So we would say, instead of saying "farmers"—

Mr. MOORE (interposing). Do you maintain stores or warehouses?

Mr. SHORTHILL. Our organization is purely a grain-dealers' organization.

Mr. MOORE. Do you maintain elevators?

Mr. SHORTHILL. Yes, sir.

Mr. MOORE. You do maintain elevators?

Mr. SHORTHILL. In the grain business, yes, sir; just the same as any other business institution.

Mr. MOORE. As to the general supplies that you buy and sell, do you have warehouses or storehouses for them?

Mr. SHORTHILL. That depends entirely on what the local conditions are. If the local conditions in any line of business are such as I have mentioned, including coal, live stock, twine, tile, or something of that sort, are such that the needs of the community are not properly and promptly served, then a company may go into that line of business.

Mr. MOORE. A cooperative store in the ordinary sense of the word means a warehouse or storehouse where goods are held in bulk for distribution?

Mr. SHORTHILL. Yes, sir.

Mr. MOORE. They are purchased in large quantities and held for distribution according to the needs of the members. I understand that the organization known as the Nonpartisan League has something of that kind in Minnesota.

Mr. SHORTHILL. Yes, sir.

Mr. MOORE. Does that league have any connection with the organization for which you speak?

Mr. SHORTHILL. No, sir.

Mr. MOORE. That is an independent organization?

Mr. SHORTHILL. An independent organization; yes, sir.

Mr. MOORE. Is it a competitor of yours?

Mr. SHORTHILL. Not necessarily.

Mr. MOORE. Is it not competing with you for members in the State of Nebraska now?

Mr. SHORTHILL. Well, no, sir. It is not working along the same lines. Its membership is purely along political lines, and we have nothing to do with politics. This is simply a business proposition.

Mr. MOORE. Your organization has no connection in any way with the Nonpartisan League?

Mr. SHORTHILL. None whatever.

Mr. MOORE. I asked you the question in regard to warehouses, because if you maintain warehouses, storehouses, or places for the deposit of large quantities of goods to be distributed according to the needs of the members I think the committee would like to know about that.

Mr. SHORTHILL. Yes, sir; grain is handled in that way, coal is handled in that way, and all of the commodities handled for the members of our organization are handled in the same way, or just as any other merchants would handle them.

Mr. MOORE. That is, an association will buy large quantities of coal and stock up for the coming winter?

Mr. SHORTHILL. Just the same as any other dealer would do.

Mr. MOORE. And as grain comes in you put it in your elevators and hold it until it is distributed?

Mr. SHORTHILL. That is the only way it can be done practically.

Mr. MOORE. A part of the business of your association is the storing of goods and the holding of them?

Mr. SHORTHILL. Yes, sir.

Mr. MOORE. They purchase very large quantities and hold them until the time for distribution comes?

Mr. SHORTHILL. Yes, sir; it is generally done in that way. That is the only way that the grain business can be handled, and it is the only practicable way in which the coal business can be handled.

Mr. GARNER. The principal object of the organizations that you speak for is to see that the farmer gets a fair price for his product, especially where there are no competitive conditions in a community?

Mr. SHORTHILL. Yes, sir.



Mr. GARNER. I can understand, of course, why you have to have capital stock, a surplus, and probably undivided profits, but, as a matter of fact, you never pay dividends on your stock?

Mr. SHORTHILL. Yes, sir; we hold that the stockholder is entitled to interest on that money just the same as a banker is entitled to interest on the money that he lends, but we are not asking, if you please, that the dividend on the stock be exempted from this tax. We say that that is income, and on that the tax will have to be paid by the person receiving it.

Mr. GARNER. But you do not make what is known as an excess profit?

Mr. SHORTHILL. No, sir; and the very object of these companies is to prevent a thing of that kind being done.

Mr. GARNER. Your idea now in seeking this exemption, or, rather, a definition of the various companies that are exempted under the present law, is to have unanimity of opinion among the collectors in regard to this provision?

Mr. SHORTHILL. Yes, sir; and not only in this administration, but under any other administration when we get on a normal basis again. Let me say just briefly, going back several years, when the grain market or the grain business, for instance, in a large portion of the country, was in the hands of what are known as the line elevator people, and they are still operating, that one company would control elevators along a certain line of railroad, and when they got control of a sufficient number of those elevators, almost invariably the market became lower than it ought to have been. Now, when the farmers in that community combined together to handle their own grain, they frequently did it in a way that was ruinous to the business. At that time there was no such thing as what is now known as the cooperative company. When they attempted to handle that grain just as near the market as they dared to, the result was a ruinous one; it was ruinous to themselves and also to the elevators. The result in a great many cases was that both of them were put out of business. Now, the cooperative idea would still bring to the farmer in handling his grain a reasonable margin that would be sufficient to take care of the handling cost at any time, and then whatever surplus should be made could be distributed back to the members. That was an advantage to the farmers and also an advantage to the competitors at that point, and would give them a chance to live also. That is the cooperative idea, and we are simply suggesting that the same principle be applied to all the transactions, whether of buying or selling, but that it ought to be confined strictly and only to the extent to which the cooperative principle is applied, and that it should go no further. Now, I will read my suggested amendment. Beginning with section 11 and coupling its introductory paragraph of the section, it would read like this:

Cooperative society, association, or corporation when such income or any portion of it is actually returned in cash to the members of such society, association, or corporation as a part of the purchase price paid by its members, or as a part of the sale price received for its members for any commodity or commodities sold to or sold for such members, after adding to the purchase price of any commodity or commodities bought for, or deducting from the sale price of any commodity or commodities sold for such members, the actual cost of handling the same, but in no case shall any exemption under this paragraph exceed the total amount of such cash return.

Now, it is my suggestion that no cooperative company ought to be exempt from taxation unless that return is actually made to its members, and, more than that, actually made in cash, but that it ought to be applicable to the extent that the return is made. Now, the question was suggested here by the gentleman from Illinois that companies handle business for people other than their members.

We are confronted with this question in operating those companies: At a point in the interior of the country what are you going to do? What sort of attitude would you be placed in under the laws of this country if you organized a company for this purpose and refused to handle business for nonmembers in the community? You might place yourself under a legal liability by doing a thing of that sort. You would be handicapping your operations, also, by operating in that way, and would be making yourself unpopular in that community. So that, if it is not illegal, perhaps, it would, at least, not be good business to organize an association and set out to handle business for members only and nobody else. That has been tried repeatedly and has failed. Now, the thing to be guarded in connection with a matter of this kind is to see that the law is so framed that no part of the profits made from the business of nonmembers can be used to pay the handling costs of business handled for members. Your cooperative plan would be entirely safe if that were done, and at the same time you would be treating your competitor fairly.

Mr. TREADWAY. Why do you restrict your membership?

Mr. SHORTHILL. We do not restrict our membership.

Mr. TREADWAY. You say that certain favors would be shown to the members, and that they should be extended to outsiders as well. Why do not the outsiders join?

Mr. SHORTHILL. It is just for the same reason that you have never been able to organize anything that everybody will come into.

Mr. TREADWAY. I was applying it to the community. I did not mean that a hundred million people would come in.

Mr. SHORTHILL. We have never been able to do that in a single community that I know of.

Mr. SLOAN. There are always a good many people in a community who do not desire to belong to any organization?

Mr. SHORTHILL. Yes, sir. There are a great many people who do not desire to shoulder the responsibilities involved. Wherever there is an advantage to be gained, there is a responsibility involved, and there are always people who are unwilling to shoulder that responsibility.

Mr. MOORE. I like the cooperative idea and always have liked it, but since we are sitting here for the particular purpose of trying to raise revenue, I will put this proposition before you as a representative of farmers: If those line companies to which you referred that operated elevators along the line of railroads did a large business, they would pay corporation taxes, income taxes, and such other taxes as might be imposed upon corporations and earners of profits, would they not?

Mr. SHORTHILL. Yes, sir.

Mr. MOORE. Now, if these cooperative societies erect elevators and transact all of the grain business along the railroads, under the law we could get no corporation tax from them, and we would get no in-

come tax from them under this paragraph, and, hence, the Government would be out on that transaction, would it not?

Mr. SHORTHILL. You have overlooked a fact that I have just stated.

Mr. MOORE. I want to help the cooperative societies and I want to help the farmers, and the question I am asking with respect to raising revenues is a pretty blunt one. By exempting the cooperative societies, which have gradually put the line companies out of business, will prevent the Government from getting any revenue from that source, will it not?

Mr. SHORTHILL. I was about to say that you overlooked a thing that I suggested, and that is that the competitor is not being put out of business under the cooperative plan. If, however, this law does not exempt the cooperative companies, then the cooperative companies are going to find a way to operate without profit, because that is what they set out to do, and, consequently, the only thing they could do would be to buy right at the market, like they did before the cooperative idea came in. In that way, they would destroy their own profits, destroy the profits of the competitor, and the Government would get no revenue out of either one of them.

Mr. MOORE. That is not a very pleasant outlook for us, since the Secretary of the Treasury calls on us to produce \$8,000,000,000 in revenue.

Mr. SHORTHILL. On the other hand, if you exempt the cooperative companies on the returns which the cooperative companies make to their individual members, the income of that individual member is, of course, subject to tax, and the competitor of the cooperative company would be permitted to operate at a greater margin of profit, and so they would have a larger margin of profit on which to pay income and excess-profits taxes.

Mr. MOORE. If that is true, we relinquish our hold upon the income tax and excess-profits tax so far as the cooperative company is concerned, and hold it on the individual who gets a return from the cooperative company or society. That is about all there is left of it. It works out that way, so far as I can see. Now, I want to ask you this: If we should consider favorably your suggestion in this regard, have you any suggestions to make as to how we can raise the additional revenue required in view of the facts that have been presented?

Mr. SHORTHILL. You would simply be getting it from another source.

Mr. MOORE. Can you suggest any other means?

Mr. SHORTHILL. That is all I can say, acting for a number of cooperative organizations.

Mr. MOORE. It would come from the man who became a jobber in the grain later on, perhaps, or from the man who assumed the grain in some form or other, such as the flour man, the baker, to be paid finally by the consumer of the bread. I bring that to your attention in all fairness, because if you have any suggestions to offer along that line, it seems to me that we should have the benefit of them.

Mr. SHORTHILL. I do not think of any except those that I have suggested. I can see how you could get more revenue by recognizing the cooperative plan than by not recognizing it.

Mr. MOORE. Do the line companies continue in business, notwithstanding the competition of the cooperative societies you represent?

Mr. SHORTHILL. Yes, sir; they are still in business.

Mr. MOORE. Are they doing a fairly good business?

Mr. SHORTHILL. That depends upon the conditions in the community.

Mr. MOORE. Do they compete with you in the same communities?

Mr. SHORTHILL. Where their competition in business is fair and open, they get a reasonable share of the business.

Mr. MOORE. In view of the tax situation, don't you really think that it would be an advantage to have them in operation, unless they have some railroad preference, or something of that kind?

Mr. SHORTHILL. Well, you still have the advantage of that tax.

Mr. MOORE. I imagine you would say that to a man you wanted to keep in the cooperative society, that he would have some advantage by joining the cooperative society, rather than by doing his business through the line companies. You would say that to him, would you not?

Mr. SHORTHILL. Certainly; because the purpose of this concern is to operate without profit, in order to maintain actual competition at that point.

Mr. MOORE. I commend you for that as a business proposition, because that is an appeal in the interest of the farmer; there is no doubt about that. But the tax trouble still remains, and I thought it only fair to call it to your attention.

Mr. SHORTHILL. May I ask whether one of the two primary purposes of the legislation is not to derive as much of this income as possible from excess profits, through incomes, and has not it been the policy of this law to exempt those institutions that were operated without profit? Was not that the object of it?

Mr. MOORE. If you could make enough by way of returns to your members to enable us to recover in income taxes, I should say your question was answered. Whether that is a fact or not, I do not know, but I question whether we could get enough by way of income taxes out of the members of this society to repay us for the loss.

Mr. SHORTHILL. People are going to do the natural thing; they are very much alike. If this is placed back, if the exemption as to the cooperative concerns were removed, then the operator of that cooperative concern would not have the same incentive as an inducement to transact business with that concern that he would have to continue to deal with that cooperative concern; that is, if he knew that all he would get would be what was due him on the transaction at the time the transaction was made. If the only thing that a cooperative concern could do to get business was to pay more money than the other fellow, that would mean ruination for both of them, because that has always been the result of that, and there would not be any revenue to the Government from either source under that sort of an arrangement.

I have suggested that this amendment should include all cooperative concerns, that it should apply to buying for members as well as to selling for them, and that it should apply on the actual cash returns only after deducting the actual cost of handling the commodity.

I want to close by making it plainer and stating what it should not apply to. According to my idea it should not apply to dividends paid on stock. Practically all of these corporations pay a dividend on stock and they should pay an income tax on that dividend, and

they ought not to ask any exemption along that line, but pay on exactly the same basis as any other corporation. If they make any additions to surplus, that should be taxed. It has always been very difficult to properly finance a concern of this kind, so that they have naturally placed in their surplus fund yearly a great accumulation of money, in order to have sufficient capital with which to enlarge their business, the same as other business concerns have done. If they place that to their surplus, it belongs to the stock and it can not belong anywhere else, and it should be taxed. If they do business with any outsider, and they get any income from business with an outsider, as profit to that corporation, it should be taxed, the same as in any other corporation; that business should be handled the same as the business of any other corporation and should be taxed for income and excess profits, the same as the business of any other corporation.

Mr. STERLING. You apply those statements simply to cooperative organizations?

Mr. SHORTHILL. Yes, sir.

Mr. STERLING. You would not apply them to a corporation doing business under the old method?

Mr. SHORTHILL. Certainly not. A great many of the States, within the past four or five years, have passed cooperative laws, recognizing this cooperative idea, and this is the basis on which those laws have been founded.

Mr. GARNER. What States have recognized the cooperative plan?

Mr. SHORTHILL. Colorado, Kansas, Nebraska, Minnesota, Iowa, Illinois, Indiana, and I think that for some years Massachusetts and New York.

Mr. GARNER. Has Illinois recognized it by statute?

Mr. SHORTHILL. Yes, sir.

Mr. STERLING. In Illinois we have a great many farm grange associations, too.

Mr. SHORTHILL. Yes, sir.

Mr. STERLING. I live right in the heart of the corn country and they buy a great deal of corn.

Mr. SHORTHILL. And a great many of those grain organizations have fallen into the hands of a few people and are operated for excessive profits, the same as any other corporation is operated, and they should be taxed as any other corporation, and under this amendment they will be taxed until they get down and do business on the basis which they were intended to do business.

Mr. HAWLEY. Is it your contention that the amount you distribute back to your members is not the income of the corporation but the income of the individual members?

Mr. SHORTHILL. Yes; that it is in no sense the income of the corporation but is a part of the purchase price, and that whatever is returned on that basis is the balance of the purchase price, or sales price, whichever the case may be.

Mr. HAWLEY. And that the amount returned to each member is the member's income and not the corporation's income?

Mr. SHORTHILL. Yes. It is a part of the purchase price of the product that was handled for him.

Mr. GREEN. Is it determined on the basis of the amount which the company has handled for that particular party?

Mr. SHORTHILL. Yes, sir. If John Jones has marketed 1,000 bushels of wheat, and John Brown has marketed 2,000 bushels of wheat, John Brown will get twice the return that John Jones will get, if they are both members of the organization.

Mr. STERLING. That is, if it is sold at the same price?

Mr. SHORTHILL. Well, it is to be handled as an average proposition; and it is impossible to handle the grain business in any other way.

Mr. STERLING. You take it out in my country. The farmers in a certain community will organize what they call a farmers' elevator. They buy grain at the market price, or claim to; I think they claim sometimes that they pay a little more—maybe a cent more—than their competitor who is running an elevator on his own account. They buy the grain of their members, and they buy the grain of other farmers, too; if they make a profit on it they put it into the treasury, and it goes in as one fund, and it is distributed to the stockholders at the end of the year. That is the way the farmers operate out there.

Mr. SHORTHILL. That is on the basis of the stock that each member holds?

Mr. STERLING. Yes; on the basis of the stock, and not on the basis of the amount of grain sold to the company at all.

Mr. SHORTHILL. We are not asking anything for a company of that kind; they are just the same as any other corporation and should be taxed on exactly the same basis. I may say that in the State of Illinois they would not have a large number of companies coming under this law, as they would have in some of the other States, because the law has not been on the books so long, and there is some question about the legality of the change under the law; but there are some companies in your State that operate on the cooperative plan.

Mr. HELVERING. I want to ask you a question. A man rents my place in Kansas; he belongs to one of these associations and, of course, I do not. Last year he sold something like 3,000 bushels of wheat, and two-fifths of that wheat was mine. On my wheat, of course, I got no rebate, because I was not a member of the association or a stockholder in it, but on his wheat, of course, he received a profit, a dividend, or a repayment, or whatever you might call it, of 1 or 2 cents a bushel. What I want to ask you is this: Is the money that would have come to me, had I been a member, given in proportion to him, or is that the profit of the company?

Mr. SHORTHILL. That is the profit of the company, and it is subject to taxation, the same as the profits of any corporation; that belongs to the stock, and when it is divided up it must be divided up among the owners.

Mr. HELVERING. What I was trying to get at was, whether or not you wanted to give him a profit on my sales.

Mr. SHORTHILL. No, sir; that is the very point we are aiming against.

Mr. HELVERING. Does your amendment reach that point?

Mr. SHORTHILL. Yes, sir.

Mr. HELVERING. I agree with you generally that the man who simply receives back the return for his grain should not be taxed, but I do not want him to get the advantage of my sale or anybody else's sale, because we do not belong to the association, and not pay a tax on that at all.

Mr. SHORTHILL. I do not think there is very much doubt about the legal phase of that. I think that any return that is received from transactions with people outside of the membership is simply profit to that corporation and must be distributed on the basis of the stock holdings of the stockholders.

Mr. HELVERING. I judge that possibly 50 per cent of the grain that was handled by the association to which I refer was grain that did not belong to the members of the association.

Mr. SHORTHILL. Yes; that quite often happens.

Mr. SLOAN. And that would bear an income or excess-profits tax?

Mr. SHORTHILL. Yes, sir.

Mr. SLOAN. Let me ask you this: Is it or is it not a fact that the purpose in organizing these cooperative societies throughout the Northwest was to improve the marketing of grain and bring about a general level in regard to the prices obtained by the producers themselves?

Mr. SHORTHILL. Oh, certainly; that was the object, and that object has been attained.

Mr. SLOAN. Is it not a fact that among the grain dealers of the Northwest have included a very large number of the increases of those who have become income-tax payers in the United States?

Mr. SHORTHILL. I do not know that I quite catch your question.

Mr. SLOAN. In other words, have not the farmers furnished the larger portion of the increase in numbers of those paying income taxes than any other people in the United States?

Mr. SHORTHILL. I have no information on that, Mr. Sloan, and I can not say, although I think I did see a statement along that line a few days ago, but I do not recall just what it was. The essence of this all is that these concerns, which were started for the purpose of having the interest of their membership or the people they are supposed to be organized for at heart, want to operate on a cooperative plan and want to operate with a profit on that particular line of business, and whether under this legislation if they operate on this cooperative plan and accumulate a surplus which is to be returned back to their members as a part of the purchase price, whether concerns of this kind are going to be placed by this law in the same class as the profiteers. That is the essence of the thing.

Mr. GARNER. Under your amendment you contend that those associations that have fallen into the hands of a few people and which are used more for profit than they are for the use of the association should pay as profiteers?

Mr. SHORTHILL. Absolutely, the same as anybody else—any individual.

Mr. GARNER. You have been dealing with the Internal Revenue Bureau somewhat in this matter, I take it?

Mr. SHORTHILL. Yes, sir.

Mr. GARNER. Would it not be advisable for you to talk to Mr. Roper or those who construe this law and see if you can not get an opinion as to the effect of your amendment; that is, whether your amendment would have the result that you believe it would have?

Mr. SHORTHILL. That is exactly the procedure of the enforcement of the law at the present time, the amendment which I have here to offer.

Mr. SLOAN. You have discussed this matter with Mr. Roper; have you not?

Mr. SHORTHILL. Yes, sir.

Mr. SLOAN. And the authorities under him?

Mr. SHORTHILL. Yes, sir.

Mr. SLOAN. Along these lines?

Mr. SHORTHILL. Yes, sir.

Mr. GARNER. I was trying to get at their construction, if possible, of the language of your amendment, as it would apply if we placed it in the new law.

Mr. SHORTHILL. It will be the same as the law has been applied in my home State, but we secured that application only after the very closest relation with the collector in that State and the very closest work with him, and the same thing would evidently have to be done in every State in order to get uniform application. It is a new thing, and a great many rulings would have to be made by the commission in order to clarify the law in all its applications.

Mr. HELVERING. What Mr. Garner was trying to get at was this: Will your amendment clarify the situation if it is adopted in this law?

Mr. SHORTHILL. Yes; I think so.

Mr. GARNER. Your thinking so would not be quite as conclusive as if the present Commissioner of Internal Revenue and those advising him should think so themselves.

Mr. SHORTHILL. No; certainly not.

Mr. GARNER. That is what I am trying to get them to do, if possible.

Mr. SHORTHILL. Certainly. Had this not come on quite so quickly we would have cooperated with, and were prepared to cooperate with, the Commissioner of Internal Revenue in making suggestions to this committee as to how this ought to be framed, but there was not time to do that.

Mr. SLOAN. Will you submit your amendment to Mr. Roper and the authorities under him, in order to meet Mr. Garner's suggestion?

Mr. SHORTHILL. Certainly, but I do not see how any other construction than I have suggested can be placed on it.

Mr. GARNER. We sometimes pass a provision here on which we do not think any other construction can be placed than the one we had in mind, but it very often turns out differently.

Mr. SHORTHILL. I realize that, and I will be very glad to work with the commissioner.

I thank you very much for your attention and kindness.

#### STATEMENT OF MR. HANK REID, CHICAGO, ILL.

Mr. REID. I am the publisher of the Shepherds Journal, a sheep and wool paper published in Chicago. I might say in passing that of the three sheep and wool papers published for farmers this is the only one that is not to any extent influenced by the figures of the so-called Wool Trust.

Mr. MOORE. You are independent?

Mr. REID. I am absolutely independent; yes.

I know that the Ways and Means Committee has been importuned, individually, to put a tax on dogs, and that could be made, in my



opinion, a method for raising a reasonable amount of revenue, and it would have the indirect effect of reducing the number of dogs in many communities, like New England and the old South. In New England we have very few sheep and the people up there tell us that it is simply because of stray dogs that are owned by the foreign element in the manufacturing towns. These foreigners are irresponsible; they do not own property, and it takes them some time to be absorbed by our institutions. You gentlemen on this committee who come from the old South know that in the more sparsely settled districts, among the poorer white people, they have a lot of dogs.

Mr. MOORE. I do not think that only the foreigners own dogs. There is a tremendous number of very strong pro-dog Americans up my way.

Mr. REID. Permit me to say that I am a good friend of a good dog; I am particularly talking about cur dogs and irresponsible dogs owned by irresponsible people.

The CHAIRMAN. You are talking about sheep-killing dogs?

Mr. REID. Yes. I have dogs on my own farm and I would not be without them for anything. Any man who has been out in the West—and by the West I mean the range country—knows that it is utterly impossible to raise sheep without a dog. If I were married—and unfortunately I am not—and lived in the old South, I would not want to leave my wife and children alone without a dog. Do not misunderstand me for a minute, because I believe that a dog has a very valuable place in agriculture. In the old South the Biological Survey tells me, where the negro element overbalances the white element, as it does in many of our old Southern States, that every negro has from 8 to 20 dogs, and that that is true of a good many of the poorer white people.

Now, it is not a very healthy thing or a very desirable thing for a man to go in these communities and shoot his neighbor's dogs; it might be dangerous, because his neighbor might be a better shot than he is. Then, in our factory towns we have a certain irresponsible foreign element that has lots of dogs. If you gentlemen representing the Government on the Ways and Means Committee saw fit to put a tax on dogs, every man having a good dog would not object to paying a tax, say, of two or three dollars. The cost of the collection of that tax should not be over 40 or 50 cents, and if it were collected in the same way that the income tax is collected it would be a rather simple thing. If such a tax were imposed upon all dogs and a penalty written in the statute for not reporting on all dogs owned by various people, the result would be that every irresponsible foreigner and every irresponsible negro would get rid of their dogs automatically. If they had to pay a tax of two or three dollars on 10 or 20 dogs they could not afford to keep them and they would get rid of them.

Mr. TREADWAY. Is not that a licensing feature that belongs to the States?

Mr. REID. There is a State license in almost every State, but the law is very seldom enforced. The only State, I think, that enforces its dog law is the State of New York.

Mr. TREADWAY. We have a law in Massachusetts which is enforced.

Mr. REID. Yes.

Mr. MOORE. And Pennsylvania has a very good dog law.

Mr. REID. Pennsylvania has a good law; but I think it is one of the newer laws.

Mr. MOORE. I call your attention to the fact that a dog, and the wayward dog, is not altogether the property of the foreign element. There are a great many dogs owned by Americans who insist upon keeping those dogs. I have found that out since this question was raised, which was some time ago, and I have had quite a heavy correspondence on the subject. The Pomeranian dog is not owned by irresponsible foreigners.

Mr. REID. No.

Mr. MOORE. A good many collies and other good types of dogs would not come under your characterization.

Mr. REID. No; but they would be useful dogs. I do not believe that any American or any responsible foreigner either, for that matter, would object to paying a small dog tax on useful farm dogs and house dogs. If a woman wants to have a lap dog rather than children, and many of them do, that is her business. But there is no reason at all why in these times there should be over 100,000,000 dogs in this country, and twenty to thirty millions of them such pests in certain sections of the country that you can not raise live stock.

Mr. MOORE. Have you figures showing that we have 100,000,000 dogs in this country?

Mr. REID. I can get you such figures officially from the Biological Survey.

Mr. MOORE. You have been studying this from the standpoint of the preservation of sheep?

Mr. REID. Yes, sir; but I made the statement also that I believed in having a good collie or some other proper sort of a dog on the farm.

Mr. MOORE. If we had 100,000,000 dogs and imposed a tax of \$1 upon every dog we would be receiving \$100,000,000 every year.

Mr. REID. Yes; less the cost of collection.

Mr. MOORE. And by the imposition of such a tax we would get rid of a great many dogs and thus increase the sheep supply, from your point of view, but I would like to ask you how we are going to apply a Federal tax, or should apply it, as against dogs? What would you do about the administration of it?

Mr. REID. I should think that it would be necessary to make the tax larger than \$1 because I would imagine, without being an expert of tax collections, that it would cost the Government in the neighborhood of 40 or 50 cents to collect that tax, to send out notices, to take care of the bookkeeping, and things like that. I think that in 90 per cent of the cases you will get returns, because the average man does not care to monkey very much with the Federal Government, while in the State Government, where you have a State law, unless the people are unusually wide awake, politics enters into the matter, just as much in the North as in the South, and your local man does not want to go around and trouble his friends and neighbors in such matters, while if a man gets a notice, as he does in connection with his income tax, that he must make a return as to his dogs to the Federal Government, under a penalty, he will make that return and will not dare omit to make it.

In my own business experience I have figured that it costs me from 15 to 20 cents to write a letter, less the cost of the postage:

that is the absolute mechanical handling of that letter, and I believe in the average business man's office you can figure it will cost about that. To send out forms, to attend to the bookkeeping, and things of that kind, in connection with the collection of such a dog tax I believe it would cost anywhere from 40 to 50 cents, but I believe that would amply cover the cost. Therefore, I think we should have a larger tax than \$1.

Mr. MOORE. You are proposing that we shall get rid of the domestic dog by raising revenue upon him?

Mr. REID. Yes; the useless domestic dog. Please do not misunderstand me in that.

Mr. MOORE. Suppose we accept as wise your suggestion and we attempt to decrease the number of dogs for the purpose of increasing the number of sheep.

Mr. REID. Yes, sir.

Mr. MOORE. And if we took this matter out of the hands of the States would not the Government be obliged to establish a retinue of officers, inspectors, dog catchers, and dog pounds that would make it unprofitable rather than profitable?

Mr. REID. They do not have to do that with the income tax and they do not have to do it as to the personal-property tax.

Mr. MOORE. Suppose we were after the dog that belonged to the irresponsible foreigner, the one you have referred to, or to the 20 dogs belonging to the southern negro, and we gave them a Federal notice that they were to come forward and pay a tax on their dogs, the irresponsible foreigner \$1 or \$3, according to the dog tax, and the colored man or women \$60 or \$80, according to the tax in that case, do you not think the Government would lose in each instance in attempting to get at those taxes?

Mr. REID. I think these people would kill a lot of their own dogs; they would turn them loose on the community, and in special sections in New England that I can think of, and in the South, the Government might have to appoint a few men, and it would be better to have several men operate in a few communities under the United States deputy marshal to do that work, but I do not think that would have very general application.

Mr. MOORE. We could get some revenue out of the lap dog; there is no question about that, because no doubt those ladies would pay whatever tax might be imposed, but it seems to me there might be great difficulty in collecting the tax from the people you have mentioned. While your purpose is commendable from my point of view, and I am in sympathy with you in the idea of protecting the sheep industry of the United States, I am not clear as to how, by a Federal tax, we can reach the stray dog. You could probably reach them by a pound system and making provision to kill them, but whether we could get rid of them by putting a tax on them, which we could not collect, I do not know.

Mr. SLOAN. Perhaps the result could be accomplished by providing an open season for dogs, so that anyone after a particular date would have the right to slay any unmuzzled or uncollared dog he might encounter. That might have a salutary effect, and do you not think we might be able to get a good deal of revenue from the meat supply?

Mr. REID. I was not speaking for the frankfurter industry in this, as has been suggested; but I do not seriously think that everyone ought to have the right to lie around with a gun killing his neighbor's property, because in some States dogs are constitutionally property.

Mr. SLOAN. That would not involve going upon the premises, but it could be done wherever the dog might be found, on the public highway or on the public domain. Don't you think that would have the result many times of decimating the dogs?

Mr. REID. I think it would have, but I would prefer, if I may make such a suggestion, that the thing should be done indirectly through some duly constituted officer. The United States marshal in his district could, if necessary, I think, constitutionally give some of his powers to State officials. I think that could be worked out in some legal way. Besides, I could anticipate a lot of confusion and trouble arising from the indiscriminate shooting of dogs.

A valuable dog might happen to get away from his owner, or lose his collar, and be killed, and you would hate to have that occur. A young dog or puppy might, for instance, slip his collar and run around, but not, however be doing any mischief. I think that if you sent an ordinarily responsible person a notice through the postman that he would have to pay a certain tax on his dogs, it would be sufficient and it could be easily done. Especially in the rural districts that could be handled through the postman very well, and a report could be made by the postman. The postman could be used in that way just as they have been used in turning in reports on German spies. That is something that we had never before conceived of postmen doing, but they have done it and done it well. Some method could be devised by which a man could be notified that within 30 days he would have to pay a tax on his dogs. I think that provision in the law and such a provision as that in the notice would be adequate. I think that in certain localities in New England, the old South, and in the West, perhaps, it might be necessary to have the Biological Survey, the United States deputy marshal, or some other duly constituted and experienced authority sent to the communities to take care of the dogs that nobody claimed. However, I do not think that very much of that would have to be done.

Mr. STERLING. Has the new Illinois dog law been effectively applied?

Mr. REID. Yes. It is a feature of the new Illinois dog-tax law that a man must keep his dogs on his own premises between sunset and sunrise. Very few dogs will kill sheep in the daytime. They prefer to get them at night. A young dog will sometimes chase sheep in the daytime in a spirit of play, but if that sheep happens to be pregnant it does just as much harm as if the dog killed her. So I think that, as a rule, sheep-killing dogs can be taken care of during the day if it is difficult for them to get out at night. That law has been very effective in every community where the local sentiment was favorable; but if you happen to be the only man in a neighborhood who is trying to raise sheep, and that frequently occurs, and your neighbors are cotton farmers, grain farmers, or, if you move into a newly settled section in the Southwest, where your neighbors are for the most part irresponsible lumbermen, or, if you are in the South, where they are more or less irresponsible Crack-

ers, the local sentiment would not sustain you in that regard. That is true in the State of Minnesota, where I have a farm, and it is true in many other States. You would have trouble right here, and, therefore, you must have something more than local sentiment to go with you and sustain you. I believe at this time, when so much depends upon the wool supply and when we are not sure of our supply, everything possible should be done to safeguard it. It is commonly stated and understood that Japan has purchased the raw-wool supply of South Africa for many years to come. It is pretty generally understood that Germany purchased the American wool supply and is hanging on to it. When you realize that we only raise about 60 per cent of our own wool consumption under the best of conditions, and that we will not be able to import wool because of shipping conditions—

Mr. MOORE (interposing). Do we raise as much as 60 per cent of our wool consumption?

Mr. REID. Yes, sir; in ordinary prewar times.

Mr. MOORE. We raised 60 per cent of our supply?

Mr. REID. Yes, sir.

Mr. MOORE. What is your estimate of the effect, prior to the war or at the present time, of the destruction of sheep by dogs?

Mr. REID. It is not so much a question of the actual destruction as it is the fact that after a man has had such an experience as that in a community he does not do it any more. Men who have had that experience do not try it again. I have known of a number of isolated cases that would be very sensational if I stated them to the committee, covering the experience of men in the New England States, the Southern States, and certain Western States. For instance, in some of those States you might go to a man and say, "Why do you not raise sheep? You have a farm here that is covered with weeds; your son is in the Army; the hired man has been drafted; and, of course, everything connected with the farm is very expensive. Why not go ahead and raise sheep?"

Well, that man would not see the joke of paying fifty or sixty dollars per rod to put up a dog-proof fence to protect his sheep. You can fence out dogs, but the average farmer can not see the joke of buying five or six hundred dollars worth of fence, although, as I say, that is an effective method. You can fence out dogs, although you can not fence out live-stock diseases; but it would cost that farmer five or six hundred dollars to fence out the dogs. He would be willing to pay five or six hundred dollars for sheep. You might tell him what advantage he would have in the fact that one man can handle 70 sheep with as much daily work as would be involved in handling two dairy cows. After you have given him that argument he will say, "I got started with that once, and the dogs came to my place and ruined my flock so that I lost all the value of it. I have had that experience once, and I will not try it again." That is something you can not advocate in those districts and get away with it.

Mr. MOORE. Mr. Reid, I think it is fair to say to you that this matter has been before the committee heretofore. The committee had it under consideration last year but did not get very far with it, and I am afraid that it would be a very difficult matter to get it through the House, constituted as it is, the Members representing various sections of the country that are more or less interested in dogs. It

seems to be the impression that it is a State proposition, and that it would be too difficult to administer as a Federal proposition. Of course, I do not want to influence your argument.

Mr. SLOAN. We have the sheep problem in our State, and our authorities out there distinctly believe it is more a Federal proposition than a State proposition, and that it can be better handled along the lines you suggest through the National arm than through the State arm. Up there in the sheep communities they would rather have the Federal Government administer it, because they feel sure that the Federal Government would be active in the matter, while the State government is rather slothful in putting such things into effect.

Mr. REID. I think it is to a certain extent a Federal proposition. We are in a big war, and, as I testified in the early days before the Senate Agricultural Committee, if the time should come when we would have the same weather conditions that we had a year ago at that time we would be close to a famine period. We came down here to raise Ned with Mr. Hoover's regulations concerning live stock, which we wrote a letter to the President about. We were a whole lot closer to famine conditions in this country at that time than we believed was possible. Labor was in bad shape, and also the shipping situation, and had we not had splendid weather over the greater part of the farming country we might by now have been in a very bad shape. We have had lots of good weather in all of the States, except in parts of the Southwestern States and California, and if it continues we will have a big crop. But I do not think we should rely wholly upon that, because next year we might face a serious situation again. Now, if we can realize \$200,000,000 on a proposition of this kind, which I really think can be done, I believe it will be worth the while of the Ways and Means Committee to consider it seriously, because that would be almost three times as much as the regular appropriation for the Department of Agriculture.

Mr. SLOAN. I would like for you to state to the committee something about how the regular sheep-killing dog acts. He is not satisfied with killing simply for his own consumption, but is it not a fact that he goes through the flock destroying one after another in many cases until he destroys as many as 25 or 30 sheep?

Mr. REID. They do not kill the sheep outright so much. As a rule, a number of dogs, three or four, perhaps, go together. Except in certain isolated instances, where you have a particularly bad dog, they go together. Three or four dogs, as a rule, will go together and run the sheep around and worry them, and, of course, in the case of pregnant ewes that alone destroys their usefulness. Then, in addition, they will bite the sheep, generally on the neck or flanks, so that the sheep may bleed to death or die from exhaustion. They do that rather than kill the sheep outright. If a panther, or animal of that sort, attacks a sheep, he kills the sheep outright, sometimes by breaking the sheep's neck. A dog, however, does not act that way, but a dog seems to take a delight in biting the sheep.

Mr. SLOAN. I know of a case in my own community where one of those dogs killed 10 sheep in one night.

Mr. GARNER. I want to ask you a question aside from the testimony that you are giving now: You are a publisher, as I understand it?

Mr. REID. I am the publisher of a farm paper.

Mr. GARNER. Have you a copy of it with you?

Mr. REID. I have.

Mr. GARNER. How much circulation have you?

Mr. REID. I do not like to talk circulation when I have not much to talk about. I have not over 10,000 subscribers.

Mr. GARNER. That paper circulates throughout the United States, does it not? Your publication is *The Shepherd's Journal*, and it goes more to people who raise sheep than to any other class of people?

Mr. REID. Yes, sir; it goes all over the country, except to New England and the old South, because, unfortunately, we do not have sheep in either New England or the old South.

Mr. GARNER. It goes wherever they raise sheep.

Mr. REID. Yes, sir. We have more circulation in the State of New York and the State of California than any other two States in the country.

Mr. GARNER. You publish your paper at Chicago?

Mr. REID. Yes, sir.

Mr. GARNER. Last year we enacted what is known as the zone system legislation. That legislation applies what is known as the zone system to second-class matter.

Mr. REID. Yes, sir.

Mr. GARNER. What have you to say, if anything, in regard to that law?

Mr. REID. That law costs me about seven times as much as I have previously paid the Government, and I will not be able, unless I raise my subscription rates, to get more revenue from it. When the law was first passed I was inclined to come down here and ask that something be done with the gentlemen who were responsible for it. I was inclined to want them put in the front-line trenches, but the more I looked into the thing and considered how it would work out in the way of breaking up that clique of magazines and other publications in New York City, and some other cities, I was convinced that, purely from the publisher's standpoint, it would be a good thing. I wrote a letter to Senator Lewis, who is one of my Senators, opposing the zone system at the start. However, I would rather pay a flat rate, no matter how much it was. I do not want the Government to give me anything, and I am willing to pay my way. In the last few months, particularly since I testified against the packers here, the attitude of a number of magazines and the general attitude of things has been such that I think it would be a good idea to distribute it so that it will operate a little more equitably over parts of the country where we have as many American people as we have in the downtown New York district.

Mr. GARNER. You do agree to the proposition that your publication should pay its way through the United States mail?

Mr. REID. Yes, sir; certainly.

Mr. GARNER. That was the theory that Congress had when it enacted that law, and I am glad to know that there is one publisher who has a considerable circulation throughout the United States who agrees with that theory. At the present rate, probably less than 40 per cent of the cost of transmitting second-class matter through the mail is being collected by the Government, and yet we have consider-

able complaint lodged with this committee by publishers, most of them living in New York City.

Mr. REID. Theoretically you could put up a good argument by saying that as it is a national country you should have a flat rate, and possibly, eventually, if that argument is a good argument, the Government will apply a flat rate. For me, that rate would run about 7 cents per pound instead of 1 cent, in the way my circulation is being distributed. It would be better for me to pay that flat rate of 7 cents per pound than to go through with the red tape involved in this system. We are faced with the situation that a man really ought to make a certain amount of money from his subscription list, rather than charge everything to advertising and nothing to circulation. That theory, I think, is fundamentally vicious.

The CHAIRMAN. Have you a copy of your journal?

Mr. REID. Yes; here it is.

The CHAIRMAN. I think you would pay about  $3\frac{1}{2}$  cents more.

Mr. REID. I have not figured out the advertising end of it. It will run about 40 per cent advertising.

The CHAIRMAN. How far is your average circulation from the place of publication? Is it 500 miles or 300 miles?

Mr. REID. Well, Wyoming is the greatest sheep-raising State in the Union, and my paper circulates in New York and Pennsylvania.

The CHAIRMAN. Would it average 500 miles?

Mr. REID. Some of it is a thousand miles away. I think it would average about 500 miles.

The CHAIRMAN. Then your rate would be about 3 cents more?

Mr. GARNER. You think that that is a just tax, and you are willing to pay your proportionate part of the expense of running the Post Office Department?

Mr. REID. Yes, sir.

Mr. MOORE. Do you have any advantage as a publisher by being in Chicago as against a publisher in New York?

Mr. REID. No, sir; not with my publication, but if I were publishing a popular magazine, I undoubtedly would have an advantage because the popular magazine would be circulated among the population quite generally. For instance, quite a percentage of the circulation would be in the States of Wisconsin, Nebraska, Ohio, and Iowa. I would say that the publisher of a popular magazine at Chicago would have an advantage. I would not have an advantage, because those States are sheep-feeder States rather than sheep-raising States, and the sheep-raising States are farther away from me, either east or west.

Mr. MOORE. If you published the paper called the Farm Journal, would you rather publish it under the zone system in Philadelphia, where it is published?

Mr. REID. I do not like to answer for another man's business, but I would say, offhand, that I would prefer Chicago or St. Louis.

Mr. STONAN. Do dogs attack Angora goats to any extent?

Mr. REID. Not more than once, if it is a good sized goat.

Mr. DICKINSON. Do you think that a dog tax law could be administered better by the Federal Government than if the law were enacted by the States?



Mr. REID. As our friend, Grover Cleveland, said, we are facing a condition and not a theory. Now, theoretically the State should administer their laws, and in the administration of the law our law agencies should not allow local politics to intervene, but the fact remains that they do. We have had 20, 30, or 40 years of this condition, especially during the last 10 or 15 years. The New England section, the larger part of the old South, and a part of the Middle West have been driven out of the sheep business very largely by dogs. So you can see that State administration of that problem has failed.

Mr. DICKINSON. It may be that those States have not enacted such laws.

Mr. REID. In certain States dogs are property. I would not care to do this. I own a farm in Minnesota, for instance, and I would not care to shoot my neighbors' dogs.

Mr. DICKINSON. In my State there is a great deal of interest in this question of the Federal taxation of dogs. I might mention as an illustration that my State senator has been recommending it and urging it upon the Ways and Means Committee. When I put the question to them of why do they not enact a State law, they speak about the difficulty of it, and they want the Federal Government to take it up. The sheep industry is increasing in my section, and as it does increase interest in this question of the taxation of dogs increases.

Mr. REID. Yes, sir. Dr. Fisher and Dr. Nelson, of the Biological Survey, made the suggestion to me some time ago when I was before the Senate committee—and it is really a fact that it would be just as much a revenue producer, taking it from the purely scientific and agricultural standpoint—and by that I do not mean this high-brow so-called agriculture, but I am speaking from the farmer's standpoint—as I say, it would produce just as much revenue to place this tax on cats as well as dogs. There have been over 3,000,000 useful birds killed annually in New York State by cats.

Mr. MOORE. Suppose you take up the conservation feature before you get through. For instance, how much does the dog consume, and how much would be saved for human consumption if the dogs were eliminated?

Mr. REID. I think it would be safe to say that a dog would eat a pound of meat per week very easily. You can not feed a dog on bones alone, and I think that the average dog will eat as much as an ordinary child 8 or 10 years old.

Mr. MOORE. The supply of meat for human consumption could be increased a good deal by reducing the number of dogs?

Mr. REID. Yes, sir; I think so; and that has been taken up in England. It has also been done in France. It is not an entirely new thing.

Mr. SLOAN. Is it not a fact that dogs constitute one of the worst problems in connection with the eradication of hog cholera?

Mr. REID. Yes, sir; and also in connection with the foot-and-mouth disease. They carry human diseases, and cats do also. If you gentlemen want to raise four or five million dollars, I believe you can do it by taxing both dogs and cats.

Mr. DICKINSON. How much tax would you suggest on dogs?

Mr. REID. I would suggest \$1.50, anticipating a cost of 50 cents in the collection of the tax.

Mr. OLDFIELD. How many dogs are there in the country?

Mr. REID. I have been told, in rough figures, that there are over 100,000,000, and about the same number of cats.

Mr. STERLING. Would it not be better to have a graduated tax on dogs, say, of \$1 on the first dog, \$2 on the second dog, \$5 on the third dog, etc.?

Mr. REID. I do not know about that. For instance, I know a doctor in Chicago, who is one of the best surgeons in the country. About the only pleasure or vacation he has is to go out on his farm with his dogs. He has five or six dogs, and he derives a great deal of pleasure from taking those dogs out on the farm and hunting. I do not see why he should be penalized because he has those dogs. I know of instances out West where a man will have 8 or 10 collie dogs, and they will handle forty or fifty thousand sheep with four or five men, and those dogs will do more work than 20 or 30 men could possibly do. I do not want to make it too punitive. I would make it reasonable and go after it. I believe the dog has a useful place in agriculture.

Mr. TREADWAY. Mr. Chairman, I think it is worth noting that we have at last found a source of revenue. We have sat here for several days and it has been pretty hard to find one.

Mr. REID. I believe, seriously, you could raise between three and four hundred million dollars net and between five hundred and five hundred and fifty million dollars gross by a tax on dogs and cats, and I think, after you once got it going, it would not be hard to collect.

Mr. GREEN. Where did you say you come from?

Mr. REID. I originally came from California, but I am now a resident of Chicago.

Mr. GREEN. Are there any more people out there who are not asking to have any of the rates taken off their own business? If there are we would like to see them, because I think you are the first man who has been before the committee who has taken that position.

Mr. REID. I want to pay my proportionate share of taxation, both in and out of war times, gentlemen.

(The committee thereupon took a recess until 1.30 o'clock p. m.)

AFTER RECESS.

#### STATEMENT OF MR. HANK REID—Resumed.

The CHAIRMAN. Now, Mr. Reid, we are going to hear you on a tax on wool shoddy.

Mr. REID. At the start of this proposition, I advocated a tax on shoddy not wholly as a question of revenue, but as a question of getting at something that lots of us have tried to get at through a pure-fabric law, which it does not seem possible to get; and, inasmuch as that law would be a very technical thing and it would take a long time to enforce and it would have to have a Supreme Court decision, it might be half a decade before we got anywhere with it. I would like to bring this to your attention at the start: At the present time raw wool from the farmer is selling for 60 cents a pound; and cotton, if I am correctly informed, is selling at 30 cents a pound; in other words, that is what the farmer gets for his raw material in the United States.

The ordinary suit, according to Hart, Shaffner & Marx, weighs 5 pounds, including everything, and an ordinary man's overcoat weighs 8 pounds. Now, if the farmer gets 60 cents a pound, that is \$3 for his raw material on a \$40 suit, which is about the average price to-day; and he gets \$4.80 on an overcoat, assuming it is all new, virgin wool of the best quality. Now, if it were cotton he would get, of course, half of that, which would be \$1.50 for the raw material in a suit and \$2.40 for the raw material in an overcoat. That is what the farmer gets, so you can see that the farmer is not getting rich quick in selling clothing material to the ultimate consumer. And, assuming that there is 100 per cent waste, which the manufacturers claim—which is not true—then, you would simply double your prices, which again would not amount to much. You would have \$6 on an all-wool suit, \$9.60 on an all-wool overcoat, \$3 on an all-cotton suit, and \$4.80 on an all-cotton overcoat.

Now, of course, that is very apparent; but here is the point: In our Army uniforms, that went with the first contingent, there was a national scandal, and that was due to the use of shoddy. The shoddy manufacturers came here and they made different claims to the War Industries Board—the details of which we do not need to go into—and they were practically allowed to do anything they pleased; and, if you gentlemen care to go into the details of that, I refer you to Gen. Pershing's report on the subject. I have not been permitted to see the report; but I know, of course, in a general way, what is in the report, because that is a matter of public information, which has been given out. If you care for the details, that report will give you the information.

Mr. MOORE. Will you give the substance of it?

Mr. DICKINSON. What report is that?

Mr. REID. Gen. Pershing's report on the uniforms of the first contingent of men who went to France.

Mr. MOORE. Give the substance of it in your own language.

Mr. REID. The substance of it is—and I might go further than that and say that the Bureau of Standards, after Gen. Pershing made a very bitter complaint on the uniforms, which were greatly inferior to the German uniforms, which are the best uniforms in Europe. I regret to say, and also inferior to the French and English uniforms, the Bureau of Standards was asked to verify that conclusion, and unofficially I was told that they found that this shoddy would not even hold—they claimed warmth for shoddy—that it had air spaces in it; that it was not warm; that in any kind of breeze or any kind of mist, even, it was saturated with moisture or cold, if it were chilly.

The CHAIRMAN. Do you know what manufacturers chiefly furnished these shoddy clothes?

Mr. REID. I could find out. It is all a matter of record. The pleas made by the manufacturers, the same as made to the members of the Ways and Means Committee and to Congress for a long time, were that shoddy was a poor man's cloth; that we did not have enough new wool in the country to make clothes for the people; that the manufacturers could not supply uniforms in proper time, and a lot of other things like that, and I am rather satisfied, with what I have heard about Gen. Pershing's report, that none of those things were true. Our uniform was an absolute failure. The first rain those men

got into, they would not hold water, and they were not warm. There is no tensile strength in shoddy. The first time a man went into a trench in training and got wet, if a man reached down and grabbed him by the shoulder to help him out the shoulder came out of the uniform, and that, of course, is just as applicable now as it was then.

Mr. LONGWORTH. Is that the contract that the Eisenmanns had?

Mr. REID. I would not like to say yes or no to that.

Mr. DIXON. What is the price of those shoddy overcoats as compared with the overcoats that they are now getting under this recent legislation?

Mr. REID. I could not tell you the difference in the price of the uniform, but I know that in the department stores of Chicago, Philadelphia, and Boston, where I made personal investigations, the shoddy material sells for just as much or just a fraction less than good clothing. That is the real vicious part of it. If you could buy shoddy materials at a very cheap price, there might be some argument for it, although I think—

The CHAIRMAN (interposing). Can you tell a suit of clothes made out of shoddy?

Mr. REID. It can be told; yes.

The CHAIRMAN. I mean can you tell just by looking at it?

Mr. REID. I could not tell by a chemical test, but I could tell if I wanted to destroy the suit by pulling on it, because if it is all wool it will not react, or if it is all-wool shoddy. People say you dilute wool with cotton, which is bunk, because new virgin cotton has three times the tensile strength that wool has, and it would be mighty good adulteration. The Bureau of Standards recommended unofficially, I believe, if the United States uniforms had been made of pure virgin wool of a sufficient length of fiber to make good clothing, which would be more than 2 inches—that is for the outside—and had the inside been made of virgin cotton, that they would have had a lighter and a better uniform and one that would have lasted under all conditions and had very great tensile strength and warmth and every desirable quality in a uniform; and what we need to do not only in our Army contracts, which I suppose we will have now, but what we need for the clothing for the ordinary man, is the use of virgin wool and virgin cotton, rather than the use of shoddies and other substitutes to debase the standard.

Apparently, not a very large quantity of shoddy is used; but it has been said that certain manufacturers, including some of those ordinarily included in the American Woolen Trust, go ahead and make, for example, a Leicester wool or Lincoln wool, or some other course, strong-fiber wool and run that through in their woolen mills, and they run this shoddy which has been manufactured into a condition that is something similar to wood pulp, and the fiber from rags and old shoddy has no tensile strength; it can not have, because that has all been taken out of it by previous use, and the result is that when that gets into cloth, they make that into woolens and felt it and size it together, which practically means that they glue it together, and produce something that chemically or technically or from a legal standpoint is all wool, but from a clothing standpoint is very poor cloth, and I would say broadly and boldly that the use of shoddy in clothing of any kind ought to be absolutely prevented.

Now, as a method of raising revenue, we import just now only four or five million pounds a year of shoddy, and we use at home from different sources about 62,000,000 pounds.

Mr. MOORE. What is the import?

Mr. REID. We imported last year four million six hundred thousand and odd pounds of shoddy rags.

Mr. MOORE. And how much local shoddy?

Mr. REID. I should not say last year, because this is the census of 1914. You see this is the five-year census. In 1914 we used 62,000,000 pounds of shoddy in woolen manufacture. Now, that just meant that every pound of that went into some poor man's clothing.

Mr. MOORE. Is not England using most of its shoddy now?

Mr. REID. Yes; but, of course, that is a little different proposition. They are handicapped by transportation, and they use it in blankets and felting, and do not use it in their uniforms.

Mr. MOORE. I asked that with reference to imports.

Mr. REID. Yes; I presume England is very largely using it at present. During the war we will not see any very large imports of shoddy; but I believe that if we had an excise tax of 33½ per cent or 36 cents per pound on shoddy in this country and an import tax of the same kind, it would make a very big difference and would raise some revenue.

The ordinary workman in prewar times buys a suit for \$15 or \$20.

Mr. MOORE. What amount of domestic shoddy is used compared with all wool, in domestic use?

Mr. REID. That is rather involved.

Mr. MOORE. Is it going to be more during the war?

Mr. REID. Yes; it has been going up steadily; in fact, the manufacturers advise all over the country that we should not be any less patriotic than our soldiers; that the Government sanctions the use of shoddy and wool substitutes in the uniforms, and therefore as patriotic citizens we should be perfectly willing to pay the same price for inferior clothing which we would be, of course, if there was any necessity for it. Then they give the rottenest uniforms ever manufactured in the history of the world, and then take what little wool they ever had in our so-called all-wool clothing and sell it to us greatly in advance of prewar prices, which does not seem to me necessary.

Mr. MOORE. If you could make a comparison of the use of shoddy with that of domestic wool at the present time, it would be informative upon that line.

Mr. LONGWORTH. How do they keep the price of shoddy as high as they do; is that by a combination or what?

Mr. REID. I was going to say that looking at it from the standpoint of a laboring man, if he goes and buys a \$20 suit which is all wool, so called, that means it is about 90 per cent shoddy generally and about 10 per cent new wool, and he goes ahead and pays say \$20 for that suit, and he buys three or four of those in a year. They are never warm, they are never comfortable, and they are never worth \$20, and he could better afford to buy an all-wool and an all-cotton suit; that is, new virgin cotton for the linings. There is where the big distinction is to be made, in the use of virgin material which has the necessary qualities. He could buy such a suit for \$40

and that would last at least two years, and he would then be paying \$40 instead of \$160 for his clothing.

The reason I lay emphasis on this and bring it up at this time is the great probability that if this war continues for a few more years, which we hope will not happen, we will have to have standard clothing. They claim the German people are using paper clothing and all kinds of fabrics, and in England to-day it is bad form for a man to buy a new suit. He is wearing out all his old clothes and putting the rest of his money into different forms of bonds and paying taxes and doing other things for his country, and if we get to a point over here that we will need to tax the ordinary man to that extent, and if we do establish a standard on clothing, which many textile experts think necessary, we ought to in some way restrict the use of shoddy.

The revenue we would get from it probably would not amount in the United States in prewar times to more than eight or ten million dollars a year, with a 33 per cent tax, and would not amount to more than a couple of million dollars on our imports. We have also got to consider that when the war ends we are going to have all kinds of things dumped on us, and I think there is every possible argument in favor of putting a tax as a revenue measure on a thing of this kind, particularly when everything tends toward the standardization of clothing and the elimination of waste. It would be much better if a man could buy one good suit for \$40 that would last for two years and put the rest of his money into liberty bonds than it would be to wear this inferior stuff.

Wool manufacturers years ago, when schedule K was on the job, divided wool into three classes, and the trouble with that is the manufacturer beat the game. Without going into an argument on schedule K, the manufacturer uses a kind of wool and a class of shoddy that he never dreamed of using 10 or 15 years ago. He uses more and more every year, and the standard in men's clothing and the standard in women's clothing is being steadily debased, and the honest manufacturer has got to face that situation and that is a competition that we have all the way through.

As I said at the start, the great trouble is that the poor people in the poor sections of the country and the people who are thronging together in our big cities go to some of these big department stores and they pay honest prices for fraudulent articles. They do not know any better and the Government affords them no protection, and the way things stand to-day, the possibility of passing a pure-fabric law is very remote; and at this time, while it might look like just a drop in the bucket, I believe it would be a statesmanlike thing to do, and it would ultimately result in the use of raw cotton and raw wool in our fabrics.

When our stuff comes from abroad, you gentlemen who believe thoroughly in free trade used to put a slight tax on oils and some of those things, and the argument has always been that we should take the tax off of the poor man's garments. Well, that is very true, but we should not take it off of shoddy materials.

There ought to be a prohibitive tax placed on inferior materials of that kind, and let the honest, clean materials, let the honest and clean manufactures from other countries, as well as the raw materials, come in, and let us tax out this other stuff that has no honest

reason for existence. There are plenty of other places in manufacture of raw waste, where it could be sold for honest purposes and at honest prices, while the tax could be so handled as to make it prohibitive in clothing.

With regard to statistics, I have gathered together enough statistics so that I could talk figures here all the afternoon, but you probably do not want me to do that. However, if you gentlemen want me to give you figures, I can give them.

The CHAIRMAN. With respect to statistics, what proportion of clothing is now being made out of shoddy?

Mr. REID. Well, I think that about 90 per cent of the cloths which are sold ordinarily as woolens, rather than worsteds, are debased to a greater or less extent by the use of shoddy. That would be about 40 per cent of men's clothing.

The CHAIRMAN. You mean that 40 per cent of the men's clothing is made out of shoddy?

Mr. REID. Practically so.

The CHAIRMAN. How about women's clothing?

Mr. REID. I think women's clothing would show a less proportion, because in the case of a woman's skirt you must have more wool in it.

The CHAIRMAN. And your idea is to tax this shoddy so high that it would be taxed out of existence, so far as men's clothing is concerned?

Mr. REID. So far as clothing for men and women is concerned.

The CHAIRMAN. If about 40 per cent of our clothing is made out of shoddy now, and if we should tax out of existence that raw material, and men's clothing must be made out of virgin wool, would not a suit which is now worth \$40 be worth \$100?

Mr. REID. I think not.

The CHAIRMAN. Would not the demand for woollen clothing be so much out of proportion to the supply of it that they necessarily would have to increase the price considerably?

Mr. REID. That would adjust itself in this way: That if you are ordinarily in the habit of buying four suits a year, and using, roughly, 8 yards of cloth for each—let me say that these are not very accurate figures; it used to be figured years ago that it took 7 yards of cloth to make a woman's dress, but it would take a bold man to figure what it would take now; but we will assume that it would take about 8 yards of cloth for an ordinary man's suit. If he buys four suits in a year, as he does now ordinarily if he is an ordinary laboring man, that, of course, would be 32 yards of material in a year. Now, if he bought one all-wool and all-cotton suit, wool for the outside and cotton for the inside finish, as recommended by the Bureau of Standards as an ideal uniform combination, that would be only 8 yards of material; and in the course of a year we would catch up with ourselves in good shape. There might be a temporary shortage; but you are using 8 yards of stuff that would last you two years, instead of 32 yards each year. So that in the long run you would use just as much in the manufacture of your 8 suits as you would originally in the manufacture of your one suit. I imagine for the time being it might cause some embarrassment.

The CHAIRMAN. Well, do the manufacturers who are sincere and honest in the manufacture of their product estimate the difference in

the life of a virgin wool suit of clothes and a shoddy suit of clothes as two years?

Mr. REID. I think they do; yes. I will say, in favor of some of our manufacturers, that there are a good many manufacturers in Boston, Philadelphia, and other places who came down here to the War Industries Board and asked them, For goodness sake, for the love of Mike, and everything else, not to use that kind of material, especially for the soldiers; that the uniforms would be no good; that the clothing made from such material never was any good and never would be. It is not necessarily a universal practice to use shoddy. Worsted goods are generally in pretty good shape. We have had a lot of camouflage on this subject, however, because ordinary purchasers have insisted that cotton goods should not be mixed with the wool, because it adulterated the wool. As a matter of fact, the really vicious thing is placing on the market so-called women's garments in which shoddy and other substitutes are used.

Mr. O'SHAUNESSY. I did not quite understand your statement about the mixture.

Mr. REID. I said there was a lot of camouflage about it, and that lots of people said that cotton was an adulterant of wool. As a matter of fact, in virgin wool and virgin cotton, you have an ideal garment.

Mr. O'SHAUNESSY. What do you call that?

Mr. REID. I would have the outside of virgin wool, and the inside of virgin cotton.

Mr. O'SHAUNESSY. Well, that is with regard to the method of manufacture. I asked, What would you call it?

Mr. REID. I would just call it an all-wool suit with a cotton lining.

Mr. O'SHAUNESSY. And what is your definition of shoddy?

Mr. REID. That would be a pretty complex proposition; but shoddy is, roughly, rags and wool waste, and all kinds of wool which has been previously used.

Mr. O'SHAUNESSY. What I wanted to get at was this: There is no virgin wool in it, is there?

Mr. REID. A certain amount of virgin wool is put on the machine so that the shoddy will hold together in the manufacture of so-called all wool, which is very poor stuff. The distinction was between virgin wool and shoddy wool.

Mr. HAWLEY. In your estimate of the number of pounds of wool in a suit of clothes, you based that on the scoured contents and not on the raw contents, did you?

Mr. REID. Yes. An ordinary suit weighs 5 pounds as you pick it up and purchase it—exactly.

Mr. HAWLEY. And the scoured contents are only about one-third of the raw contents of the wool?

Mr. REID. Well, I would not agree to that. I think the scoured content is a little less than 50 per cent. It would depend on the character of the wool. That is a very involved subject. Our manufacturers years and years ago used to claim that it took 4 pounds of wool in the grease to make one pound of scoured wool. Perhaps that was true then; it is not true with our present methods of manufacture; you do not lose more than about 50 per cent of the wool in the grease. But with wool selling at 60 cents a pound to-day, if you lost 5 pounds in the manufacture, you would have only \$6 worth of raw



material which goes into your suit. Now, there is a great deal of difference between this \$6 worth of raw material and the shoddy which goes into the suit. And if you give the manufacturer 100 per cent profit, the jobber 100 per cent, and the retailer 100 per cent, it makes only about \$40.

The CHAIRMAN. If you have finished, Mr. Reid, we will hear the next witness.

Mr. Glass, representing the Newspaper Publishers' Association, will appear before the committee Friday instead of to-day. We will hear Mr. Phillips, of the bottlers' association.

Mr. PHILLIPS. With the permission of the chairman, I would like to introduce Mr. Carr, of our association.

The CHAIRMAN. Will he speak for the association, instead of you?

Mr. PHILLIPS. Yes, sir.

The CHAIRMAN. Then we will be glad to hear him. What is your full name, Mr. Carr?

**STATEMENT OF MR. FRANK P. CARR, REPRESENTING AMERICAN BOTTLETS' PROTECTIVE ASSOCIATION AND PENNSYLVANIA BOTTLETS' PROTECTIVE ASSOCIATION.**

Mr. CARR. Frank P. Carr; residence, Philadelphia, Pa.

The CHAIRMAN. And what business are you in?

Mr. CARR. I am engaged in the bottling business; I am a practical bottler.

The CHAIRMAN. Whom do you represent?

Mr. CARR. The American Bottlers' Protective Association. I am here, not for the purpose of combating any tax or revenue that might be put upon us, but rather to help if we can; and to call the attention of the committee to the fact that some of the conditions that prevailed when this original bill was drafted and went into effect have materially changed in our line, in the way of sugar, labor, gas, and the like.

We furnish to the public what is called a 5-cent drink; and the tax that was placed upon our business has been entirely absorbed by the bottling trade—that is, by the manufacturer—without placing it upon the public at all. So, under those circumstances, while I, speaking for those engaged in the business, am ready and willing, and would be too glad, to assume any burden that might be placed upon us, at the same time we would like the consideration of the committee, before any final arrangement as to a scale is arrived at, of a brief which we have had prepared in our behalf and which we would like to present to the committee.

The CHAIRMAN. All right.

Mr. CARR. And if the committee cares to have Mr. Phillips make a further statement, I will be glad to have him follow me.

The CHAIRMAN. Does your brief cover the whole subject?

Mr. CARR. Yes, sir.

The CHAIRMAN. Then that will be sufficient. We will have that printed.

Mr. CARR. Would you care to hear Mr. Phillips further? He is the secretary of our association. Of course, I am only a practical bottler. He might be able to enlighten you further.

Mr. MOORE. I should like to ask Mr. Carr a question before he leaves. Are you the president of the National Association of Bottlers?

Mr. CARR. No; I am president of the Pennsylvania association.

Mr. MOORE. There is a national association, is there not?

Mr. CARR. There is a national association, of which Mr. Phillips is secretary. My being here to-day is on account of the absence of Mr. Wagner, who is the national president; and as he was unable to be here I am speaking in his place.

Mr. MOORE. You speak more particularly for the Pennsylvania association, do you?

Mr. CARR. Yes, sir.

Mr. MOORE. What would you say as to the suggestion made here a day or two ago, as to passing the increased tax on to the consumer?

Mr. CARR. Well, I suppose eventually whatever arrangement would be made the tax would have to be placed upon the consumer anyhow, because our business has been taxed up to the very limit. What I mean by that is that we have absorbed that tax; and of course if the additional tax should be placed on our business, we would naturally have to make an increase in our prices.

Mr. MOORE. As that question would naturally arise, I would like to get the Pennsylvania view of it. I would like to know how you stand on the proposition of putting a direct tax on the glass in the soda-water fountain, or drug store, or grocery store, or wherever it may be sold.

Mr. CARR. Eventually that would be what would have to be done, because the bottler could not stand any further tax, in my judgment.

Mr. MOORE. I have here a suggestion from Chicago; I presume other gentlemen on the committee have also received it. It is with regard to the price of beer; that is not your commodity?

Mr. CARR. No.

Mr. MOORE. Although it might apply also to Bevo, or some of those other near-beer preparations, as well as to soft drinks like soda water.

Mr. CARR. And sarsaparilla, ginger ale, etc.

Mr. MOORE. Yes; sarsaparilla and the phosphates, and things of that kind. The suggestion was that the prices should be fixed at 10 cents retail.

Mr. CARR. A glass?

Mr. MOORE. Yes; so that it might be made to cover any increased tax that Congress imposed on the business. At present we tax the bottler.

Mr. CARR. Yes, sir.

Mr. MOORE. That is, the manufacturer pays the tax and he has absorbed it. Now, the proposition is that we might help the manufacturer by letting him increase his price, and then levy a tax per glass to be checked up at the drug store or at the point where the soda water is served. What would you say to that if it came as a last resort?

Mr. CARR. Well, I do not know that a 10-cent drink would be practicable among the class of people with whom we do business.

Mr. MOORE. No; I mean it has been suggested here that the retail price should be raised to 10 cents a glass, instead of 5 cents as at present.

Mr. CARR. I think that would operate against us in the sales.

Mr. MOORE. Well, you are being handicapped by the lack of sugar, are you not?

Mr. CARR. Very much so.

Mr. MOORE. And you can not produce as much soda water as there is demand for, as I understand.

Mr. CARR. That is very true. But, of course, we feel that these conditions will last only during war times; and if in the meantime we should go out of business we would be in a very bad position when the war ended.

Mr. MOORE. Yes. Of course, we would hope that the tax would be taken off when the war ended and normal conditions were restored. It would take time, but it would be the hope of Congress, I assume, to take the tax off as soon as the war is over.

Mr. CARR. Well, in the city of Philadelphia, for instance, there is an additional population of over 200,000 who have come there within the last year. And we can not begin to give the service we should on account of lack of sugar and lack of help. In our line of business, where men could be obtained for from \$14 to \$16 a week they are now asking for \$28 or \$30, making it physically impossible to serve them, with the prices not being raised against the public; with the prices at the original figure, it is a physical impossibility to meet those conditions. So that what we want to do, as I say, is just to drift along until the conditions change; and, of course, our business would still be with us.

Mr. MOORE. In the brief you have submitted have you made any suggestions as to a change in the present law?

Mr. CARR. There has been a suggestion; yes, sir.

Mr. MOORE. If that is discussed, I will not ask you for an answer as to that.

Mr. PHILLIPS. That is discussed in the brief submitted.

Mr. GARNER. I want to ask Mr. Carr a few questions before Mr. Philipps takes the stand, Mr. Moore, if you are through.

Mr. MOORE. I only wanted to get from Mr. Carr a statement as to whether they had made any suggestions for a change in the law.

Mr. CARR. I believe the brief covers that.

Mr. MOORE. All right.

Mr. GARNER. Mr. Carr, your complaint is that your business now is taxed to the limit if the business is expected to absorb the tax and not pass it on to the consumer?

Mr. CARR. At the present time; yes, sir.

Mr. GARNER. Suppose Congress should decide to levy a tax to be paid by the consumer; to illustrate, suppose the bill should require each man who bought a 5-cent glass of soda water or ginger ale, or whatever it might be, to give you the 5 cents and at the same time furnish a stamp from the Government at 1 cent.

Mr. CARR. Well, of course, that would create another condition. We find now that it is a physical impossibility to get labor; and the stamp end of the arrangement would add to our burden rather than that of the consumer.

Mr. GARNER. In what way would it add to your burden?

Mr. CARR. We would have to supply the labor to take care of those stamps.

Mr. GARNER. Would it require a great deal more labor to receive a 5-cent piece and a stamp at the same time than it would to receive a 5-cent piece?

Mr. CARR. You understand that we sell to the trade, and they in turn sell to the consumer.

Mr. GARNER. I am not talking about taxing you. I am talking about taxing the man who buys the drink and not you. You would have nothing to do with the tax at all.

Mr. CARR. I thought we would, when you spoke of the stamp.

Mr. GARNER. You would not have any occasion to raise your price; you would not have any occasion to absorb it; but each individual who buys a soft drink would 1-cent tax for each 5-cent drink he buys. What would you think of that?

Mr. CARR. And the man who sells that individual a drink would collect that stamp?

Mr. GARNER. Yes.

Mr. CARR. Well, of course, our business would remain the same; there would be no reason for our attempting to raise prices or do anything else.

Mr. GARNER. You would have no objection to a tax of that kind, would you?

Mr. CARR. Under those circumstances we would have no objection to working it out that way.

**STATEMENT OF MR. WILLIAM T. PHILLIPS, SECRETARY AMERICAN BOTTLERS' PROTECTIVE ASSOCIATION, NEW YORK CITY.**

The CHAIRMAN. Mr. Phillips, please state your full name.

Mr. PHILLIPS. William T. Phillips.

The CHAIRMAN. Where is your home?

Mr. PHILLIPS. New York City. I am secretary of the American Bottlers' Protective Association. We have made suggestions for a slight raise in the present tax in the brief which has been submitted by us. The figures given there are about all the additional burden the industry could stand; and we would like to have your consideration of that brief.

We presume you gentlemen are familiar with the fact that the bottling business is a small business. The great majority of the manufacturers represent a very small capital.

Mr. GARNER. Suppose we take the tax entirely off of you as a manufacturer and place it on the consumer, as I just illustrated to Mr. Carr, what would you say about that?

Mr. PHILLIPS. I think that would be an ideal condition.

Mr. GARNER. That would give us between \$30,000,000 and \$50,000,000, whereas under the present system we get only an insignificant portion of that.

Mr. LONGWORTH. I suppose this is probably the only tax in the entire revenue bill that has not been passed on.

Mr. GARNER. Probably it is; and if we are taxing that industry, I see no reason why we should not place it where the retailer would not have an opportunity of increasing the price, under the pretense that he is paying a war tax, and at the same time draw to the attention of the man who is buying that drink that he is really paying a

tax, and in addition—which is more important by a great deal—we would in this way produce more revenue for the Government.

Mr. PHILLIPS. Yes. And I may say in relation to that, as Mr. Carr has told you, that the business has practically absorbed all of the taxes it can stand; and at the same time we must preserve a ratio between the selling price and the price at which the dealer buys it, because he must pay the expenses of icing it and handling it; but if he can pass the tax on to the ultimate consumer, that would be a good solution.

Mr. GARNER. Suppose we had a law of the character I have just spoken of, and you were to walk into a drug store and say, "I want to buy a glass of soda," or Coca-Cola, or whatever it might be, and the man would go to serve you; you would first hand him a 5-cent piece, and then you would hand him a stamp printed by the Treasury Department amounting to 1 cent.

Mr. PHILLIPS. That is an arrangement that would relieve the bottler of all responsibility and increase the revenues of the Government.

Mr. GARNER. Yes; by 1,000 per cent.

Mr. MOORE. You would not have anything to do with it, as I understand.

Mr. STERLING. Why not place it on both? He says he can stand a little more.

Mr. PHILLIPS. We could stand just about what we have got now; we could absorb that. It must be remembered that everything the bottler uses at the present time is taxed; there is a war tax on everything. We are reduced or curtailed on our sugar supply; we are facing another cut of, perhaps, 50 per cent; and our business is simply trying to keep afloat until the war is over, and we ask you gentlemen not to sink the ship.

**STATEMENT OF MR. WILLIAM B. HATFIELD, BROOKLYN, N. Y.  
REPRESENTING AMERICAN BOTTLETS' PROTECTIVE ASSOCIATION.**

Mr. HATFIELD. There is a revenue tax on sugar of 1 cent a pound and that amounts to a tax on soda water.

The CHAIRMAN. Please state your full name, your residence, and occupation.

Mr. HATFIELD. William B. Hatfield. I am a practical bottler, of Brooklyn, N. Y., and have been for 30 years.

Mr. PHILLIPS. He is a member of our committee of the American Bottlers' Protective Association.

Mr. GARNER. Undoubtedly, as you say, Mr. Hatfield, the cost of manufacturing soda water has gone up, as the cost of everything else has.

Mr. HATFIELD. Yes, sir.

Mr. GARNER. And I am suggesting a method by which the Government could get at least \$50,000,000 revenue, and yet you gentlemen would have to contend with nothing except the rise in the prices of material that goes into the manufacture of your product. Congress can not undertake to control that, of course.

Mr. HATFIELD. No.

Mr. GARNER. But that would obviate the necessity of your being here; it would only be a question then of how much the voting population of the United States would take revenge on Congress for taxing those drinks. [Laughter.]

Mr. HATFIELD. I do not think they would.

Mr. GARNER. I do not think so, either.

Mr. HATFIELD. I do not think so; the retail prices of cigars have all gone up.

Mr. GARNER. I think a great many people would be very glad if we would adopt some kind of taxation to keep their children from the soda fountains—at least, to some extent.

Mr. HATFIELD. They have accepted the tax on moving pictures very gracefully.

Mr. GARNER. They have accepted the tax on moving pictures, and they will accept this.

Mr. HATFIELD. If you will only let it stand as it is and put the tax on the consumer I think you will find it will work more satisfactorily, and at the same time you will get more revenue. I know that we can not stand any more tax in the city of New York to-day in the soda-water business. I am not a millionaire. I have spent 30 years in the business, and I have made \$2,000 or \$3,000 a year. Now, there is no man in the city of New York, outside of one or two big concerns, that is making any more than I do. It is not a large industry. You gentlemen may look at it in the light of a few of these great big concerns that sell sirups. But there is no concern in the city of New York, where there are 400 bottlers, that is making much money, outside of those few big sirup concerns I spoke of. You can see that when the industry is divided up among 400 bottlers in New York it is a small industry as to each individual concern. And you can see where we have to pay an increased cost on everything we use; everything we use is taxed. Sugar is the biggest material the bottlers use; and my little tax on sugar of 1 cent a pound cost me \$800 last year. Now you can see the amount of sugar that is used in the industry. That is the first item taxed. Now come the extracts; we are taxed on them under the revenue law. Next comes the gas; we are taxed on that. Everything we use is now taxed. Mr. Bruckner explained that here last year.

Mr. GARNER. But the suggestion I made would relieve you.

Mr. HATFIELD. Yes; I think it would be a very good thing if that could be put into effect.

The CHAIRMAN. Are you gentlemen not putting all of this tax up to the people to whom you sell?

Mr. HATFIELD. No, sir; the industry absorbs it.

The CHAIRMAN. What do you manufacture?

Mr. HATFIELD. Soda water and ginger ale.

The CHAIRMAN. Ginger ale; all right; how much were you getting last May for ginger ale?

Mr. HATFIELD. For 2 dozen bottles, 50 cents.

The CHAIRMAN. Two dozen bottles for 50 cents; you were getting a little more than some of the men who appeared before the committee last October.

Mr. HATFIELD. We are telling the honest facts.

The CHAIRMAN. Now, what are you getting for it?

Mr. HATFIELD. Sixty cents.

The CHAIRMAN. Well, what do you add on the 10 cents for?

Mr. HATFIELD. The principal item of increase was labor.

The CHAIRMAN. And sugar?

Mr. HATFIELD. The price of sugar is being controlled. If sugar was not controlled there would not be the volume of soda water there is to-day; we could not buy sugar.

The CHAIRMAN. But you put that extra 10 cents on the price principally on account of material?

Mr. HATFIELD. No; principally on account of the price of labor. You see, at the time we were getting 50 cents we were paying 8 cents for sugar; now we are paying 7½ cents on account of the control by the Food Administration. If it was not for that control we would have to pay 25 cents for sugar.

The CHAIRMAN. And you are passing that on to the retailer?

Mr. HATFIELD. Yes, sir.

The CHAIRMAN. You are passing that on to the retailer; and they tell me that the retailer has added from 200 to 1,000 per cent to the consumer's price.

Mr. HATFIELD. I do not think that is correct.

The CHAIRMAN. In some cases soda fountains do that. Take Coca-Cola, for instance.

Mr. HATFIELD. Yes, sir; but the average price of soda water in the territory of New York City at retail is 5 cents a drink. I am speaking now about a situation that I know about.

The CHAIRMAN. Have you cut down the quantity in the bottle?

Mr. HATFIELD. No, sir; the quantity has remained the same. It would cost an enormous amount of money to change the size of the bottle.

The CHAIRMAN. Well, the case that you sell to the retailer for 60 cents contains 24 glasses, does it?

Mr. HATFIELD. Yes, sir.

The CHAIRMAN. And the retailer gets \$1.20 for what he pays you 60 cents for?

Mr. HATFIELD. Yes, sir.

The CHAIRMAN. So that if there is any increased price charged to the consumer it is the retailer who does it and not you?

Mr. HATFIELD. Yes, sir.

The CHAIRMAN. And the retailer makes, selling it at 5 cents a glass, 100 per cent profit?

Mr. HATFIELD. Instead of 70 cents, he gets 60 cents profit.

The CHAIRMAN. In other words, he pays you 60 cents and sells it for \$1.20, thereby getting 100 per cent profit?

Mr. HATFIELD. Yes, sir.

The CHAIRMAN. So that the retailer could stand a little tax, could he not?

Mr. HATFIELD. I think he could.

The CHAIRMAN. All right. Is there any gentleman present who was on the program for Saturday who failed to appear then?

Mr. HAWLEY. Mr. Chairman, before we adjourn, Representative Reavis wanted to be heard this afternoon.

The CHAIRMAN. I understand Representative Reavis is not in his office this afternoon.

We will adjourn until to-morrow morning at 10.30.

(The brief submitted by Mr. Phillips is here printed in full, as follows:)

WASHINGTON, D. C., June 17, 1918.

WAYS AND MEANS COMMITTEE,  
*House of Representatives.*

DEAR SIR: The American Bottlers' Protective Association of the United States, with a membership of State and local organizations of manufacturers of carbonated beverages in New York, Massachusetts, Connecticut, Tennessee, Maryland, Illinois, Pennsylvania, Iowa, Wisconsin, Kansas, Missouri, Minnesota, Nebraska, Texas, Arkansas, Indiana, Ohio, South Dakota, Kentucky, and Michigan—30 associations in all—presents for the consideration of your honorable committee the following recommendations with reference to the proposed war-revenue measure of 1918:

Realizing the need of the Government for funds to carry the present great struggle for human liberty to a successful conclusion, the carbonated beverage industry, already decimated by the wisdom of the United States Food Administration and taxed by the present revenue law, is willing to assume still further burdens of taxation.

It is therefore recommended to your committee that section 313, subsection (a), of the present war-revenue measure be changed, for the purposes of the new law, to read as follows:

"Sec. 313. There shall be levied, assessed, collected, and paid (a) upon all prepared sirups or extracts (intended for use in the manufacture or production of beverages, commonly known as soft drinks, by soda fountains, bottling establishments, and other similar places) sold by the manufacturer, producer, or importer thereof, if sold for not more than \$1.30 per gallon, a tax of 0 cents per gallon; if sold for more than \$1.30 and less than \$2 per gallon, a tax of 9 cents per gallon; if sold for more than \$2 and not more than \$3 per gallon, a tax of 12 cents per gallon; if sold for more than \$3 and not more than \$4 per gallon, a tax of 18 cents per gallon; if sold for more than \$4 per gallon, a tax of 22 cents per gallon."

It is further recommended that for the purposes of the new act, subsection (c) of section 313, be rewritten as follows:

"(c) Upon all natural, table, or spring waters sold by the producer, botler, or importer thereof, in bottles or other closed containers, at over 5 cents a gallon a tax of 1 cent per gallon, and on all such waters sold for and over 10 cents per gallon, a tax of 2 cents per gallon."

It is further recommended that the tax upon carbonic acid gas sold in drums and other containers (intended for use in the manufacture or production of carbonated water or other drinks) sold by the manufacturer or importer thereof be placed at 6 cents, instead of 5 cents as provided in the present measure.

In presenting the foregoing the fact is urged upon your honorable committee that the carbonated beverage industry has been one of the hardest pressed by war conditions; that the recommendations heretofore presented represent about all the additional burdens the industry can stand; that bottled carbonated beverages are made essential by reason of popular demand, and furthermore they are the only article of food, refreshment, and comfort, the price of which has not been advanced almost beyond the reach of the average wage earner.

The bottler to-day is fighting for his life, we leave his fate in your hands, trusting in your wisdom, fairness, and justice.

Respectfully submitted,

AMERICAN BOTTLERS' PROTECTIVE ASSOCIATION OF THE UNITED STATES,  
WM. T. PHILLIPS, *Secretary.*  
WM. B. HATFIELD,  
FRANK P. CARR.

(Thereupon, at 2.30 p. m., the committee adjourned until Tuesday, June 18, 1918, at 10.30 o'clock a. m.)



# REVENUE BILL

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No. 10

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## HEARINGS

BEFORE THE

## COMMITTEE ON WAYS AND MEANS

HOUSE OF REPRESENTATIVES

WITH REFERENCE TO

## THE NEW REVENUE BILL

[THIS PRINT OF THE HEARINGS IS SUBJECT TO REVISION  
BEFORE THE FINAL PRINT]

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JUNE 18, 1918



**COMMITTEE ON WAYS AND MEANS.**

**HOUSE OF REPRESENTATIVES.**

**SIXTY-FIFTH CONGRESS, SECOND SESSION.**

**CLAUDE KITCHIN, North Carolina, *Chairman.***

**HENRY T. RAINEY, Illinois.**

**LINCOLN DIXON, Indiana.**

**CORDELL HULL, Tennessee.**

**JOHN N. GARNER, Texas.**

**JAMES W. COLLIER, Mississippi.**

**CLEMENT C. DICKINSON, Missouri.**

**WILLIAM A. OLDFIELD, Arkansas.**

**CHARLES R. CRISP, Georgia.**

**GUY T. HELVERING, Kansas.**

**GEORGE F. O'SHAUNESSY, Rhode Island.**

**JOHN F. CAREW, New York.**

**GEORGE WHITE, Ohio.**

**JOSEPH W. FORDNEY, Michigan.**

**J. HAMPTON MOORE, Pennsylvania.**

**WILLIAM B. GREEN, Iowa.**

**CHARLES H. SLOAN, Nebraska.**

**NICHOLAS LONGWORTH, Ohio.**

**GEORGE W. FAIRCHILD, New York.**

**JOHN A. STERLING, Illinois.**

**WHITMELL P. MARTIN, Louisiana.**

**WILLIS C. HAWLEY, Oregon.**

**ALLEN T. TREADWAY, Massachusetts.**

**JOHN E. WALKER, *Clerk.***

# REVENUE BILL.

COMMITTEE ON WAYS AND MEANS,  
HOUSE OF REPRESENTATIVES,  
*Tuesday, June 18, 1918.*

The committee met at 10.30 o'clock a. m., Hon. Claude Kitchin (chairman) presiding.

There were also present Representatives Rainey, Dixon, Hull, Garner, Collier, Dickinson, Oldfield, Crisp, Helvering, O'Shaunessy, White, Moore, Green, Sloan, Longworth, Sterling, Martin, Hawley, and Treadway.

## STATEMENT OF MR. STEPHEN FARELLY, GENERAL MANAGER AMERICAN NEWS CO., NEW YORK, N. Y.

The CHAIRMAN. Give your full name and address and state whom you represent.

Mr. FARELLY. My name is Stephen Farelly, my residence New York, and I represent the American News Co.

The CHAIRMAN. Are you a publisher yourself?

Mr. FARELLY. No, sir; we publish nothing. We act as distributing agents for from four or five hundred different publishers. We distribute their entire products, except the single copies that go to individual readers on subscription. Our postage bill that we paid the department last year was \$464,000. That shows something of the extent to which we use the mails. It represents about 20 per cent of our total shipments.

Mr. GARNER. How much does it represent?

Mr. FARELLY. It represents about 20 per cent of our total shipments.

Mr. GARNER. Going by post?

Mr. FARELLY. Yes, sir.

Mr. GARNER. For which you paid something over \$400,000?

Mr. FARELLY. We paid last year \$464,000. We use the mails to distant points and to the suburban sections of the leading cities. We have distributing houses in 63 different cities of the country to which we send quantities of the publications by freight, and from there they are sent by express or mail to smaller places. The trouble with us in carrying out the law as it is now prepared and as it is to be put into effect after July 1 is this: That we make up packages ranging from 10 to 50 pounds that may contain from 20, 30, to 40 different publications, on which we would have different rates of postage. For instance, one magazine has, we will say, 27 per cent of advertising and the remainder reading matter, and it weighs, we will say, about 6 ounces. Another one, we will say, contains 42 per cent of advertising matter and 58 per cent of literary matter and another one, we

will say, has 17 per cent of advertising matter and the remainder reading matter. All of those publications will be going into the same package.

Now, when we have to multiply that by 15 or 20 publications, you can see the perplexing difficulty that will be caused, if it is not an impossibility, and the enormous amount of expense involved in figuring out the various rates of postage on those various packages, as well as the difficulty we will have in satisfying the Post Office Department that they contain just that amount of advertising matter and just that amount of reading matter. If we were to deliver them to the post office and they were to attempt to verify our statements, a great additional amount of labor would be required. The receiver of second-class matter in the New York City post office requested the department to furnish additional help, and they proposed to let him have three or four men to handle that matter, but, as a matter of fact, it will take more than 40 men to handle it. We ship from 5 to 20 tons per day, and one day recently we shipped 22 tons in several hundred packages.

Now, if we comply with this law, and, of course, we are bound to do it, it will involve this enormously expensive process of tabulating the contents of each package separately, and of each magazine separately, going to make up the grand total, and then the post-office officials who will have to check over it. That will involve a tremendous amount of labor and the employment of a great many additional men. Those are some of the practical obstacles in the way. Then, again, if we are to comply with this law, I would like to learn what is the disposition of this committee in regard to foreign publications. We have been handling a great many foreign publications, such as the London Times, Punch, the Graphic, Manchester Guardian, and a number of other publications. Now, if we are required to conform to this law in regard to these publications, then the sales in this country will not be sufficient to justify the expense that would be incurred in making the necessary statement required in the case of the domestic publisher.

Mr. MOORE. Have you discussed that matter with the postal officials?

Mr. FARELly. I have discussed it with Mr. Burleson, with Mr. Koons, and with the Third Assistant Postmaster General, and they have said that they would try to make it as easy for us as possible.

Mr. MOORE. Is not that, as well as the other general propositions you raise, a question of administration purely?

Mr. FARELly. Well, the question of foreign publications involves Canadian publications also. For instance, there is a large number of publications coming from Toronto and Montreal. As I have said, there is a large number of English publications coming in. We receive them by every incoming steamer from London. Of course, it is a question of whether or not this committee would consider that as one of the matters for its administration.

Mr. MOORE. I know how vast that problem is. I have some knowledge of it, and I can understand what your problem is, but I was wondering while you were making your introductory statement whether that apportionment of the advertising and literary matter would not be made before the publication came into your hands. Would not that apportionment be made in the office of the publication?

Mr. FARELly. Each publication is required to state in print in its sheet the percentage of advertising and the percentage of reading matter, but each publication carries a different percentage of reading matter, and that percentage varies with every issue of the same publication, and then the rate varies with the different zones, each zone having a different rate.

Mr. MOORE. Would the Postmaster General expect you to make that accounting, or would he require it to be made in the office of the publication?

Mr. FARELly. The publisher furnishes that information to us, but we have to put all of those different publications up into packages containing many different publications, each publication having a different rate of postage. If the Government should require us to mail each one separately, it would require on the part of the Government the handling of 40 pieces of mail instead of one package.

Mr. MOORE. Do not the regulations that have been issued by the Postmaster General cover that point?

Mr. FARELly. They cover it only in a general way, but specifically we would have to carry it out as I have suggested. Then, if the Government were to attempt to check our statement or verify our statement, it would involve enormous expense to the Government.

Mr. MOORE. It would be a matter of additional labor and of additional accounting, would it not? That is the difficulty, is it not?

Mr. FARELly. Yes, sir; that is the chief difficulty.

Mr. MOORE. Which you think would be put upon the American News Co. rather than upon the publishers?

Mr. FARELly. The publishers' proposition is that of handling single copies of the publications, and that is really quite simple. He distributes single copies of the publication to individual subscribers, and that is quite a simple matter, but when we have to assemble four or five hundred different publications, carrying different percentages of advertising matter and reading matter, it is a very different proposition. It will involve for us an amount of work that will make it very nearly unworkable, so much so that I can not think that those who framed the bill thought of that situation.

Mr. MOORE. That is a serious problem, but the question is whether or not it is one that lies between yourself and the Postmaster General, and whether, considering the vastness of your business, it is a matter that should be adjusted by postal regulation rather than by law.

Mr. FARELly. I presume it is within the discretion of the Postmaster General to make a liberal ruling, and I believe that in the exercise of his discretion he can make a ruling practically setting aside the direction of Congress.

Mr. MOORE. Is your distribution made altogether from your New York headquarters?

Mr. FARELly. No, sir; we distribute from all of our different distributing centers, of which we have some 63, in every city of any size in this country. Nearly every city of any size in this country is a distributing center, and we distribute to that center usually by freight, which is lower in cost, of course, than mail.

Mr. MOORE. Have you a distributing center at Chicago?

Mr. FARELly. Yes, sir.

Mr. MOORE. How far west do you distribute matter?

Mr. FARELly. We go as far west as Portland, Oreg., Seattle, San Francisco, Los Angeles, and San Diego.

Mr. MOORE. Do you ship there in bulk?

Mr. FARELLY. Yes, sir; we ship there in bulk.

Mr. MOORE. Taking an eastern publication, for instance, you would send it by freight to Portland?

Mr. FARELLY. Yes, sir.

Mr. MOORE. And it would be distributed from that point?

Mr. FARELLY. Yes, sir.

Mr. MOORE. You said that one day recently you shipped as much as 22 tons of publications. Just how many motor trucks or vehicles would that require?

Mr. FARELLY. Well, we generally put a load of about 5 tons on a truck. The distance is not great, and the hauling is level. Our motor trucks carry 5 tons or more.

Mr. MOORE. Where you make through shipments, do you send them by express or by freight?

Mr. FARELLY. Usually by freight. All of these bulk shipments to our distributing points are made by freight, except on the Pacific coast, where they are made by mail at the present rate.

Mr. MOORE. Do you make shipments of the Ladies Home Journal and the Saturday Evening Post?

Mr. FARELLY. Yes, sir; we make large shipments for what we call trade sales.

Mr. MOORE. Are those shipments made direct from Philadelphia?

Mr. FARELLY. Yes, sir; they are made direct from Philadelphia.

Mr. MOORE. Except, I suppose, such as you would probably distribute around New York?

Mr. FARELLY. Yes, sir.

Mr. MOORE. We provided in this law for the distribution of publications from any post office. Does not that tend to relieve the situation somewhat with regard to eastern publications?

Mr. FARELLY. It does somewhat with regard to the distribution, but it does not overcome in any way the great labor and expense involved in the separation and tabulation of these varying percentages of advertising matter and reading matter.

Mr. MOORE. The old law provided for or required shipments to be made from the point of publication.

Mr. FARELLY. No, sir; it was just the same as the present law. It is the same as the law has been for all time, or for the last 30 or 40 years. We have shipped to Chicago by freight, and we have sent that matter by mail from St. Louis, Cincinnati, and other points.

Mr. MOORE. My recollection is that it was complained at the time we were considering this law that it would be a hardship if we required distribution to be made, so far as the zones were concerned, only from the post office of publication. I am referring, of course, to postal matter and not to freight matter.

Mr. FARELLY. Well, that has been the rule in the past. There has been no change in that respect, as I understand the law, and our postmaster has made the same interpretation of it; that is, that it continues as it has been for the last 30 or 40 years.

Mr. MOORE. I think the committee would be glad to have you state whether in the handling of these bulk packages we could aid in any way, or have aided in any way, by providing for distribution in bulk in unbroken packages, as it were, from any post office.

MR. FARELLY. This unquestionably continues the same privilege that we have had in the past, and it does not hamper in any way that part of it. That is a great advantage over the ruling that they could only be shipped from the office of publication. If we were compelled to pay the eighth zone rates on shipments from New York, it would be a great hardship.

MR. MOORE. To what extent do you use parcel post?

MR. FARELLY. Very little, or scarcely at all. In fact, we do not use it at all for second-class matter.

MR. MOORE. You handle other business besides that of distributing newspapers and magazines, do you not?

MR. FARELLY. We have two other departments, a book department and a stationery department, which do quite a large business.

MR. MOORE. Do you use the parcel post much in those departments?

MR. FARELLY. Yes, sir; to a great extent, in the stationery department especially, and, also, in the book department.

MR. MOORE. How does that service work as compared with the express service?

MR. FARELLY. Well, for short distances it is less usually than the cost of the express service.

MR. MOORE. We had some testimony a day or two ago concerning express companies at Boston that complained that the parcel post had a decided advantage over them in the local trade going out from the city of Boston.

MR. FARELLY. I think that is correct. I think that on local shipments for a short-distance haul, the parcel post has the advantage. I think that is true of second-class matter and I do not know that it is even eligible to the parcel-post rate.

MR. GARNER. Yes, it is.

MR. FARELLY. We do not use it for that purpose.

MR. GARNER. You do not use it because of the fact that it costs you a great deal more money on second-class matter to send it by parcel post than under the present system?

MR. FARELLY. Yes, sir.

MR. GARNER. When this system goes into effect, you will have to pay more money than you have to pay now to the Post Office Department?

MR. FARELLY. If it goes into effect, it seems to me that it would be so difficult of enforcement that it would drive a great deal of business out of the post office, and, instead of paying \$464,000 a year, I do not think we would pay half that amount to the Post Office Department.

MR. GARNER. How would you handle your publication?

MR. FARELLY. We could utilize motor trucks and trolley cars to suburban sections. We would use that service for all the local sections. The operation of this law will bear heaviest upon the citizens of the smaller villages. As to the larger cities, we can cover them without the use of the mails. Now, there is a great misapprehension as to the cost of handling second-class mail matter. A few weeks ago Mr. Koons said that it costs \$3.60 to bring second-class mail matter from New York to Washington. We have a distributing point here at Washington, and we ship matter by freight here at a cost of only 40 cents.

Mr. GARNER. Per hundred pounds?

Mr. FARELly. Yes, sir; per hundred pounds. The department claims that it costs \$8 to ship matter from New York to the Pacific coast. The department says that it costs the Government \$3.60 per hundred to ship matter from New York to Washington, and they claim it costs \$8 per hundred to ship it to the Pacific coast. We can make those shipments to the Pacific coast in carload lots at a cost of \$2.85 per hundred. The blue tag-system of the Post Office Department means really a slower service than freight. We can ship a carload of freight from here to San Francisco and make as good time, or better, than it makes under the blue-tag system of the Post Office Department.

Mr. STERLING. By slow freight?

Mr. FARELly. Yes, sir. The Post Office Department uses slow freight and frequently makes better time. For instance, those shipments get to Kansas City ahead of the mail shipments, because the mail involves so much transshipment.

For instance, mail shipments under the yellow-tag system will go from here to Pittsburgh, where it may be transferred to freight and carried to St. Louis, and at St. Louis it will again be transferred to the mails. There would be involved three separate handlings of this second-class matter, involving much delay to the shipments and much confusion in regard to false consignments. It frequently happens that a consignment from here to San Francisco is separated in the cars, and you will find that a part of your shipment will reach San Francisco one day, or, perhaps, three or four days, and sometimes a week before the second consignment arrives, which for a publication with a stated date of issue is very confusing. Sometimes a package consigned to San Francisco goes to Portland, Oreg., that confusion resulting from the three separate handlings of the matter. It has always been a curious proposition to me, and I have thought a great deal about it and have discussed it a great many times during the last 40 years, and that is how the Government can claim such an enormous expense in the handling of second-class matter, as against the rate that we have by freight. I trust that the committee will consider very carefully the matter of deferring action under this law until such time as a newly amended bill may be presented.

My thought was that it ought to be some flat rate, instead of taking certain pages of a publication at one rate and certain pages of the same publication at another rate, which would be very confusing. Let the publishers pay the Government revenue in the form of a revenue tax on advertising, and let the publications go through at 1 cent per pound. If they pay a certain percentage on their receipts from advertising, the Government would secure its revenue from the publishers in a manner that would be entirely fair and equitable, because then the tax would go where it belonged.

Mr. MOORE. Do you advocate a tax on advertising?

Mr. FARELly. That, it seems to me, would be the equitable way of levying it.

Mr. MOORE. As you know, we will have to raise more revenue than we did last year.

Mr. FARELly. You could raise unlimited revenue there, it seems to me, according to the publishers' incomes.

Mr. MOORE. Do you think that would be the equitable way of doing it?



Mr. FARELLY. That has always struck me as the proper thing to do.

Mr. MOORE. What would you say to a tax on circulation?

Mr. FARELLY. A tax on circulation would be very indefinite. Some of the publications have a very small circulation, and I do not think that would be based upon a real sound principle, but a tax on income or net revenue would be perfectly equitable and easily adjusted. Again, there is another proposition that was submitted to the Post Office Department at the time when Charles Emory Smith was the Postmaster General. It was estimated at that time that if the rate were continued at 1 cent per pound, with the provision that each package was required to pay at least 1 cent, it would mean \$34,000,000 of additional revenue. I have in my pocket here a sample of second-class mail matter weighing 1 ounce. You can distribute 16 of these pieces of mail throughout the United States, in 16 different States, all for 1 cent, or if it weighs 2 ounces, you can distribute 8 of them for 1 cent, and, of course, that costs the Government an enormous amount of money. Now, if you were to provide for a minimum charge of 1 cent on each package being sent at the pound rate, it would yield, according to the statistics, \$30,000,000 of additional revenue.

Mr. MOORE. How would you compare that with sending through the mail this publication, the Railway Age, which weighs about 1 pound?

Mr. FARELLY. Yes, sir; it weighs about a pound; but they have a very large percentage of advertising.

Mr. MOORE. Would they pay less on that publication, as compared with the one you have referred to?

Mr. FARELLY. No, sir; that publication weighs a pound, and the Government can afford to carry those publications weighing a pound at that rate.

Mr. MOORE. This publication has a large percentage of advertising?

Mr. FARELLY. Yes, sir; and if you tax them on their income from advertising, it would be entirely fair and equitable. That is the most logical thing to do. I would like to refer again to the foreign publication. If it is contemplated that they will be required to conform to the rules laid down for the enforcement of this law after July 1, or be barred from the mails of this country, it is a question whether they would take the trouble to do it. The aggregate business in foreign publications is quite large. Canada has quite a number of publications coming into this country, especially from Toronto and Montreal. We handle many London publications, such as the London Times, Punch, Sketch, etc., and also the Manchester Guardian, and other papers. They come here in considerable quantities, and we would like to know what the disposition of this committee would be with regard to foreign publications.

Mr. MOORE. Do you know whether any foreign Governments tax American publications?

Mr. FARELLY. They do not. They carry them in Canada at the second-class rate when they are registered as entitled to that privilege. The Canadian postage is one-quarter of a cent per pound on second-class matter. As a war measure, they have reduced postage rates instead of increasing them.

Mr. MOORE. Are you familiar with the conditions in France?

Mr. FARELLY. No, sir; I am not familiar with the conditions there.

Mr. MOORE. It has been said that France does tax our publications.

Mr. FARELLY. I think that is a mistake.

Mr. MOORE. I do not think it is.

Mr. SLOAN. At what rate are Canadian publications carried in the United States?

Mr. FARELLY. They are carried by mail free for delivery here. Our Government gets nothing from those publications shipped by mail from Canada here.

Mr. SLOAN. Publications issued in Canada would be carried to any point in the United States for one-fourth of a cent a pound?

Mr. FARELLY. Yes, sir; the Canadian Government gets that. We do it for nothing.

Mr. SLOAN. A Canadian publication would be carried from Canada, or from the point of publication, to any point in the United States for a quarter of a cent per pound?

Mr. FARELLY. Yes, sir; that being the rate in their own country, and the same rate would prevail on this side according to the postal agreement. As I have already stated, the enforcement of this law at this time will mean great confusion. Of course, the Post Office Department has the best disposition in the world, and Mr. Burleson has said that they would make it easy for us, but they do not realize what we are up against. They do not realize it.

Mr. MOORE. I suppose you have about as large a problem as anybody in the United States in this connection.

Mr. FARELLY. Larger.

Mr. MOORE. No one concern probably has so much involved in it as yours.

Mr. FARELLY. No one concern; no sir. The individual publisher's proposition is very simple. Take the Curtis publications, for instance, the Ladies Home Journal and the Saturday Evening Post; they are forced to raise their rates. You are probably aware that the Saturday Evening Post is going to cost 10 cents a copy in order to meet these increased cost conditions, because that is where the publishers are up against quite a serious proposition.

Mr. SLOAN. They are increasing in size?

Mr. FARELLY. Scarcely, and I have seen no indications of that. It costs 7 or 8 cents to make the Saturday Evening Post and it has been selling for 5 cents a copy.

Mr. MOORE. In these war times is not that about the only step they can take?

Mr. FARELLY. It is a perfectly reasonable one.

Mr. MOORE. Because prices are going up in all other directions. The admission price to moving pictures, the price of a glass of soda water, the price of groceries and the price of all other commodities have gone up, so why should not the price of newspapers go up?

Mr. FARELLY. Nearly all the magazines have increased their rates to some extent.

Mr. MOORE. We are dealing here solely with a war measure.

Mr. FARELLY. But I believe these increased rates will prevail after the war. I think the increased expense connected with these magazines will prevail after the war, because the labor proposition is a serious one in connection with the business.

Mr. SLOAN. The increased tax to be placed on the publications you have been speaking about, for the fiscal year 1919, beginning the 1st of July, would be how much a pound; that is, under the law that is about to take effect?

Mr. FARELly. Well, it would be very difficult to form an estimate, because the estimate must be based on quantities.

Mr. SLOAN. It is just so much a pound, is it not?

Mr. FARELly. Within certain zones; yes; but there are eight different zones.

Mr. SLOAN. As I understand it, for distant carriage they use freight instead of the mail.

Mr. FARELly. Yes; for sending publications great distances they use freight, although for sending small parcels they use the mails.

Mr. SLOAN. The rate on reading matter is just a quarter of a cent.

Mr. FARELly. Yes; a quarter of a cent increase, a cent and a quarter for reading matter in all the zones at the present time, but the advertising rate bears a different rate in each of the zones. That is why its application is such a serious matter for us, and it will force us out of the mails to a large extent.

Mr. SLOAN. This increased carriage charge would not warrant the doubling of the price of the publication, would it?

Mr. FARELly. No; not strictly speaking; it would not warrant that.

Mr. SLOAN. Have you any definite opinion as to how much the Government actually loses every year in the carriage of this second-class matter? We have heard various statements from various sources, but have you an opinion that you would like to give the committee on this point?

Mr. FARELly. I have followed the matter with a great deal of care for 30 or more years and have appeared before the Post Office Committee of the House many times. Their estimate is that the cost from New York to Washington is \$3.65 per hundred, while we ship for 40 cents. Mr. Koons, who appeared for the Post Office Department, said that it cost \$8 per hundred pounds to ship to the Pacific coast, while we can ship for \$2.85.

Mr. SLOAN. That is just the carriage?

Mr. FARELly. Yes.

Mr. SLOAN. I was speaking by and large of the whole system, and that is what I wanted to get your opinion on, if you have one. An isolated shipment between New York and Washington might indicate something, but it might be a small part of the whole problem.

Mr. FARELly. It is a most serious problem and one well worth considering.

Mr. SLOAN. Suppose you take the whole postal problem of the United States. You perhaps have as good a view as anybody in private life. In your opinion how much does the Government lose on second-class matter in a year?

Mr. FARELly. It would be very difficult to say. There is one thing the Government does not take into account, I have found, and that is the profit they can make on the short hauls. For instance, we will send a package by mail at a loss to the Government, the rate being 1 cent a pound, and it is clear they can not ship at that rate. They in turn ship to surrounding territory at that same rate and take in the short hauls.

Mr. SLOAN. I notice you analyze it, but I was speaking synthetically of the whole matter. What is your opinion as to this class of matter, as to how much, if anything, the Government loses per annum in carrying this second-class stuff?

Mr. FARELly. I would put it far below the estimate.

Mr. SLOAN. How far below?

Mr. FARELly. It is only an estimate at best. I went into that very elaborately some years ago when Mr. Wanamaker was Postmaster General.

Mr. SLOAN. I was opposed to a change in this law in the beginning, but now that we have it, we ought to stay with it, unless you can show a good reason for discarding it.

Mr. FARELly. The operation of the law in distinguishing between two classes of matter I think is a mistake as a revenue-producing proposition. A tax upon the total revenue of the product itself, the total income or profit or income from advertising would seem to me the most equitable way to meet that proposition, because the present method is so nearly inoperative that it would lead to endless confusion, and would certainly interfere seriously with many small publishers, who could not stand the additional charges put upon them.

Mr. SLOAN. Could you tell us how much the Government actually loses on carrying this second-class matter every year? I have heard it stated that the loss was anywhere from \$70,000,000 to \$90,000,000.

Mr. FARELly. They claim from \$30,000,000 to \$40,000,000.

Mr. SLOAN. I have heard it stated higher than that. What is your estimate?

Mr. FARELly. The reports are that they charge up all the deficit to the second-class matter; it is a mistake to so charge it, but they attribute all of the deficit to the second-class matter.

Mr. SLOAN. I do not care about those reports. You are here now, and I would like to know what you think about the loss.

Mr. FARELly. I think it is far below what they estimate, if you do not ignore the benefit to first-class matter, and I think it has been clearly demonstrated that there is a benefit to first-class matter. From 1872 the postal rate on magazines was 3 cents and on weekly papers it was 2 cents a pound. The development of reading matter, first-class reading matter, in the 10 years following was enormous, from 1872 to 1882, and it added enormously to the revenue of the first-class mail. That was so to such an extent that the department concluded it would reduce the rate from 2 cents on the weeklies and 3 cents on the magazines to 1 cent for the purpose of encouraging the dissemination of literature that brought revenue through the first-class mail.

Mr. SLOAN. I am quite familiar with those arguments, but what I wanted to find out was whether you accept the basis that the Post Office Department uses and consider the second-class mail carriage by itself, not interrelated with these other matters that you suggest. They say it has been the source of a loss to the extent, sometimes, of \$70,000,000 or \$90,000,000 a year. Now, how far are they incorrect? You assume a basis that they do not, but leaving out these philosophical suggestions that come up about spreading literature, intelligence, and all of that, what would you estimate the loss to be?

Mr. FARELly. If we were to estimate from our own business relations with the department, we could form a pretty close estimate,

but the department charges what they claim to be all of their overhead expenses. Now, that means the whole administration of the department in Washington and of the department throughout the country. That being so we could not form any estimate as to how far economies could be established in those departments in order to reduce their estimates. If they estimate \$3 from New York to Washington, and we pay only 40 cents, the remainder is for overhead charges, and we have no way in the world of estimating how far they could economize to reduce those overhead charges.

Mr. SLOAN. Then you have no opinion as to whether or not their estimate of the loss is correct or incorrect?

Mr. FARELLE. I am confident it is far overestimated.

Mr. SLOAN. How much overestimated, because we would like to know how much we are losing.

Mr. FARELLE. I look upon it as at least double.

Mr. SLOAN. Then, that would fix the loss at how much per annum?

Mr. FARELLE. The expenditures over receipts I estimate to be anywhere from \$15,000,000 to \$20,000,000.

Mr. SLOAN. That is your estimate?

Mr. FARELLE. That is my estimate. The rural free delivery costs nearly \$40,000,000, and from that they get no return whatever. It has been said to me here that every department ought to bear the expense of conducting its own business.

Mr. GREEN. Do you not know that the rural free delivery had greatly increased the first-class postage by causing so much more of that matter to go to the rural districts?

Mr. FARELLE. I think that is unquestionably correct, but I do not think it covers any \$40,000,000.

Mr. GREEN. Did I understand you to say that it only costs you 40 cents to send your matter from New York to Chicago?

Mr. FARELLE. No; from New York to Washington.

Mr. GREEN. What is the express rate?

Mr. FARELLE. The express rate is from 75 cents to \$1, but the claim of the Post Office Department, or at least Mr. Koons stated, that it cost the Government over \$3—\$3.65 I think it was—to bring it from New York to Washington.

Mr. STERLING. You mean from Washington to San Francisco?

Mr. FARELLE. No; from New York to Washington. They claim that from Washington to San Francisco it costs \$8, while we can ship it there for \$2.85.

Mr. STERLING. By freight?

Mr. FARELLE. Yes; and our freight reaches there before the mail by this blue-tag system of three separate handlings.

Mr. STERLING. The publishers of second-class matter send their publications by freight to distant post offices and have them distributed there.

Mr. FARELLE. The Post Office Department?

Mr. STERLING. No; the publishers; they send their second-class matter by freight to the distant post offices.

Mr. FARELLE. I do not think to any extent; I think nearly all will go through the channels of our post offices, and a great deal of the business of the news companies is carried on in that way.

Mr. STERLING. You say you do it, but take the magazine publishers in your city, or take the Curtis publications. They do not leave Philadelphia through the post office, do they?

Mr. FARELLY. Almost entirely.

Mr. STERLING. All of them?

Mr. FARELLY. Not all, but most of them.

Mr. STERLING. Take those you send to Chicago; do they go through the post office? Do you deliver them to the post office there?

Mr. FARELLY. I am not entirely sure in regard to the Curtis publications, because they have an enormous number of individual subscribers, and a great percentage of their circulation is through individual subscriptions, and I am quite confident they go through the mail. However, those that are for distribution through their sales agents are shipped to Chicago in the same way we ship, and they are there distributed by local agents?

Mr. STERLING. You send them by freight?

Mr. FARELLY. Yes, sir.

Mr. STERLING. Do you handle them?

Mr. FARELLY. To some extent, but not to the same extent we do the others.

Mr. STERLING. What publications do you handle?

Mr. FARELLY. Well, we supply the news departments; we have no subscription department; of some 40,000 to be supplied about 8,000 receive all of their supplies through the mail, and the remainder goes by freight and express.

Mr. STERLING. What publications do you send out to these news agents through your organization?

Mr. FARELLY. Well, all of the Butterick publications, Everybody's Magazine, Harper's Magazine, Scribner's, McClure's, etc.

Mr. STERLING. In sending them to Chicago, you send them by freight, do you?

Mr. FARELLY. Yes, sir.

Mr. STERLING. Whether they are for the news stands or whether they are for the individual subscribers?

Mr. FARELLY. They are all for news stands; we have no individual subscribers to whom we ship in that manner.

Mr. STERLING. You did that before the law was changed last year?

Mr. FARELLY. We have always done that.

Mr. STERLING. Both before and since the law went into effect.

Mr. FARELLY. Yes, sir.

Mr. STERLING. In that way those publications that do business through subscribers get the benefit of the 1-cent rate?

Mr. FARELLY. Well, they are shipped from the office of publication at 1 cent a pound, regardless of the distance. Take Harper & Bros., they send to all their subscribers direct from New York, and to any distance, at 1 cent.

Mr. STERLING. Under this new law, when the zone system goes into effect the first of the month, what will they do with reference to the publications that go to individual subscribers?

Mr. FARELLY. That really will not concern us, because they must regulate that in accordance with the provisions of the law. They must report to the Post Office Department what proportion of the magazine is subject to the advertising rates, and the zone to which it goes; they must report back to the department and pay the postage accordingly.

Mr. STERLING. Could they not send the publications to San Francisco by freight or express and deliver them to the San Francisco post office and have them sent out to the individual subscribers?

Mr. FARELLY. They could, and they will doubtless avail themselves of that after the law is in force.

Mr. STERLING. They have done it under the law? They are doing it now, are they not?

Mr. FARELLY. No; there is no necessity for it at the present time, because it is carried for 1 cent from the office of publication to any distance.

Mr. STERLING. But they will do that after this law goes into effect?

Mr. FARELLY. I think they will be compelled to do it.

Mr. STERLING. And in that way they will get the low rate, that is, the near zone rate?

Mr. FARELLY. Yes.

Mr. STERLING. That will not be any great hardship on them, will it?

Mr. FARELLY. Well, it depends on how far they ship from here and what proportion of advertising they carry, and no two will carry the same amount of advertising.

Mr. STERLING. You complain about charging the advertising expense at one rate and the literature at another. Is it not a very simple matter to take a magazine, weigh it, and then apportion the weight between the advertising part and the literary part? Would it not be a very simple matter to just take one volume and do that and then multiply it by the number of volumes that are published?

Mr. FARELLY. That is a very simple matter, yes, but when you do that for, perhaps, 20 or 30 different publications it is another thing, each having a different rate of postage and carrying a different amount of advertising and reading matter. Then, again, those quantities will change from month to month. One will carry 20 per cent of advertising, another 30, another 50, and so on, so that to do as you suggest would be very difficult indeed.

Mr. STERLING. You put a number of these publications into one package, do you not?

Mr. FARELLY. Yes, sir.

Mr. STERLING. Say there are a dozen of them in one package. You know just how many separate pieces there are of each publication so that it would not be a very difficult matter to determine the amount of advertising contained in a dozen pieces of one publication, how much literature, and so on, and just by figuring on those different things you get at the whole proposition.

Mr. FARELLY. If we could get at the proposition in that way, we might feel quite happy over the prospects, but the trouble is that these things change every month, and no two magazines represent the same proposition, and we have over 400 different magazines to deal with.

Mr. STERLING. You say these things change every month. You mean by that that the amount of space used for advertising and literature changes in the various magazines?

Mr. FARELLY. Yes, sir. If we could make a general scale that would be applicable to every magazine and say that it was so much for each magazine it would simplify the matter, but no magazine is the same in any two months.

Mr. STERLING. But they prescribe a certain amount of space for advertising and a certain amount for literature, do they not?

Mr. FARELLY. I never knew one of them not to take all of the advertising they could get.

Mr. STERLING. And only a change in business conditions would justify a change, which does not come very often.

Mr. FARELly. I can not recall any magazine that ever refused any advertising.

Mr. STERLING. Let us suppose that this month 50 per cent of the space in a magazine is advertising and 50 per cent is literature, and that next month they raise it to 60 per cent. That is not a very difficult problem, is it?

Mr. FARELly. If that were the only thing, it would not be a difficult problem, but we have 400 of them and each have a different rate.

Mr. STERLING. If you are going to make the volume of business the determining factor, that is another matter.

Mr. FARELly. But you can not escape the fact that a great many of these publications will be put in different packages and that they will all carry a different rate, and that if the Government is to be expected to go into each separate package to determine the rate it is going to add enormously to the expense of the Government. It would be necessary to estimate the cost of each publication and make up a list of the contents of the package and say that it contains so many pages of advertising and so many pages of reading matter, and all of that would add immensely to the cost of doing business as well as to the cost of mailing.

Mr. STERLING. If you handed me a magazine, how long would it take me to estimate the amount of advertising in that magazine?

Mr. FARELly. It would take you a long time.

Mr. STERLING. I beg your pardon; it would take me but a very few minutes.

Mr. FARELly. It would take you a long time if it were applicable to the various zones, but if it were only a proposition of getting at the percentage of advertising in the magazine, you could do it in a very few minutes, but when the magazines differ and various amounts are contained in them, then it becomes a serious proposition.

Mr. STERLING. That is all done by a zone scale. You just take your percentage of advertising, you have your zone scale before you and glance at it in order to determine that.

Mr. FARELly. But what is the Government going to do when it gets to the packages? Is it going to open them all and verify the statements that have been made?

Mr. STERLING. That is not necessary. They do not open them now, do they?

Mr. FARELly. Not generally; no.

Mr. STERLING. You take a country newspaper. They take the publisher's word for it nine times out of ten, although every once in a while they will weigh it.

Mr. FARELly. But it is so easily verified at the present time, for instance, as to weight, and they always verify the weight of the matter we send.

Mr. STERLING. Now, another question on another line. How many publications do you handle?

Mr. FARELly. More than 400 different publications.

Mr. STERLING. And you handle the entire output of those publishers?

Mr. FARELly. Not those that go to single subscribers, but as to those that are sold by news agents we are supposed to handle the entire edition.



Mr. STERLING. How many of those publications have increased their advertising space in the last year?

Mr. FARELLY. Well, I am not familiar with the extent of all their advertising.

Mr. STERLING. All of them have increased their advertising space in the last year, have they not?

Mr. FARELLY. A great many have decreased the advertising space in the last six months, or at least since the war began.

Mr. STERLING. Have not a great many of them increased their advertising space by at least 25 per cent?

Mr. FARELLY. I think there are only a few that have reached anything like that.

Mr. STERLING. You heard Mr. Koons's testimony before this committee last year, or read it, and heard his testimony before the Senate committee, or read it, did you not?

Mr. FARELLY. I heard it.

Mr. STERLING. Did you hear him testify that some of these magazines have greatly increased their advertising space?

Mr. FARELLY. Yes.

Mr. STERLING. And their income from advertising is probably a great deal more—that is, the increased income is a great deal more than their increased postage rate would be under that law?

Mr. FARELLY. I doubt whether they have increased to that extent.

Mr. STERLING. Those that have not increased their advertising space have increased their advertising rates, have they not?

Mr. FARELLY. I think not; it would kill off many of them if they did that.

Mr. STERLING. But some of them have increased their advertising rates, have they not?

Mr. FARELLY. Very few.

Mr. STERLING. Have any of them increased their subscription rates?

Mr. FARELLY. Very few.

Mr. STERLING. But some of them have?

Mr. FARELLY. Yes. Some of them have had to increase their subscription rates because the cost of making up the magazines has so greatly increased over the cost of a few years ago.

Mr. STERLING. Do you come here in the interest of your company alone, or do you come here at the instance of the publishers?

Mr. FARELLY. I have had no interview with the publishers whatever concerning it. I represent no one publisher. I speak with regard to the general proposition of the tax upon these two sections as being an unwise method of raising revenue from post-office transactions.

Mr. STERLING. What would you say of abolishing the zone system and making it a flat rate, to increase the flat rate so that they will have to pay just what it costs the Government to carry it.

Mr. FARELLY. That would simplify matters immensely.

Mr. STERLING. Would you recommend that?

Mr. FARELLY. My preference would be for the flat rate, decidedly.

Mr. STERLING. Even though it multiplied the rates two or three times?

Mr. FARELLY. Well, I think that if the rates were multiplied two or three times it would certainly result in a good many of the weaker

publications going out of business, and that others would have to increase their advertising rates in order to justify it; or charge the increase to the readers, the consumers; I believe the consumers would finally pay the increase in rates in the course of time.

Mr. STERLING. Do you not think it would be a good thing for the country if a good many of these publications did cease to exist?

Mr. FARELLY. I have heard that question argued, the statement being made that the existence of so many magazines destroys the taste for reading books, but if I could have time enough to show you the character of the books now being offered to the public I think you would agree that the magazines have performed a good service if they destroy a taste for the reading of those books.

Mr. STERLING. Do you not really believe that the country would be better off if a great many of these so-called magazines were abolished?

Mr. FARELLY. If you had the right sort of discrimination, doubtless that might be so, that it would be better if a good many publications that are now being placed before the public were abolished. But the company I represent is not at liberty to discriminate against them. We carry on the transactions of a news company and are not at liberty to discriminate between the good ones and those that are otherwise. We are not censors of the press.

Mr. STERLING. The really meritorious publications would survive an increased rate. would they not?

Mr. FARELLY. Well, unfortunately, some of the meritorious ones are the first to fall by the wayside.

Mr. STERLING. What are they? Name some of them.

Mr. FARELLY. Well, take Harper's, Scribner's, and magazines of that sort.

Mr. STERLING. Do you think that an increased rate would stop Harper's?

Mr. FARELLY. No; I do not think it would stop them.

Mr. STERLING. Name some of those very meritorious publications that you think would be destroyed by an increased rate. I wish you would name some of them.

Mr. FARELLY. I think they are principally the trade publications, and I would not be justified in naming them.

Mr. STERLING. Take some of the so-called popular magazines. Would it affect the Literary Digest? Would it stop the Literary Digest?

Mr. FARELLY. To have the flat rate increased?

Mr. STERLING. Yes.

Mr. FARELLY. No; I do not think it would.

Mr. STERLING. The Scientific American?

Mr. FARELLY. No; I do not think it would.

Mr. STERLING. The Review of Reviews?

Mr. FARELLY. No.

Mr. STERLING. But you think the publications that it would injure would be the technical journals?

Mr. FARELLY. They would unquestionably be injured.

Mr. STERLING. The trade journals?

Mr. FARELLY. Yes, sir.

Mr. STERLING. How about the farm papers?

Mr. FARELLY. Well, the farm papers are an expense to the Government because of their free delivery in the counties.

Mr. STERLING. Would many of the meritorious farm papers be put out of business by increasing the rate to the point where they would pay for their distribution?

Mr. FARELTY. We really know very little about the expense of the farm papers. They are limited almost entirely to subscribers and advertisements, and very few of those papers are sold by news agents, and very little would come within our knowledge as to their circulation.

Mr. GREEN. Either I did not understand you or else you must not understand the situation. Are you speaking of farm papers?

Mr. FARELTY. Farm papers; yes.

Mr. GREEN. I am afraid you do not understand that situation thoroughly, because some of their subscription prices are only 50 cents a year?

Mr. FARELTY. Yes; and sometimes they are only 25 cents a year. However, they do not come within the scope of our business, and, therefore, we know very little of their circulation or what they live upon, but we presume it is advertising.

Mr. GREEN. And they make immense profits out of it.

Mr. FARELTY. I presume that is true of some of them. I made the suggestion earlier in the day that a tax upon receipts from advertising would be the simplest and most equitable that could be imposed and that no one could find fault with that.

Mr. GREEN. Perhaps no one could properly find fault with it, but our experience is that no matter what law we enact, there are always people who will find fault with it.

Mr. FARELTY. You will always find somebody who finds fault with any enactment you may make, unquestionably, but if you were to put a tax upon receipts from advertising matter, and have it apply to all of the popular publications, some of which carry 50 per cent, the revenue of the Government would be largely from those publications. A flat rate would be something that could be clearly understood and the publishers could make their rates accordingly, and their subscription rates and their advertising rates would be based upon the flat rate that had been established.

Mr. GREEN. But would not that tend to develop the long hauls, which are so expensive to the Government? If you can do something that will have a tendency to supply the people in the same way, and yet, in a measure, decrease these long hauls, that would surely effect a saving for the Government, would it not?

Mr. FARELTY. To be sure, but as I have already stated, I am not willing to justify their claim for the expense of these long hauls. They claim it costs \$8 to ship to San Francisco, whereas we can ship, in the same length of time, for \$2.80.

Mr. GREEN. But it does cost more for a long haul than for a short haul?

Mr. FARELTY. Unquestionably.

Mr. GREEN. And, therefore, if we can devise some plan whereby the people would be equally well served, and at the same time have a tendency to cut down on these long hauls, we would make a saving for the Government?

Mr. FARELTY. If you took no account of the educational features of these magazines and left them entirely out of the question, then the zone system would be logical, but the zone system must be taken

into consideration as bearing on the whole project and not on one section of it.

Mr. GREEN. Is not a magazine or periodical just as educational if it is published in Chicago as if it is published in New York or Boston, where all the intellect is supposed to exist.

Mr. STERLING. Most of them are published in Philadelphia.

Mr. FARELLY. Boston was the literary center of the previous generation; it gradually went to Philadelphia, but finally centered in New York.

Mr. MOORE. Most good things started in Philadelphia, did they not?

Mr. FARELLY. Well, they came from Boston to Philadelphia.

Mr. MOORE. And some of them migrated westward?

Mr. FARELLY. Yes. It seems to me that it is the simplest proposition in the world to have one rate and have it adjusted on the whole product. It is the separation of these that I come here to complain about, and suggest that we ought to have some relief from this separation of the two parts.

Mr. MOORE. Have you actually recommended the postponement of the law?

Mr. FARELLY. You might prepare a new law in such a way that the present law, going into effect July 1, might be entirely proper, but it might be so seriously changed that it would embarrass the publishers very much.

Mr. MOORE. But, in all fairness, that law was passed on October 3, 1917, and the publishers have been fairly well advised about it.

Mr. FARELLY. They are no better off than they were in October last year.

Mr. MOORE. I suppose the conditions are the same, and that they simply felt that they could not or would not meet the conditions. The Post Office Department has formulated its regulations, which, as I understand it, have been placed in the hands of the publishers.

Mr. FARELLY. Yes, sir; they have been in our hands for a long time.

Mr. MOORE. But that does not remove the basis for your suggestion that there should be some postponement of the operation of the law?

Mr. FARELLY. No, sir.

Mr. MOORE. Suppose there was a postponement of it, or that the carrying out of that provision of the law was deferred until, say, three months or six months later, would you be in any better position in respect to it?

Mr. FARELLY. That would not relieve the situation in the slightest degree. The only point is that under the provisions of the revenue law you might arrive at some flat rate, either a zone rate for the whole publication or a flat rate per pound.

Mr. MOORE. The magazines and newspapers do not agree on that. You are probably aware of the fact that they do not agree on the establishment of a flat rate. I brought that before the House myself, and got quite a large vote on it, but it was not successful.

Mr. FARELLY. It is best for the publisher——

Mr. MOORE (interposing). The difficulty of it is that you can not get the publishers of the magazines and newspapers to agree on that proposition. What would have been satisfactory to the magazines was not satisfactory to the newspapers.

Mr. FARELly. Yes, sir.

Mr. MOORE. Mr. Sterling asked you a number of questions, which induces me to ask you to restate the proportion of business that you do by mail, independently of that done by freight or express?

Mr. FARELly. About 20 per cent by mail. About one-fifth of our shipments are made by mail at the present time.

Mr. MOORE. You use the post office only to the extent of about 20 per cent of your entire business?

Mr. FARELly. Yes, sir. Now, in carrying out the present law, there will be great confusion because of the constant change in the publications having one rate to-day and being changed next month, or with the next issue to another rate. The administration of that will be a very troublesome and expensive proposition.

Mr. MOORE. Have you any suggestions to make as to how the law might be amended to meet those conditions?

Mr. FARELly. Not with the present wording of the zone system provisions relative to advertising and the different rates. I do not see any way by which that could be done. A flat rate on the whole product is the only way that I can suggest.

Mr. MOORE. We are confronted with the President's message demanding increased revenue, and Mr. McAdoo estimates that \$8,000,000,000 must be raised by taxation.

Mr. FARELly. Well, there are two ways to raise it. It can be raised by taxing advertising or by making a minimum charge of 1 cent on each package, which would increase the revenue \$30,000,000.

Mr. MOORE. I am sure that some of us are obliged to you for making the suggestion. A tax of that kind was resisted last year.

Mr. FARELly. Yes, sir. The farm journals also objected to that because they do not weigh a pound; but in no event would that represent more than 12 cents to a subscriber.

Mr. MOORE. Of course, the advertising could be readily traced.

Mr. FARELly. Yes, sir; very simply traced.

Mr. MOORE. And it would facilitate distribution?

Mr. FARELly. It would not interfere in any way with distribution. The distribution could be made at a flat rate by taxing the advertising, and you would be placing the burden where it belongs. My proposition would be to start by deferring the operation of this law until such time as a new bill could be framed, and perhaps you might be able to devise some much simpler method of raising additional revenue for the Post Office Department.

Mr. GREEN. How much revenue do you think could probably be raised from a tax on advertising?

Mr. FARELly. That would really be a guess or estimate not based on any knowledge. Some of the larger ones would yield large revenue, while some of the smaller ones are almost eaten out of existence.

Mr. GREEN. Your plan would be to levy a flat percentage tax on the advertising rates?

Mr. FARELly. Yes, sir.

Mr. GREEN. At 1, 2, 3, or 4 per cent, or whatever rate was agreed upon?

Mr. FARELly. Yes, sir; you had better place it where it belongs. Place it on the man who makes the profits or revenues from that source.

Mr. SLOAN. You mentioned the fact that the center of these great publications is in New York and along the Atlantic coast. Is not that very largely due to the fact that publishers have had for a number of years past the advantage of a flat pound rate which carried their products from New York to San Francisco, and to all intermediate points, for 1 cent per pound?

Mr. FARELLY. That is true, but it likewise applies to every city in this country. In San Francisco the problem is the same thing. Their publications have had a greatly increased circulation during the past three or four years, because the Government ships them through to the eastern country on the 1-cent rate.

Mr. SLOAN. And the two cities that seem to prosper most, one being San Francisco and the other New York, have been the ones that published at great distance from their subscribers, and have had their product carried at a flat rate throughout the country.

Mr. FARELLY. Yes, sir.

Mr. SLOAN. Do you not think that if a flat rate for the transportation of other articles of manufacture were established, it would shift the manufacturing in the East to the middle part of the country?

Mr. FARELLY. It has always been maintained that the Post Office Department was not a commercial proposition, and it was never thought that it would handle second-class matter at the same rate at which merchandise was handled. The mails were established for the benefit of the people at large.

Mr. SLOAN. But when you make the advertising feature a parasite upon the literary portion, it becomes an entirely different proposition.

Mr. FARELLY. Well, let the advertiser pay for it.

Mr. SLOAN. The advertising is purely a business proposition. It actually seeks to obtain dollars, and not to give information.

Mr. FARELLY. That is a commercial proposition, and it would be perfectly reasonable to make it pay accordingly. It is a perfectly legitimate proposition to increase the revenues from that source, but as to the zone system applying to second class matter, I do not think that is a fair proposition. For instance, on the zone line, when you go over the Covington Bridge to the other side of the river, Covington gets it cheaper than Cincinnati does.

Mr. SLOAN. That is one of those arbitrary conditions that must be fixed in all business, and in your operations, no doubt, there are certain points beyond which you charge an increased rate.

Mr. FARELLY. Yes, sir; that is correct, as applied to general merchandise. It applies entirely to general merchandise, and if the Post Office Department were conducted as a mercantile proposition it would be entirely justified in having it, also.

Mr. SLOAN. But where business enters and treats it as a mercantile proposition, why should they not bear the expense?

Mr. FARELLY. If you are referring to advertising, from which they are deriving their large revenue, I say let them pay accordingly. Of course, the poor man would be lower in advertising, and he ought not to be taxed under the zone system.

Mr. SLOAN. He has an exemption.

Mr. FARELLY. Five per cent is exempt. While most publishers are opposed to any increase of rates, yet, logically, if an increase could be made on some uniform plan covering the whole proposition, all of them would be treated alike. It is under this present zone

system of separating the two things that the confusion will arise. So far as we are concerned, we are utilizing motor trucks and trolley systems to quite an extent, and we will have to increase that service very largely if the zone system goes into effect.

Mr. SLOAN. The more you do that the less the Government will lose.

Mr. FARELLY. That may be.

Mr. SLOAN. If you go ahead and ship or transport those publications and do not give them to the Government, the Government will save that much of its loss.

Mr. FARELLY. I understand that the Government's system of arranging transportation rates is based on a certain measurement made at certain times, and that they ship under that agreement any quantity delivered to them, whether 1 ton or 5 tons.

Mr. GARNER. Do you believe that second-class mail matter ought to pay its way through the post office or mails?

Mr. FARELLY. I certainly do not. I think it is the greatest aid that the Government has for raising revenue from the first-class matter.

Mr. GARNER. Then, there would be no possible opportunity for a person who believed that it ought to pay its way through the mails to come to an agreement with you as to what method we should adopt with that end in view?

Mr. FARELLY. As I have stated, a tax on advertising would be the most equitable way, coupled with a flat rate.

Mr. GARNER. Here, for instance, is a magazine printed in New York, and it is sent through the mail to San Francisco. It contains 80 per cent of advertising—

Mr. FARELLY (interposing.) Yes, sir; in some instances.

Mr. GARNER. Now, that is a commercial business, and why should it not pay the same rate to the post office that a pair of shoes, or a pair of pantaloons, or any other commercial article would pay?

Mr. FARELLY. It would pay, if you taxed its rates of advertising.

Mr. GARNER. What do you mean by taxing its rates of advertising?

Mr. FARELLY. The large advertiser would pay to the Government a certain percentage of his gross receipts. If they were 80 per cent, he would pay more than the man whose advertising receipts were 12 per cent.

Mr. GARNER. Under our present Parcels Post System, a certain rate is paid on articles sent to San Francisco, but he would pay a different rate from New York to Washington. Your proposition is to have one identical rate for second-class matter from New York to Washington and from New York to San Francisco?

Mr. FARELLY. I think that would be the proper thing.

Mr. GARNER. You are contending that the same rate should apply from New York to San Francisco as from New York to Washington?

Mr. FARELLY. I have just remarked that I think the Postal Department has been considered as something entirely separate from any commercial proposition.

Mr. GARNER. Do you use the Parcels Post System?

Mr. FARELLY. Not for second-class matter, but for merchandise. We ship bound books and stationery to a very large extent by parcel post. That is not included in the amount I said we had paid on account of second-class matter.

Mr. GARNER. Then you contend that the charge for first, third, and fourth class matter should be such as to make up for the loss that the Government sustains in carrying second-class matter?

Mr. FARELLY. I would not make that statement,

Mr. GARNER. You said a moment ago that you did not think that second-class matter ought to be required to pay its way through the mails. If it does not pay its way through the mails, and you do not levy sufficient taxes or make a sufficient charge for carrying other classes of mail, then the loss must be met out of the Treasury.

Mr. FARELLY. But first-class matter does not pay its way. You charge 3 cents for carrying a letter to Baltimore and you send a letter to San Francisco for 3 cents. Now, either Baltimore is being robbed or San Francisco ought to pay more, if each item is to pay its proportion of the cost. Second-class matter, just the same as letters, has always been carried for the benefit of the people and for the encouragement of education. That has been true at all times. In 1878, a member of the Committee on Post Offices suggested that second-class matter be carried free because of the benefit derived from it by the first-class mail and the great advantage that it gave to the country. The man residing in the eighth zone should have the same advantage as the man living in the first zone. He is a citizen of this country and is entitled to all of the privileges that the Post Office Department can afford to him. The man in New York is entitled to no more in that regard than the man in San Francisco.

Mr. GARNER. But first-class mail matter pays its way.

Mr. FARELLY. It more than pays its way, but not pro rata.

Mr. GARNER. Then, you are willing to apply the same policy in regard to second-class matter by levying a flat rate?

Mr. FARELLY. That would be logical.

Mr. GARNER. Then, we would have to levy about 7 cents per pound, whereas we are now levying 1 cent per pound.

Mr. FARELLY. I am sure that it does not cost anything like that.

Mr. GARNER. Now, if you can convince the committee of that fact, you will be performing a very valuable service, because there has been considerable controversy in the country as to what it does cost. The best evidence we have is that the cost is 7 cents per pound.

The CHAIRMAN. I think it is between 8 and 9 cents.

Mr. GARNER. I do not think anybody who has made the investigation has put it at less than 7 cents per pound. Now, according to your statement, you would levy a sufficient rate to pay its way through the mail, just as first-class matter pays its way. Would you be willing to pay a rate of 7 cents per pound?

Mr. FARELLY. No, sir; because the publications would lose the benefit of the encouragement that has been given them for the general dissemination of literature.

Mr. GARNER. I understood you to say that you would put second-class mail matter and first-class matter on the same basis.

Mr. FARELLY. I think you have misunderstood me. I said that the flat rate, as it applies in this country, would apply logically to second-class matter.

Mr. GARNER. You contended, I think, that first-class matter and second-class matter were similar mail matter and should be on the same basis. Now, as first-class matter pays its way, don't you



think that second-class matter ought to pay its way? I am asking you what you think about the theory of the post office, and whether first-class matter and second-class matter should not be put on the same basis?

Mr. FARELLY. It would destroy totally the educational benefits and advantages of our leading publications. If you are going to ignore all of those considerations, and say, "We do not care an iota for the man in the more remote sections of the country, but will make him pay the full cost of transportation," if you are going to ignore the man in the village, then you would put it on a commercial basis. Now, you would do that, and yet you spend \$40,000,000 for rural free delivery.

Mr. GARNER. The trouble with your argument is that the people in the villages are not complaining. They are not the ones who are complaining at the increased rates.

Mr. FARELLY. But they will complain.

Mr. GARNER. They may. It is the people who are doing the publishing in the centers of Philadelphia, New York and Boston who are doing the complaining about this rate; it is not the people who are getting these magazines and whose subscription prices are going to be increased.

Mr. FARELLY. But why do the publishers complain? I am not a publisher, but I know that they are complaining because they are going to lose their subscribers in your territory, in Texas, because the people can not afford to pay this increased rate and they will drop their subscriptions, because 25 cents means something to a man living in a small town.

Mr. O'SHAUNESSY. How do you know they are going to drop them?

Mr. FARELLY. Because of the economies that they will have to practice.

Mr. O'SHAUNESSY. That is mere speculation.

Mr. FARELLY. Yes, sir; but it has always followed that whenever the rates have been largely increased the circulation drops off.

Mr. O'SHAUNESSY. It seems to me that wherever the price has been increased in recent years the consumption has increased.

Mr. FARELLY. I beg your pardon.

Mr. O'SHAUNESSY. And that it has largely increased.

Mr. FARELLY. No; that is not the case. When magazines that formerly retailed for 15 cents increased their rate to 20 cents, their distribution fell off to a very great extent.

Mr. O'SHAUNESSY. Mr. Sterling calls my attention to the fact—I was not here when the gentleman made his statement—that the man who appeared in behalf of the Graphophone stated that those sales had not fallen off, but that the consumption of those things had increased in spite of the increased rates that had been put upon them.

Mr. STERLING. The sale of cigars has not fallen off, has it?

Mr. FARELLY. I would not be capable of answering that.

Mr. STERLING. I do not think you will find it has.

Mr. FARELLY. But I think that the circulation of magazines that have increased their prices from 15 cents to 20 cents has shrunken very heavily.

Mr. GREEN. Is it not true that some of them, even though they have increased their price, have also largely increased their circula-

tion, like the Independent? The Independent formerly sold for \$1.50 and now the price is \$4 and it has a much larger circulation.

Mr. FARELLY. I am not aware that that has been the result with regard to many of the magazines that have increased their prices, although it may be true that some of the magazines, although they have increased their prices, have a larger circulation than they had 10 years ago; that may be true of the Independent, that it has a far greater circulation than it had 10 years ago.

Mr. GREEN. Some think that because the quality of some of these magazines has somewhat deteriorated that possibly that had something to do with the falling off of their circulation as well as their increase in price.

Mr. FARELLY. If a magazine deteriorates in quality I think it would be fair to assume that the circulation would deteriorate to the same extent.

Mr. GREEN. You spoke a short time ago about our being the best read people in the world. Do you refer to quantity or quality?

Mr. FARELLY. Quality. I have heard that from well-educated Englishmen. They said we had facilities here for good literature to an extent that is not known anywhere in the world.

Mr. GREEN. But are they right? Is it not a fact that the sales of books are not in proportion to the sales of books in other countries and is not that particularly true of late years?

Mr. FARELLY. I think that the sale of books is less than in some of the other countries, because so much of the high literary talent has been turned into periodical channels, because the Government has encouraged these periodicals and enabled them to be placed in the hands of the poorer classes, and the farmers, who can not afford to pay \$1.50 for a book.

Mr. GREEN. Do you call the talent that is employed by these cheap magazines high literary talent because it is expensive?

Mr. FARELLY. It is usually paid for according to its merit.

Mr. GREEN. Oh, no; paid for according to the sales, but that does not necessarily mean that it is paid for according to its merit.

Mr. FARELLY. Well, the average public is supposed to be the judge of what it considers worth reading.

Mr. GREEN. These sex problem stories now seem to sell very well. Do you mean to say that they represent the work of high literary talent?

Mr. FARELLY. No; and if we had a proper censorship of the press they might not be published.

Mr. MOORE. And do not imagine, please, that all members of the committee are reading them.

Mr. FARELLY. Of course, they have a temporary vogue, but the real magazines, which last from year to year, are of a higher class.

Mr. O'SHAUNESSY. I want to ask you a few questions. You would tax these magazines according to advertising?

Mr. FARELLY. According to their receipts from advertising.

Mr. O'SHAUNESSY. Do you calculate that the price of the magazines would advance under the taxation system?

Mr. FARELLY. It need not, because it does not refer in any way to the revenue from sales.

Mr. O'SHAUNESSY. If we put an advertising tax, we will say, on a magazine which has a lot of advertising, and paying advertising,

do you believe that the magazine would not advance its price in spite of its very large revenue from advertising?

Mr. FARELLY. It might.

Mr. O'SHAUNESSY. But you think it would be so prosperous that it need not advance its price?

Mr. FARELLY. That is correct.

Mr. O'SHAUNESSY. At the same time, you would save, under that system, the magazine that was not doing so well in an advertising way?

Mr. FARELLY. Exactly.

Mr. O'SHAUNESSY. It is your opinion that a large amount of revenue would be derived from that advertising, a much larger amount than we contemplate would be received under the proposed system?

Mr. FARELLY. It seems to me you might easily arrive at a tax which would yield a larger sum.

Mr. O'SHAUNESSY. In addition to that you would increase the rate from 1 cent a pound, so as to bring up the revenues from the country newspapers.

Mr. FARELLY. No; I think you might well afford to continue that rate of 1 cent per pound.

Mr. O'SHAUNESSY. But suppose we did. Everybody is supposed to help along in the war and stand for increased taxation, and you said it would only cost the subscribers 12 cents a year—is that right?

Mr. FARELLY. At the outside it would only cost that additional amount. That was based on 1 cent for each delivery, each package delivered, if it weighed less than a pound.

Mr. O'SHAUNESSY. And you said that would bring in a revenue of \$30,000,000.

Mr. FARELLY. The department estimated \$34,000,000 some years ago.

Mr. OLDFIELD. You were talking a while ago about the complaint of the publishers. Do you not think that the real complaint of the publishers is that they fear they are going to lose the subsidy from the Government which they have been enjoying for a good many years?

Mr. FARELLY. I claim there is no subsidy in behalf of the publishers, but that it is more likely there is a subsidy in favor of the man who receives the benefit of the rural free delivery, which is costing \$40,000,000 a year, and from which the Government gets no return.

Mr. OLDFIELD. Do you not think it would be better for that man to pay a higher rate for the magazines and let the money go into the Treasury rather than to even subsidize that man, especially in these war times?

Mr. FARELLY. I think the man in the country ought to be encouraged to the utmost to receive his reading matter at the least possible expense.

Mr. OLDFIELD. I want to call your attention to the fact that I am getting a great many letters from all parts of the country saying this: That we are paying uncomplainingly the 3 cents letter postage and we think that the publishers ought to at least pay something approximating what it costs to carry their product in the mail. That is what they are saying. I dare say that if it became necessary for them to increase their rates on the magazines, that the people

who would have to pay those increased rates would do so gladly, especially during the war.

Mr. FARELLY. It may be that these complaints that you receive from your constituents in the country voice the sentiments of the farm journals, the owners of which come in direct contact with the people there.

Mr. OLDFIELD. But the farm journals are not representing the farmers in this instance at all.

Mr. FARELLY. But they have been a great factor in shaping public opinion there for a great many years. I was going to show you a sample of a publication that goes through as a second-class periodical. We deliver 16 of those [indicating] all over this country for 1 cent, and that is what I alluded to as a periodical that should pay 1 cent for each delivery, and instead of getting 1 cent you would get 16 cents for delivering that matter.

The CHAIRMAN. You say they pay 1 cent for delivering 16 of them all over the United States?

Mr. FARELLY. Yes; each one weighs an ounce, so that the 16 weigh 1 pound.

The CHAIRMAN. What do you call that?

Mr. FARELLY. That is a periodical published in Philadelphia by a Philadelphia society.

Mr. SLOAN. Does it go through your establishment?

Mr. FARELLY. No; it does not in any way.

Mr. MOORE. In other words, that is sent by the Government into Arizona, California, New Mexico, or 16 other points west of the Mississippi River for 1 cent?

Mr. FARELLY. Yes.

Mr. MOORE. And for that we must have this tremendous overhead?

Mr. FARELLY. Yes, sir.

Mr. MOORE. Would not that, to a certain extent, account for the disparity referred to a little while ago in the Government's cost of carrying the mail and your freight cost?

Mr. FARELLY. Certainly; it has a direct bearing on it.

Mr. MOORE. May I ask you as to one or two farm publications without naming any one of them. A large farm publication is issued from my city. I have been informed that its circulation has been falling off due to the war. Have you heard anything of that kind?

Mr. FARELLY. A very small proportion of that goes through our hands, and I would not be able to form any judgment. That is almost entirely a subscription proposition.

Mr. MOORE. Now, as to the Saturday Evening Post and the Ladies Home Journal. Has public announcement been made of the fact that the retail price is to be increased?

Mr. FARELLY. Yes; that the retail price is to be 10 cents.

Mr. MOORE. That the price is to go up from 5 cents to 10 cents?

Mr. FARELLY. Yes; in anticipation of the increased cost of the product.

Mr. MOORE. Under the new law?

Mr. FARELLY. It has cost for years a great deal more than they have received; it has cost 5, 6, or 7 cents, whereas it retails for 5 cents.

Mr. MOORE. I asked that for Mr. Sterling's benefit.

Mr. STERLING. I did not hear the question.

Mr. MOORE. Mr. Farelly announced before you began questioning him that the price of the Saturday Evening Post was to go up from 5 to 10 cents.

Mr. HAWLEY. What will be the yearly subscription to the Saturday Evening Post?

Mr. FARELLY. I think it is put up to \$3 a year or \$3.50 under the increased rate. Very many publications carrying large advertising could afford to give away their product, because the advertising receipts would cover the whole cost of production and would yield a profit. The Saturday Evening Post has cost a great deal more to produce than they have received through subscriptions and of course they have a large revenue from their advertisements. A certain publisher came to me several years ago and asked me if I could not arrange to give away several thousand of one edition of a daily paper. I reasoned with him that the cost of distribution was very considerable and that he would not gain anything by that; that it would cost more than a good part of the retail price to distribute it, and therefore he abandoned the thought. Now, if you were to tax the advertisements, the publications that have this large revenue could afford to pay it.

Mr. SLOAN. Do I understand that the Curtis Publishing Co., who publish the Saturday Evening Post, has issued the Saturday Evening Post at a loss for years and yet never saw fit to raise the price until it became a question of the Government getting a little something out of it?

Mr. FARELLY. Why should they, when they have had such a large revenue—

Mr. SLOAN (continuing). Is not that a serious charge to bring against a great publication in war times?

Mr. FARELLY. On the contrary, they have had such a large revenue from advertising for years that there was no necessity for increasing the rate to the readers, because the more readers they have the more advertising they will secure.

Mr. SLOAN. Would they not at this time be willing to contribute a little something to the Government which has been so generous to them?

Mr. FARELLY. They have contributed enormously to the Government. The Saturday Evening Post has shown in some instances 1,000 letters in reply to a single advertisement, which would mean \$30 from each of the 1,000 advertisements, or perhaps a great deal more. Recently a man came to me to distribute a certain article he had advertised, and in the course of one week he received several hundred applications for this article.

Mr. SLOAN. The same conditions have existed all this time up until the present, when the Government is liable to get a little money from it, and then, just at this particular time, they put the increased charge upon the public.

Mr. FARELLY. Naturally; the publisher could not afford to pay it all himself. For instance, several magazines have increased their price within the past 12 months from 15 cents to 20 cents, because they could not afford to even pay the increased cost of production.

Mr. SLOAN. Do you not think this publication you are speaking of could stand a little part of that burden without immediately shifting it to their readers?

Mr. FARELLY. I really do not know their financial condition. They are reputed to be wealthy, and that is all I know about it.

Mr. STERLING. Do you say the Saturday Evening Post has been published at a loss for years?

Mr. FARELLY. Not at a loss in revenue, but in the mere cost of the product.

Mr. STERLING. You mean to say that the subscription price did not pay the entire cost and they complained because they did not have the advertising net?

Mr. FARELLY. Unless they had large advertising, they could not afford to publish that vast amount of matter for 5 cents.

Mr. STERLING. But counting their revenue from advertising and from the subscription price, they make a large profit?

Mr. FARELLY. They are alleged to do so, and I presume they do.

Mr. STERLING. You say you ship to San Francisco for \$3.65?

Mr. FARELLY. \$2.80.

Mr. STERLING. And it costs the Government about \$8?

Mr. FARELLY. That is what is claimed.

Mr. STERLING. Suppose in shipping your stuff to San Francisco, you had to put a man on the car, throw it out in little packages at every station between here and San Francisco; you would not then get that rate, would you? You would have to pay about 8 cents a pound, the same as the Government?

Mr. FARELLY. The Government proposition is totally different from ours in that particular.

Mr. STERLING. If the Government just put its mail up in packages and shipped it to a certain point on the freight train, so that they did not have to have any man on the car and the agents at the various depots where it was shipped took care of it, then the Government could ship mail as cheap as you ship freight, could it not?

Mr. FARELLY. They should be able to do so under the same conditions. It is a public rate established by traffic regulations. We enjoy no special privilege in that particular.

Mr. HAWLEY. Are you given priority in transportation when you ship publications by freight?

Mr. FARELLY. No; we are not.

Mr. HAWLEY. You take your chances on that?

Mr. FARELLY. Yes.

Mr. LONGWORTH. As a broad, general proposition, do you think second-class mail ought to pay its way?

Mr. FARELLY. No; I do not.

Mr. LONGWORTH. How far short should it come of paying its way?

Mr. FARELLY. Well, that would be scarcely a fair proposition for me to answer, because it would be an estimate based upon no real facts.

Mr. LONGWORTH. Of course, from a purely educational standpoint the Government ought not to charge these publications anything.

Mr. FARELLY. We had some very intelligent men in the Postal Department from 1872 to 1880 or 1885, and in 1872 the rate was 3 cents on magazines and 2 cents on newspapers, and it went on for 10 years, and then they found that the rate was a barrier to the growth in the country outside and the rate was reduced from 3 cents and 2 cents to 1 cent in 1885, and from 1885 to the present time it has been 1 cent a pound and has brought enormously increased revenue to

the first-class mail. That was clearly shown to the satisfaction of the Government, and whenever an attempt was made to raise the rate that argument was brought out and clearly established.

Mr. LONGWORTH. Is it not the logic of your proposition that second-class mail ought not to pay any rates whatever?

Mr. FARELLY. By no means. I think it should be considered in its educational sense as well as being privileged matter over ordinary merchandise. I do not think it ought to be treated as pens, inks, and papers, or groceries and hardware. I do not think it ought to be treated in that way, because the facilities of the post office are always for the benefit of the people.

Mr. LONGWORTH. If you do not think it ought to pay its way entirely, how much of its way ought it to pay?

Mr. FARELLY. That would be a vague guess, not based on any facts. You could easily reduce the cost, and instead of thirty or forty or sixty million dollars reduce it down to twenty or thirty million dollars, and you would get more than that compensation from your increased revenue from first-class mail.

Mr. LONGWORTH. Precisely; and if you carried them free, it would be of even greater benefit to the first-class mail?

Mr. FARELLY. Well, that is the educational feature.

Mr. LONGWORTH. Exactly, and I say the logic of your position is that it would pay the Government to carry second-class mail free of any charge whatever.

Mr. FARELLY. I think it would pay the Government. You can not colonize Alaska or the great Northwest or the Hawaiian Islands unless you give those people some encouragement and give them the opportunities they had in their home towns. If you are going to penalize them because they have gone to these outlying districts then they will not go. It has been shown and demonstrated clearly that whenever you put the facilities of the mails at their disposal it has increased the population and encouraged emigration to those sections.

Mr. LONGWORTH. Well, that was exactly my first question, whether you did not think the Government ought to carry second class mail free?

Mr. FARELLY. Yes; it is going to the extreme, but even then I think it would be good public policy and for the benefit of the great mass of the people. For instance, take Canada: Canada goes down to a quarter of a cent, and why? Because of the vastness of their territory. They go up to the Alaskan border for one quarter of a cent from Montreal, and that does not begin to pay one-third or one-fourth of the real transportation rates, but that is done for the benefit of the people in those remote sections of Canada.

Mr. LONGWORTH. Your general proposition includes both the educational side and the advertising side?

Mr. FARELLY. That is right. I think the educational side should be considered by the Government without question. The advertising matter is a little different proposition. The benefit of the Government is from the increase in first-class matter and beyond that, if the Government feels they ought to have revenue from that particular product, the logical thing would be to tax the advertising.

Mr. STERLING. Our education is of two kinds, there is the meritorious education, and there is very harmful education. Do you not think that if the Government carried magazines free that would

greatly multiply these fake magazines, these cheap and harmful magazines? Do you not think it would have that effect?

Mr. FARELLY. Well, it is like the story of the tares and the wheat growing together; you can not very well separate them.

Mr. STERLING. Do you not think the fake publications would crowd out a good many of the meritorious publications?

Mr. FARELLY. No; I do not think so for a moment. The meritorious publications have the greater vogue at these distant points. The great sale of these so-called flashy magazines is in quite a limited territory, in the great cities. The distant points are more apt to patronize what we would call the more respectable magazines.

Mr. STERLING. Well, a great many of the magazines published in the East go out to Illinois.

Mr. FARELLY. Well, Chicago is a great center of publication, and there are other growing cities out in that section.

Mr. O'SHAUNESSY. You are paying a tribute, then, to the dwellers in the country towns and on the farms?

Mr. FARELLY. I think that is true, without question.

Mr. O'SHAUNESSY. That they are the people who enjoy decent literature?

Mr. FARELLY. I think that is true, beyond question.

Mr. O'SHAUNESSY. And the impure literature and the trashy literature is consumed by the people in the large cities?

Mr. FARELLY. Absolutely. These flashy magazines have very few, if any, subscriptions, and the publications that have subscription lists are those that go to the farmer and the country districts all over the United States.

Mr. O'SHAUNESSY. I think that is a very important contribution to the hearings.

Mr. FARELLY. The flashy magazines are sold principally in the large cities and they do not claim to have any large subscription lists, and therefore they are relying upon the news dealers to sell them, principally in the populous centers.

Mr. MOORE. I think your statement is borne out from the fact that a great deal of intellectuality comes from the country and develops here in the Capitol, and especially in the Halls of Congress; but since you have been asked some questions from the corn belt about some publications published in my city, I want to ask you if it is not a fact that the Curtis Publishing Co. pays extensively in the matter of corporation and income taxes?

Mr. FARELLY. Unquestionably, and their products go to the rural districts all over this country, and they certainly can not be classed other than as very high grade publications.

Mr. MOORE. Adverting to this prospective increase in the retail price of their publications, do you see anything more unfair in the Ladies' Home Journal or the Saturday Evening Post raising its retail price than you see unfair in the gentleman who reads these highly illuminating and literary productions out in Nebraska or in Kansas raising the price of his corn or wheat from \$1 to \$2.50 per bushel?

Mr. GREEN. Well, you can not raise the price of wheat, because that is fixed.

Mr. FARELLY. I do not see any reason why he is not entitled to increased rates.



Mr. MOORE. If it is fair for the farmer to get \$2.50 a bushel for wheat that he formerly got \$1 a bushel for, is it not fair for the publisher to ask 10 cents for a publication that he was selling to the farmer for 5 cents?

Mr. FARELly. I think that is clearly so.

Mr. SLOAN. Let me amend your question by also including cotton?

Mr. MOORE. Yes; I will include cotton as one of those things that ought to bear a fair proportion of the tax along with the manufactories and the industries generally.

Mr. FARELly. As to the dissemination of literature of the nigher class as against the flashy kind, we all know that the publications of Mr. Curtis are high-class publications and they go to every hamlet in this land, and the yellow magazine and the so-called flashy literature does not reach those points because they do not subscribe for them. They do subscribe for the Saturday Evening Post and the Ladies Home Journal because they are high-class, intellectual products.

Mr. STERLING. You say that the Curtis corporation pays a very large income tax?

Mr. FARELly. I believe they do.

Mr. STERLING. And an excess-profits tax. If that is a fact, do you not think they could well afford to pay the Government what it costs to carry their publications?

Mr. FARELly. The readers in these hamlets are the ones who suffer in the end by these increased rates.

Mr. STERLING. Then, they ought not to raise the price if they are making such an immense profit.

Mr. MOORE. It has to do that to enable the employces of the publishing company to get enough pay to buy bread.

Mr. FARELly. The cost of production has enormously increased. Take our news company, for instance, the cost of labor there has about doubled, and it is hard to secure at any price.

Mr. STERLING. Now, one other question following Mr. Moore's suggestion, even at \$2.50 a bushel for wheat, the farmers are not paying a very heavy income tax, are they? They are barely paying expenses and can not pay an income tax because they do not make enough even at that price?

Mr. FARELly. That is my understanding.

Mr. GREEN. How large a percentage of the total output of the Saturday Evening Post is carried through the mail?

Mr. FARELly. As a rough estimate, I should say 75 or 80 per cent.

Mr. GREEN. Of course, your knowledge about that is better than mine.

Mr. FARELly. My knowledge of the conditions with reference to the Saturday Evening Post and the Ladies' Home Journal is not based on exact information.

Mr. GREEN. I was under the impression that it was sold more by the news stands.

Mr. FARELly. Oh, not at all. The largest outlet is through subscriptions.

Mr. SLOAN. But a few of the Ladies' Home Journals and Saturday Evening Posts are kept and read in Philadelphia, as I understand.

Mr. FARELly. To be sure, quite a large quantity.

Mr. SLOAN. And there are some others, I understand, who do not read those high-class publications?

Mr. MOORE. Since the increase in shipbuilding over there, a great many folks have moved in from Nebraska.

Mr. SLOAN. Oh, no; we are busy raising wheat for the feeding of the cities—at a fixed price.

Mr. RAINEY. Mr. Farelly, your position is that second-class mail feeds the first-class mail by producing a number of additional letters?

Mr. FARELLY. Yes, sir.

Mr. RAINEY. To the extent, you think, of paying the expenses of carrying second-class mail through to destination?

Mr. FARELLY. Well, that would really be an estimate based upon impression rather than upon any facts. The facts have been shown to the department here, and there is a vast revenue from first-class mail coming from advertising matter in the leading periodicals.

Mr. RAINEY. Are you familiar with the recent attempt of the advertisers in the Saturday Evening Post to find out how many replies advertisers got to their advertisements in one particular issue?

Mr. FARELLY. I know something of that kind was attempted, but I do not know the result.

Mr. RAINEY. Well, I will tell you what the result was. There were 118 advertisers in that particular issue of the Saturday Evening Post, and 83 of them replied and 35 of them did not. They wrote to each one of them asking how many letters they got that week in response to their advertisements, and assuming that only one-half of them replied, they received 10,000 answers, and assuming that the other half who did not reply received the same number of answers, then that week the advertisements in the Saturday Evening Post brought a total of 20,000 replies. The Government lost that week in carrying the Saturday Evening Post through the mails \$70,000 on that one issue. Now, assuming it cost nothing at all to carry the 20,000 replies through the mail, the Government received, then, \$400 on those replies, and that is assuming that every 2-cent stamp they bought—and of course we are not figuring on 3 cents, because 1 cent goes to the Treasury—was a clear profit to the Government and that it cost nothing at all to carry and deliver those replies, that leaves a loss of \$69,600 on that one issue.

Mr. FARELLY. The Government bases its cost of transportation to include what they term all of their overhead charges. I do not think that that is a fair calculation of the cost of the transaction, when we know that the transportation represents a very small matter.

Mr. RAINEY. According to these figures, the total loss would be \$70,000, and if you deduct \$400, that leaves a net loss of \$69,600.

Mr. MOORE. Where do those figures come from?

Mr. RAINEY. Those figures are published by the One-Cent Postage Association, which is anxious to make advertising matter pay its own way through the mail in order that they can get 1-cent postage.

You say it sometimes happens that advertisers receive as many as 1,000 answers to an advertisement?

Mr. FARELLY. Yes, sir.

Mr. RAINEY. And it costs 1,000 cents to carry those answers through the mail, does it not?

Mr. FARELLY. Yes, sir.

r. RAINEY. Those 1,000 answers represented a profit of 1,000 s, did they not?

r. FARELly. Yes, sir.

r. RAINEY. Now, this issue of the Saturday Evening Post went through the mail at a loss of \$70,000 to the Government, without getting the profit from the answers that might come in. Now, let me figure them on your basis, at 1,000 answers for each advertisement. There were 118 advertisements which would mean 118,000, and 1000 cents is the amount that would be realized on account of the 118,000 advertisements that week. Now, your estimate of the 10 answers is a big one, of course, and nobody else ever put it that low. According to these figures, it would require 7,000,000 replies on the advertisements to pay this loss of \$70,000 in carrying the publication through the mail.

r. FARELly. I never for a moment thought that anyone would maintain that the increased revenue from first-class matter would cover off the alleged cost of transporting it.

r. RAINEY. It only covers the minimum cost. According to my own theory, each advertisement induces 1,000 letters, and that would cover less than one-sixth of the loss.

r. FARELly. The statement of the loss is based on the theory Mr. Koons stated before the Senate committee. It includes all the overhead charge, and not just the cost of the transaction at all. When I say that we could do so much better by transporting independently of the mails, and 80 per cent of our product is shipped at less than the mail rate—

r. RAINEY (interposing). How do you transport it?

r. FARELly. By freight.

r. RAINEY. You haul it to the depot and load it on a freight car?

r. FARELly. Yes, sir.

r. RAINEY. And then it is carried, we will say, to Chicago?

r. FARELly. Yes, sir.

r. RAINEY. And then it is delivered in Chicago to one address, not?

r. FARELly. Yes, sir; in the instance of Chicago. In the large city it goes to one address.

r. FARELly. If you send by freight 20,000 magazines to Chicago, you would load them on a truck, carry them to the depot, and load them on a freight car; then they would be carried to Chicago, unloaded, and delivered to one person?

r. FARELly. Yes, sir.

r. RAINEY. And in addition to what you pay for freight, you pay for delivery at Chicago to that one person.

r. FARELly. Yes, sir.

r. RAINEY. If the Government were handling these 20,000 publications through the post office, they would simply be delivered at the post office, and the Post Office Department would have to deliver them if they all went to Chicago, to 20,000 different addresses. Do you think that your method of estimating the matter is fair?

r. FARELly. Well, I do not claim that the Government could do it at the same rate, but there is a vast difference between the two

r. RAINEY. Each magazine would have to be handled separately at the post office. It would have to be stamped when it was mailed at the post office, and then when it was delivered in Chicago.

Mr. FARELLY. Yes, sir; it is a totally different proposition.

Mr. RAINEY. Of course it is a different proposition from carrying it by freight. It costs much more.

Mr. FARELLY. The disparagement is entirely too great between the postal transportation cost and the estimated cost to the Government for what they term the overhead charges.

Mr. RAINEY. You say that the farm papers will suffer on account of the establishment of the zone system?

Mr. FARELLY. I really know very little or nothing about the farm papers.

Mr. RAINEY. You do not think they could increase their advertising rates?

Mr. FARELLY. I think it would be a hazardous undertaking.

Mr. RAINEY. Let me read you a statement from one of the principal farm papers, the Prairie Farmer. I received this statement through the mail headed "Important notice:"

Prairie Farmer's big increase in circulation and the added expense of publication calls for an adjustment of our live-stock advertising rates. Beginning June 15, the yearly rate will be increased from an average of \$2.80 to \$3.85 an inch per insertion.

From that it would appear that the Prairie Farmer is proceeding upon the theory that the country is so prosperous and that they are selling so many more papers than ever before, that they can increase their advertising rates \$1 per inch.

Mr. FARELLY. That is perfectly logical and natural.

Mr. RAINEY. You also think that it is perfectly logical and natural that the Government should continue to carry it through the mail at the present negligible rate which results in a loss?

Mr. FARELLY. If they encourage the farmer, and if the farmer derives benefit from reading that paper he is entitled to it. Your rural free-delivery system is based upon that theory of benefiting the farmer, and why not benefit him by this rate?

Mr. RAINEY. Then, according to your theory, the Post Office Department should be conducted altogether as an eleemosynary institution?

Mr. FARELLY. The citizens of the country should be benefited by the Government to that extent, call it eleemosynary if you will.

Mr. RAINEY. Why should not the farmers' product be carried to its destination by the Government at a tremendous loss to the Government also?

Mr. FARELLY. That is a different proposition entirely.

Mr. RAINEY. Would it not benefit the farmer a good deal more to have the Government carry a bushel of wheat from his farm to the primary market at a tremendous loss to the Government than it would be to have the Government carry the Prairie Farmer to him at a tremendous loss to the Government?

Mr. FARELLY. Well, that is an economic proposition.

Mr. STERLING. It would help the consumer, too.

Mr. RAINEY. Yes, that might help the consumer somewhat, too.

Mr. FARELLY. That is an economic proposition that I would not be prepared to discuss.

Mr. RAINEY. If the Government is being conducted as an eleemosynary institution for the purpose of assisting the farmers in the transportation of mail matter, why should not the Government assist them in carrying their products free?

Mr. FARELTY. If you were to operate the Post Office Department as a commercial proposition, just the same as a business institution dealing in merchandise that would be logical, but it is being conducted for an entirely different purpose than carrying merchandise.

Mr. RAINEY. But these farm journals and these other papers are conducted at a profit to their owners, are they not?

Mr. FARELTY. Almost entirely from their advertising revenue. The subscriptions are very low. Some of them are as low as 25 cents, and many of them are 50 cents. Their great revenue does not come from their subscriptions but from advertising. If they paid a portion of their profits to the Government for carrying that matter—

Mr. RAINEY (interposing). Some of those farm papers are being distributed at almost less than the cost of the paper that goes into them.

Mr. FARELTY. Yes, sir.

Mr. RAINEY. Simply because they can charge those high advertising rates.

Mr. FARELTY. Yes, sir.

Mr. RAINEY. Then, if the Government carries them through the mail at a negligible rate—

Mr. FARELTY (interposing). As I suggested before, you should tax their advertising income.

Mr. RAINEY. Would not your farm paper and other papers be taxed on their advertising income if they were required to pay zone rates on their advertisements?

Mr. FARELTY. But that does not place their subscribers on an equal footing, and they are entitled to be placed on an equal footing, whether they live in zone 1, zone 2, zone 3, or zone 8. They are entitled to the same privileges from the Government. If the chief revenue of the publisher is from advertising, let him pay a tax on his advertising.

Mr. RAINEY. Why not require him to pay a zone rate on it?

Mr. FARELTY. That does not cover it. If you let them go at the same rate to the different zones—

Mr. RAINEY (interposing). Would they not make the advertisers pay it?

Mr. FARELTY. The great revenue should come from the advertising.

Mr. RAINEY. That is where the tax is, and if the greatest revenue is from the advertisements—

Mr. FARELTY (interposing). You are now putting it on the circulation, under the zone system.

Mr. RAINEY. That is because the farther it is carried the greater the cost.

Mr. FARELTY. And right there you abandon the whole system or theory of the Government in conducting the Post Office Department up to the present time.

Mr. RAINEY. Second-class mail matter paid for itself until they got this 1-cent rate. It was paying for itself in the early eighties.

Mr. FARELTY. Notwithstanding your enormous deficit on account of rural delivery, there has been an excess of revenues in the past few years. Second-class matter has not prevented you from having a surplus in the postal revenues during the past few years. That has

been the case, notwithstanding the expenditure of \$40,000,000 for rural free delivery, but that is ignored by the committee entirely.

Mr. RAINEY. Is it your argument that we should abandon rural free delivery?

Mr. FARELTY. If each department had to pay its own way, you would have to abandon that.

Mr. RAINEY. Does the farmer derive one dollar of profit on account of having a letter box in front of his house for the purpose of having mail delivered to him?

Mr. FARELTY. No, sir; but the Government is bringing the mail to him.

Mr. RAINEY. Whatever he sends from his farm is on the other basis, and pays its own way.

Mr. FARELTY. Yes, sir.

Mr. RAINEY. Whether he sends it by parcels post or freight.

Mr. FARELTY. Yes, sir; but I have never thought that second-class mail matter should be considered on the same basis as merchandise. The theory of the post office is that it is for the thorough dissemination of proper literature.

Mr. RAINEY. When a farm journal can increase its advertising rates \$1 per inch, don't you think it ought to be on a basis of paying for itself when it goes through the mail?

Mr. FARELTY. Let them pay it through an income tax on their advertising. That is the only logical way to do it.

Mr. RAINEY. How would you do it—through an income from advertising?

Mr. FARELTY. Each man would certify his total from advertising, his total receipts from advertising, and you could impose a certain tax according to his rate of income.

Mr. RAINEY. You think that would be fair?

Mr. FARELTY. It would be fair, yes; and I do not think it could be fairer.

Mr. RAINEY. An inch of advertising in the Saturday Evening Post might bring a hundred times the result that an inch of advertising would bring in another magazine?

Mr. FARELTY. I heard Mr. Curtis state before a committee of the House some few years ago—he was asked what his rate was for advertising, and he said \$8 an agate line. That was startling to some members of the committee, but he said it was cheap at that; and when you look at the size of his page and consider what that means, it is not at all startling.

Mr. RAINEY. For the colored advertisement on his back page he gets \$11,000 a week.

Mr. FARELTY. But he pays an income tax and his company pays a tax.

Mr. RAINEY. On every colored advertisement in his paper he gets \$10,000 a page a week and for every advertisement that is partly colored in his paper he gets \$9,000 a week, and we carry that paper through the mails at a loss of \$70,000 a week, and yet you do not think he ought to pay for it.

Mr. FARELTY. I have suggested that the advertising ought to pay in accordance with the revenue received from the advertising.

Mr. RAINEY. You say that there are executive difficulties which the publishers would encounter and the department itself would

encounter in figuring up the postage on each publication and on each magazine.

Mr. FARELLY. That is true.

Mr. RAINEY. You are aware of the fact that the Post Office Department does not see any executive difficulties in the way and is not asking for sympathy from interested publishers?

Mr. FARELLY. They do see many difficulties. For instance, I have talked with Mr. Koons, and he kindly consented to do everything he could, and I have also talked to Mr. Burleson.

Mr. RAINEY. Are you appearing in behalf of the Post Office Department for the purpose of having those executive difficulties eliminated?

Mr. FARELLY. Not in the least.

Mr. RAINEY. You are appearing in behalf of the publishers?

Mr. FARELLY. Yes, sir. The executive difficulties of the department and our own are exactly the same.

Mr. RAINEY. Let me suggest a very simple way by which the Post Office Department can do it. I do not know how they are doing it, but they could require every magazine and every newspaper to say, "This magazine contains 65 per cent advertising and weighs — ounces."

Mr. FARELLY. They do that now.

Mr. RAINEY. You say they do that now?

Mr. FARELLY. Yes, sir; they are requiring all magazines to print that on one of the first four pages of the publication.

Mr. RAINEY. I did not know what they were doing.

Mr. FARELLY. The new law provides that they must print on one of the first four pages of the publication the total percentage of advertising and reading matter in each issue. But the difficulty arises when you have 30 or 40 different publications in the same parcel and those publications having a different percentage of advertising and reading matter. One may have 17 per cent, another 20 per cent, another 33 per cent, another 40 per cent, and so on. Then there may be a difference in the weight of the publications, one weighing, probably, 1 ounce and another 14 ounces. So that the clerical labor involved in figuring that out for each shipment is enormous.

Mr. O'SHAUNESSY. You say that all of that goes into one package?

Mr. FARELLY. Yes, sir.

Mr. O'SHAUNESSY. Is that package labeled as to its contents?

Mr. FARELLY. No, sir.

Mr. O'SHAUNESSY. Where does that statement go about the advertising?

Mr. FARELLY. That would have to be put on the outside of the package.

Mr. O'SHAUNESSY. You would have to put it on the outside of a package?

Mr. FARELLY. Yes, sir.

Mr. O'SHAUNESSY. Then you would have, in some cases, ten or fifteen labels.

Mr. FARELLY. Well, we would figure up in pencil, or otherwise, the percentage in one publication, which might be 17 per cent, another 27 per cent, and so on. As I say, the clerical labor involved would be enormous.

Mr. O'SHAUNESSY. Would you have one label or many labels?

Mr. FARELLY. One label, but a set of figures showing the total contents.

Mr. O'SHAUNESSY. You would have to increase the number of clerks to do that?

Mr. FARELLY. There is no doubt about that at all.

Mr. O'SHAUNESSY. Are you going to do that?

Mr. FARELLY. We are bound to do it. We could not possibly do it without a great increase in the labor element.

Mr. O'SHAUNESSY. Do you think it will be possible for the Post Office Department to do all of that?

Mr. FARELLY. It will be next to impossible, and it will delay, to a great extent, the shipments of the mail. The man who receives it said that they offered to give him three or four more clerks, but he says it will require at least forty men, and even then it will delay the mail for a considerable time. I think it all could be met by making a flat rate on the whole thing and charge it to the advertising. I think the flat rate is the only logical manner of dealing with it.

Mr. RAINEY. The present system has resulted in the magazines and the press being located almost entirely in the eastern States.

Mr. FARELLY. No; there is a very large number of publications issued now in Chicago and San Francisco.

Mr. RAINEY. But the number is negligible as compared with the publications in the East.

Mr. FARELLY. Comparatively small; yes.

Mr. RAINEY. And all of the publishers are complaining that these rates are going to make a sectional press. Do you think it can be more sectional than it is now in the matter of the magazines and national newspapers published, as they are, east of the Allegheny Mountains?

Mr. FARELLY. Commerce of that kind, like all other matters of trade, seeks the most economical lines. Now, if a publisher finds that it costs him too much to transship his publication in sending it all over the United States, he must find a central point.

Mr. RAINEY. Let us discuss that economic line. Where are the paper mills located?

Mr. FARELLY. More of them in the eastern section.

Mr. RAINEY. Most of them are located near the points where these magazines are published?

Mr. FARELLY. Most of them; yes.

Mr. RAINEY. Therefore the situation is this: These magazines have the advantage of getting their paper almost next door to their publishing houses, and they bring it, at a very small cost, to their publishing houses; then they fill it with ink and put into it these expensive advertisements for which they get, at least, the Saturday Evening Post, \$11,000 a week for some pages, and then they ask the Government to transport it, at a loss of from \$80,000,000 to \$90,000,000 a year, all over the United States. That is the situation exactly, and yet when we are face to face with the proposition of raising, by new and abnormal means, \$8,000,000,000 in taxes, nearly all of them direct taxes on the people of this country, the magazine and newspaper publishers have the courage and the nerve to come before this committee and ask that their publications, their product, shall still be transported at a loss to the Government of \$90,000,000 a year. Is not that the situation in brief?



Mr. FARELly. I claim that they were never willing to admit that they wanted it done free. They claim that the benefit to the country is such that we should avoid this sectional distribution which would occur if this zone system were enforced.

Mr. RAINEY. To avoid the sectional issue proposition, which we have before us now and which we have had before us for the last 40 years.

Mr. FARELly. Well, it is gradually disappearing. The publishing business in Chicago is forging to the front to an enormous degree.

Mr. RAINEY. They will forge to the front more rapidly if they make these magazines pay a part of the expense of going through the mail.

Mr. FARELly. It will simplify the method rather than defeat it if you provide legislation which will not make one part carry one rate and another another rate. That is a most confusing thing.

Mr. RAINEY. I am looking at it from the viewpoint of a legislator who is anxious to protect the Treasury of the United States and to abolish this subsidy to the newspapers, while you are looking at it from the standpoint of a publisher who still wants his subsidy.

Mr. FARELly. I beg your pardon.

Mr. RAINEY. Which viewpoint do you think is correct?

Mr. FARELly. I do not represent any publisher.

Mr. RAINEY. What interest have you in the Publishers' Auxiliary Association?

Mr. FARELly. None whatever.

Mr. RAINEY. What have you had to do with these induced letters of which the Members of Congress have received thousands?

Mr. FARELly. I never heard anything about them except what I have heard before the committee; I never heard of them from any other source.

Mr. RAINEY. We receive letters daily. I have hundreds of them, and resolutions adopted by women's clubs, by little colleges, and by commercial organizations all over the United States. I have them here and I am going to produce them when the proper gentleman makes his appearance. Every one of them is worded exactly alike.

Mr. FARELly. I have never seen one of them.

Mr. RAINEY. All of them contain this particular clause:

Any restrictions or attack upon the freedom of circulation of these great national channels is destructive of opportunity to those remote from cities of publication and therefore unfairly discriminating against a large body of American womanhood and childhood; be it therefore resolved that we most earnestly protest against this hasty, extortionate, and destructive amendment, and demand its repeal at this session of Congress.

Now, we get those letters from women's clubs in various States. I have them here from nearly every State.

Mr. FARELly. That would seem to indicate that they were instigated by one source.

Mr. RAINEY. And every one is mailed from New York. How do you account for that?

Mr. FARELly. It looks very suspicious.

Mr. RAINEY. It looks suspicious that somebody in New York is circularizing the country and is bringing about, in the interest of this subsidy for newspapers and magazines, these induced letters, every one of them exactly alike. Do you think that sort of thing ought to have any weight with conscientious legislators who are interested only in discharging their duty to the country?

Mr. FARELLY. I don't think they represent public opinion. I can't say that it does represent public opinion, because as you say—

Mr. RAINEY (interposing). I am glad there is something in connection with this program of these people who benefit by this graft that you don't approve of.

Mr. FARELLY. These people from Cleveland, Mr. Burroughs, who brings figures with reference to 1 cent postage, I have always questioned his figures. They don't show authority. I don't think it arrives at that extent. My whole thought is not to reduce your revenue in any way, shape, or manner, but in some way of getting a larger revenue by equalizing the handling of the matter with the Post Office Department. The Post Office Department is very consistent, and promises to give us every facility for passing the law.

Mr. O'SHAUNESSY. Want to get it where they can get the most money?

Mr. FARELLY. Yes; we know we have got to have the most money.

Mr. MOORE. Before you go. Do you confirm the figures which Mr. Rainey has used in connection with the cost of distribution of one issue of a publication like the Saturday Evening Post? Have you any knowledge as to that?

Mr. FARELLY. No.

Mr. MOORE. He has indicated that there is a loss of \$70,000 on the issue of one publication, and has quoted figures from a pamphlet issued by a 1 cent postage society. Do you know whether those figures are confirmed by the Post Office Department?

Mr. FARELLY. I doubt very much if those figures could be confirmed, those figures produced by Mr. Burroughs, of Cleveland; I have met him and heard his argument.

Mr. MOORE. You have already indicated in your statement that there was a very great disparity between Government cost of transportation through the post office and the cost of transportation by freight, indicating that perhaps there was a very large overhead of Government cost which was not accounted for when the comparisons were made.

Mr. FARELLY. That is absolutely the condition.

Mr. MOORE. But you have no means of confirming the rather startling figures which Mr. Rainey has used in his questions?

Mr. FARELLY. I don't think they bear the statistics of the Post Office Department.

Mr. RAINEY. They are not any more startling than the figures you have stated.

Mr. FARELLY. If you consider it on the basis that the first-class increase justifies the expense of carrying the whole second-class matter, that applies to this whole country. No effort is made at all to economize on that point. I have never heard of any on the part of the Government.

Mr. RAINEY. Do you know of any magazine that maintains its pre-subsidy period of literary excellence except—do you know of any?

Mr. FARELLY. Well, I think the number of high-class magazines to-day is larger than ever before.

Mr. RAINEY. What are they?

Mr. FARELLY. Many of them existed for a number of years.

Mr. RAINEY. What are the high-class magazines?

Mr. FARELly. Take a thing like Popular Mechanics, published in Chicago. It is a very high-class publication.

Mr. RAINEY. Is that a literary publication?

Mr. FARELly. It is largely scientific literature. It is highly educational.

Mr. RAINEY. I am talking about literary. Which one of these that are pre-subsidy standards of literary excellence?

Mr. FARELly. That would mean before 1885, and there are none of those left except those old ones like Harpers, Century, and so on. The cheap ones have come in since. The Ladies' Home Journal was brought up under the present system.

Mr. RAINEY. The cheaper class was all brought into being by the 1-cent rate.

Mr. FARELly. Yes.

Mr. RAINEY. Some of the better class have been able to survive the competition of the cheap class?

Mr. FARELly. Nearly all of them.

Mr. RAINEY. What has become of Harper's?

Mr. FARELly. It has had a varied history, and I think finally discontinued. I don't think it was ever a paying business. The magazine continues. The North American Review and the Atlantic Monthly continue.

Mr. RAINEY. Harper's Magazine failed sometime ago, didn't it?

Mr. FARELly. The house failed, but I think the magazine was always a profitable business. Harper & Bro. failed, but I think the magazine was profitable. I think the weekly was not.

Mr. RAINEY. You think these other magazines, with the North American Review which you admit maintains the presubsidy literary excellence, are maintained to-day?

Mr. FARELly. I think the Century is equal to its best.

Mr. RAINEY. I wish I could agree with you.

Mr. FARELly. It is a matter of opinion, to be sure. These other magazines are deserving of encouragement, such magazines as Everybodys and McClures and several other publications that tend to furnish entertainment as well as education.

Mr. RAINEY. Those are the muck-raking papers that invented the term "graft"?

Mr. FARELly. I didn't know the term "graft" was applied to them.

Mr. RAINEY. They invented it and when we apply it to them they object to it.

Mr. FARELly. I don't blame them for objecting to that.

Mr. MOORE. Isn't Theodore Roosevelt the one that started the terms muck raking and graft?

Mr. FARELly. I don't know.

Mr. MOORE. Isn't the term graft as old as the Bible itself?

Mr. FARELly. I don't know.

Mr. DICKINSON. The suggestion has been made that the Saturday Evening Post charges 10 cents instead of 5 cents.

Mr. FARELly. They have so announced.

Mr. DICKINSON. Was that increase for the purpose of meeting the increased circulation or to enable them to get an additional profit to meet the increase of rates, or both?

Mr. FARELly. I think it is largely to meet the tax and to meet the increased cost of production, labor, and material. Everything that

enters into that publication has been increased very largely. And in addition to those increases already, then to have these postal rates added to them, I think that is the reason they raised the price.

Mr. DICKINSON. Do you think they would not have raised the price of their magazine if it had not been for the tax?

Mr. FARELLY. I do not know how far they could have borne the increased cost of material, but they said the postal rate was the last straw.

Mr. DICKINSON. Is it your judgment by raising the price from 5 to 10 cents that they will be able to pay this tax and get the same net income?

Mr. FARELLY. That is, of course, problematic. You can't feel sure they will not suffer a reduction in circulation, and in suffering a reduction in circulation they must suffer a reduction in advertising rates.

Mr. CRISP. What do you say as to the increase from 5 to 10 cents? What per cent of the increase is tax and what per cent the other elements entering into it?

Mr. FARELLY. Really I am not sufficiently familiar with the publishing business, with the mechanical cost as well as the artistic and literary cost of the articles, to form any opinion as to what percentage was based upon those two items.

The CHAIRMAN. You are the president of the American News Agency?

Mr. FARELLY. I am general manager.

The CHAIRMAN. You publish no magazines or periodicals?

Mr. FARELLY. None whatever.

The CHAIRMAN. But you handle the periodicals and papers and magazines published by others?

Mr. FARELLY. By others.

The CHAIRMAN. You pay the same rate of postage to the Government that the publishers do, do you not?

Mr. FARELLY. Exactly.

The CHAIRMAN. And so your financial interest in the zone postal rates is the same that the publisher's interest is?

Mr. FARELLY. Largely the same.

The CHAIRMAN. You have been before several committees for the last 15 or 20 years, haven't you?

Mr. FARELLY. More or less.

The CHAIRMAN. Protesting against the increase in second-class postage, which is perfectly all right. I do not undertake to criticize that.

Mr. FARELLY. Yes.

The CHAIRMAN. You also appeared before the Overstreet Commission, didn't you?

Mr. FARELLY. Yes, sir.

The CHAIRMAN. You appeared before about three commissions, exclusive of the Hughes Commission, did you?

Mr. FARELLY. I think so.

The CHAIRMAN. You appeared before the Hughes Commission?

Mr. FARELLY. No.

The CHAIRMAN. You did not?

Mr. FARELLY. No.

The CHAIRMAN. Your company did or sent a representative, did it not?

Mr. FARELLY. No; we were not invited. I read all of the proceedings with care after they were finished. I recall two recommendations of the Hughes committee based upon no part of the evidence, as I recall it, that the flat rate be increased from 1 to 2 cents. But that was based upon no argument made before them.

The CHAIRMAN. Did you read all of the evidence?

Mr. FARELLY. I don't know that I read every line of it. It is voluminous.

The CHAIRMAN. They had hearings in New York for a month or longer.

Mr. FARELLY. Longer than that I think.

The CHAIRMAN. And then in Washington. Publishers of periodicals and weekly and daily papers of all kinds were present. They had attorneys, did they not?

Mr. FARELLY. Yes; I recall that.

The CHAIRMAN. And the Hughes Commission was composed of Justice Hughes and President Lowell, of Harvard College, and Mr. Wheeler, who was at that time president of the Chamber of Commerce in Chicago, was it not?

Mr. FARELLY. Yes, sir.

The CHAIRMAN. After all the hearings and the evidence it took them some time to render their decision. They did render a decision, saying that it cost the Government on an average to transport the second-class postal matter about 5½ cents a pound, did they not?

Mr. FARELLY. Something like that.

The CHAIRMAN. And they recommended as a step in the right direction an increase of 100 per cent in the postal rates—that is, from 1 to 2 cents—did they not? The department experts estimated the overhead charges, letter carriers, postmasters, and clerks, and other charges except the transportation and the handling through transportation charges, at 4 cents a pound, did they not?

Mr. FARELLY. I do not recall that figure.

The CHAIRMAN. That is they testified before us, Mr. Stewart and Mr. Koons, last session. Of course if the figures of the Hughes Commission are in any way correct and if the overhead charges of 4 cents a pound made by the experts of the department is in any way correct, Mr. Rainey's figures about the Saturday Evening Post were not so far wrong, were they? In fact, they were below the mark as the figures I have given you, but I want to ask you a few questions for my own information. I see in all of this propaganda and protest against the zone system, for its repeal or modification or suspension, it is continually asserted that this zone-rate act passed at the last session will really destroy magazine reading in this country. Do you believe that?

Mr. FARELLY. It will curtail it to quite an extent. I don't look for a total destruction of it by any means. It will seriously interfere with it.

The CHAIRMAN. I want to read a list of magazines and periodicals and I want you to tell me which ones of these in your judgment, because I presume you handle most of them, will be destroyed or will suspend operations by virtue of the zone postal-rate provision of the present law. The American Agriculturist—when I get to one you think it is going to destroy its circulation and make it cease publication, stop me.

Mr. FARELLY. You might not read them. I don't think there is one that it will stop. The American Agriculturist, their revenue is almost entirely from advertising. We have a quantity of the papers. It is a farm paper.

The CHAIRMAN. Agriculturists will go right ahead, won't they?

Mr. FARELLY. Largely.

The CHAIRMAN. The American Boy.

Mr. FARELLY. I don't see any reason why that shouldn't go ahead.

The CHAIRMAN. You just stop me when I get to one you think won't go ahead.

Mr. FARELLY. I am afraid you are wasting your time.

The CHAIRMAN. You wait. You handle these and you understand the publishers and their situation about as well as we do. The Century, Christian Herald, Collier's Weekly, Cosmopolitan, Country Gentleman, Country Life, Country Side, Current Opinion, Every Week, Farm and Fireside.

Mr. FARELLY. Every Week is already discontinued.

The CHAIRMAN. You will admit that that wasn't discontinued on account of this zone-rate act which doesn't go into effect until July 1.

Mr. FARELLY. Not directly.

The CHAIRMAN. So you can discontinue a publication without attributing the zone postal rate as the cause?

Mr. FARELLY. If they had continued up to the present time the zone system would probably have ended it.

The CHAIRMAN. Every Week, did that merge into any other publication?

Mr. FARELLY. Not directly. I think they did indirectly transfer subscribers to Farm and Fireside, which they also publish.

The CHAIRMAN. Farm Journal, Good Housekeeping, Harper's Bazar.

Mr. FARELLY. Harper's Bazar has increased its price, announced, to 35 cents. Increased 10 cents in its price.

The CHAIRMAN. Don't you know that 10 cents will far more than take care of increased cost by virtue of the zone rate?

Mr. FARELLY. This announcement was since the increased-rate act was passed.

The CHAIRMAN. They have more than covered the increased cost on account of the zone rate act.

Mr. FARELLY. I still maintain the charges ought to be placed where they belong, on the advertisers.

The CHAIRMAN. Harper's Magazine?

Mr. FARELLY. Oh, no; it shouldn't.

The CHAIRMAN. Hearsts, House and Garden, Independent, Judge, Ladies' Home Journal, Ladies' World, Leslie's, Literary Digest, McCall's, McClure's, Metropolitan, Modern Priscilla, National Geographic, New England Homestead, Northwest Farmstead, Orange Farmer, The Outlook—The Outlook strikes me it will have a little harder time than those mentioned.

Mr. FARELLY. It depends on——

The CHAIRMAN (interposing). The People's Home Journal, Pictorial Review, Puck, Review of Reviews, Saturday Evening Post, Short Stories, St. Nicholas, System on the Farm, To-day's Housewife, Vanity Fair, Vogue, Woman's Home Companion, Woman's World, and the World's Work.

Mr. FARELLY. Very many of those live entirely on their advertising receipts.

The CHAIRMAN. And they will continue.

Mr. FARELLY. I see no reason why they shouldn't.

The CHAIRMAN. If they can live on their advertising why do they insist on putting the burden on their subscribers? Why not put the burden of this increased postal rate on the advertisers that constitute one two-thirds to four-fifths of their income. They ought to do that, shouldn't they?

Mr. FARELLY. The increased cost of production has been upheld by them until the zone rate was added to it.

The CHAIRMAN. Do you believe in the charge of these magazines this propaganda that the magazine published in Philadelphia or New York will cost the subscriber in Illinois or Denver more than would cost in Maryland or North Carolina, or a nearby State?

Mr. FARELLY. I think they would be compelled to do that.

The CHAIRMAN. Do you think that the Literary Digest will have a higher price for the man living in Pennsylvania and say \$3.50 or a \$4 price for a man living in Denver or Los Angeles?

Mr. FARELLY. Well, if he was living at a distance, for the same price as a man living nearby, he will get it at less profit to the publisher.

The CHAIRMAN. Is it your judgment that these papers and magazines will make a flat rate and will make that flat rate to its advertisers and subscribers to make it sufficient to cover the increased price of the service?

Mr. FARELLY. It is not the total cost of service, it is simply the manner of collecting it.

The CHAIRMAN. I haven't any settled conviction about it. I am asking you. I want to get the judgment of men that have studied it and you have.

Mr. FARELLY. There are so many questions to consider, cost of products; that is going up every day.

The CHAIRMAN. They have a right to go up on subscribers and advertisers. Nobody criticizes that. That is necessary; but what am I asking you is, do you believe that the magazines that I have mentioned and others will give, after July 1, when this zone rate provision goes into effect, different subscribers' prices to a subscriber in Pennsylvania and in New York and one in Colorado or Illinois or in California?

Mr. FARELLY. It strikes me if this zone system is insisted upon they will have to charge their cost to the mail system of that particular zone. If it goes to the rate of 8 cents a pound to the Pacific coast, they would lose money on their subscription.

The CHAIRMAN. Some magazines that you handle, periodicals, you ship some by express or freight and pay as much as 40 cents a hundred, don't you?

Mr. FARELLY. For a short distance.

The CHAIRMAN. And some you ship for as much as \$2 a hundred?

Mr. FARELLY. Yes.

The CHAIRMAN. Do you charge a different rate to your subscribers that section of the territory for which you must pay \$2 a hundred and you do to the subscribers in the territory where you only pay 8 cents? Have you been doing it?

Mr. FARELLY. We may have to do so after July 1.

The CHAIRMAN. I know, but have you done so, with this difference of 40 cents or \$2?

Mr. FARELLY. At the present time we are not sending it by mail at \$1.

The CHAIRMAN. I know, but you said you sent some of them at 40 cents a hundred and some at \$2.

Mr. FARELLY. Not \$2, against the Government plans. Never higher than \$1 a hundred.

The CHAIRMAN. You sent some at 40 cents a hundred—that is nearby.

Mr. FARELLY. Yes.

The CHAIRMAN. Then you sent some at \$1?

Mr. FARELLY. Yes.

The CHAIRMAN. Did you make any difference in price to your subscribers?

Mr. FARELLY. No, sir; we make that difference in profit.

The CHAIRMAN. Will there be that much difference from 40 cents a hundred to \$2 a hundred in any of the first, second, third, fourth, or fifth zone in any of these publications?

Mr. FARELLY. We are in consultation with every publication on whom this zone act will have any effect. We will have to charge a higher rate to the subscriber or they will have to give us a lower rate.

The CHAIRMAN. If you sell a magazine for 25 cents now, you sell for 25 cents all over the United States, and if you raise that to 30 cents you are going to sell for 30 cents all over the United States?

Mr. FARELLY. It is a little different. We sell Scribner's at 19 cents, which retails for 25 cents. We can't sell it for 19 cents in California unless the publisher sells it to us at a reduced rate, or we will suffer a loss.

The CHAIRMAN. This increased rate is going into effect July 1, not a half a month off. Have you seen any advertisement in any of these papers or magazines in which it says after July 1 the subscription price of this periodical or paper will be so much in New York or so much in this zone or still higher in another zone?

Mr. FARELLY. They haven't put it on that ground as yet.

The CHAIRMAN. If they were going to do that don't you think as business men they would start at it right now and let the subscribers know it?

Mr. FARELLY. They are increasing their rates and striking an average.

The CHAIRMAN. So then all this is stuff about sectionalizing the rate, isn't it, because they are going to charge a flat rate in New York and the same flat rate in California? As you say, they are going to strike an average, which I know they are going to do. Then all this stuff about sectionalizing magazine rates and all other rates is all stuff.

Mr. FARELLY. A vast amount of that shipped through this channel we will have to pay the expenses unless the publishers give us decreased rates.

The CHAIRMAN. No publisher so far as you know has advertised and said they are going to charge a higher rate for subscriptions in California than in Pennsylvania, have they?

Mr. FARELLY. I don't know of any such, not as yet.



The CHAIRMAN. And if they were going to do it it is about time for them to notify the public, as a business proposition.

Mr. FARELLY. I have been thinking and hoping you would change it.

The CHAIRMAN. They couldn't have very much hope. It was turned down by the Post Office Committee in the House, then the Senate Post Office Committee and the Finance Committee of the Senate, and it is just two weeks off before it goes into effect.

Mr. FARELLY. Can't my plea receive some attention, that they shall receive an equal revenue either through an increase in advertising rate or—

The CHAIRMAN. Since October 3, when the act was passed providing for this zone system, a great many publishers have increased their subscription.

Mr. FARELLY. I don't know, some few have.

The CHAIRMAN. A great many papers have increased their subscriptions, haven't they?

Mr. FARELLY. Some of them.

The CHAIRMAN. A great many of the papers in the cities have increased from 1 cent to 2 cents, haven't they?

Mr. FARELLY. Yes, sir.

The CHAIRMAN. Have any of the people in your country been called upon by the National Publishers Association of Publishers Advisory Association for a contribution to help carry on this propaganda against the zone system?

Mr. FARELLY. No; we have never been invited to meet them in any conference.

The CHAIRMAN. You don't belong to either of those associations?

Mr. FARELLY. No, sir; we do not.

Mr. SLOAN. You spoke about zone systems and provincialism in this literary educational matter. Are you aware that there is an organization known as the Academy of Arts and Letters, chartered by act of Congress?

Mr. FARELLY. I may have heard of it. I have no personal knowledge of it.

Mr. SLOAN. And do you know of the 50 members allowed in that organization that every one is in the Northeast one-sixteenth part of the United States where most of these publishers are?

Mr. FARELLY. I don't know of that.

Mr. SLOAN. Well, that is substantially a fact. I think we have as much provincialism for our literary publications as we could well get, in any circumstances right now. It is due to a large extent to the special privilege that publications have to send out stuff at a flat rate in the United States.

Mr. FARELLY. It has developed to an enormous extent. In view of the enormous extent that would follow if these rates are put into effect, it would be rather a misfortune if you should exact this law and let it go into effect on July 1 and six months later you should enact another revenue law—

Mr. STERLING. Suppose we don't change it now and let it go on five or six months. Would you be willing to assure us now you would not be back here then urging us not to change it?

Mr. FARELLY. I don't know what would happen.

The CHAIRMAN. I believe there is a great deal in what you said about a special agency like yours in handling this matter, in reference to advertising and reading matter. But I believe that the suggestion by Mr. Rainey is a good one and I hope you and the Post Office Department will be able to adjust the matter; it ought to be adjusted. If you can't do it we will consider some legislation so as to affect the administrative features of a case like yours.

(Thereupon, at 1.10 p. m., the committee took a recess until 2.45 p. m.)

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AFTER RECESS.

The committee reassembled at the expiration of recess.

**STATEMENT OF MR. ED. C. LASATER, FALFURRIAS, TEX.,  
LIVE STOCK AND DAIRY PRODUCER.**

The CHAIRMAN. Mr. Lasater, give your full name, your address, and the business in which you are engaged.

Mr. LASATER. E. C. Lasater, Falfurrias, Tex.; I am a ranch man and farmer.

The CHAIRMAN. And do you appear for the live-stock industry?

Mr. LASATER. Not as an accredited representative of the live-stock interests before this committee. I will say this: I am a member of the American National Live Stock Association's Market Committee; that is a committee of seven delegated to represent the association in Washington; but we have not had either a market committee meeting or an executive committee meeting since this matter came up; so I am not an accredited delegate for this purpose.

Mr. Chairman, and gentlemen, one of the greatest fields to be exploited by the National Government for securing increased revenue is to create agencies for financing the producer to a parity of the rate charged to the speculative mercantile and manufacturing pursuits.

This would make a saving in cost of production of from 12 to 16 per cent, which the National Government could appropriate to itself without prejudice to present position of the producer and without adding additional burdens to the consumer.

To say that all industries should bear an equal rate of taxation from now would be unjust and not to the interest of the whole Nation. We have some industries that have shown enormous profits the past four years and others and basic ones that have barely maintained themselves.

I believe—and I think the great majority of farmers agree with me—that the National revenue should be raised by making the basis of taxation affect every man or woman that has an income above the efficiency line. That for which we work hardest to achieve is usually considered of the greater value. Citizenship should not be a thing that can be held without some degree of sacrifice. Every income that places its recipient above the efficiency line should be taxed proportionately with that of the millionaire. I do not believe it would be possible to confiscate capital without serious dislocation of all industrial life. I do believe that our Government can appropriate to itself

the net earnings from capital in any degree that may be found necessary to meet our National needs without any paralysis of industries, provided that this form of taxation is made just and applicable to the whole people as nearly as may be possible.

I think this class of taxation should be proportionate to the size of the net income and that it should be so arranged that after a given amount is reached—say \$50,000—only a reasonable commission for acting as agent for collecting revenue above this amount should be allowed.

In the case of a corporation, only a return of, say, 8 per cent should be allowed.

Now, gentlemen, addressing myself to the first proposition, that is in regard to the Government appropriating to itself the difference between the rate that is charged to the producers of the country to-day and the rate charged to the mercantile and the manufacturing industries, I would like to say this:

When you go into the cost of production on an 8 per cent basis—and the credit charge to the producing interests of the country according to the Government statistics, is something over 8 per cent—you will find that the proportion of the total cost of production—that the interest charge bears to the total cost of production a proportion of from 55 to 60 per cent.

Now, if the producers of the country commanded a rate of 6 per cent, we will say, which is at this time the rate charged to the mercantile and manufacturing interests, although they have advanced somewhat recently, that would make a saving of something like 12½ per cent in the cost of production. Without adding any additional burdens to the producers of the country; without lessening production, which is so essential, that charge could be appropriated by the National Government. Of course if this plan was adopted by the Government, you would find it necessary, and it is going to be necessary anyhow, for the National Government to take steps to assist in financing the producers.

Now, as pertinent to this statement, I would like to read you two letters which I have here.

The first is a letter from Mr. James Callan, president of the Texas Cattle Raisers' Association. I will say that that association has a membership of something over 4,000; it is one of the associations that go to form the American National Live Stock Association; it is one of the State associations. Representative Garner is familiar with both organizations. This letter is from Mr. Callan to myself. [Reading:]

FORT WORTH, TEX., May 25, 1918.

Mr. ED C. LASATER,  
Falfurrias, Tex.

DEAR FRIEND: I have been asked to go to Washington on so many occasions that I find it necessary to try to get the various subjects grouped and some unity of action. Therefore, I have set the date indicated by the inclosed letter and trust that you will be able to attend the meeting and assist in the discussion and solution of these matters. Please don't fail to come.

Yours, truly,

JAMES CALLAN.

Mr. Callan inclosed a copy of a letter that had been sent out by him as president of the Texas Cattle Raisers' Association to certain banking interests; it was sent to Mr. George S. Hovey, of Kansas City; Mr. M. A. Traylor, of Chicago; Mr. Wirt Wright, of St. Louis; and

Mr. Marion Sansom, of Fort Worth, Tex. All of those men are parties who are largely interested in financing the cattle interests; they are handling it for large loan companies. There are four companies which handle around \$100,000,000 of cattle paper. Mr. Callan's letter to those gentlemen was as follows:

FORT WORTH, TEX., May 25, 1918.

MR. GEO. S. HOVEY, *Kansas City, Mo.*  
 MR. M. A. TRAYLOR, *Chicago, Ill.*  
 MR. WIRT WRIGHT, *St. Louis, Mo.*  
 MR. MARION SANSOM, *Fort Worth, Tex.*

DEAR SIR: The matter of credits for cattlemen has become so serious that we think it advisable, on the suggestion of Mr. Hovey and other holders of cattle paper, that if possible you meet with our executive committee in the city of Fort Worth, Tex., on June 11, for the purpose of discussing the situation. It is hoped by that time that we will have rains in the range country sufficient to help the situation.

There is also need to discuss the labor problems and the cottonseed products question. We expect to have the attendance of parties interested and Mr. Peden, Federal Food Administrator for Texas, together with representatives of the Department of Agriculture.

Inasmuch as these several matters will likely need to be discussed with the officials at Washington, it is hoped that a committee may be appointed to go there and submit some definite suggestions, and while it would seem that this delay was too great, we believe it is the earliest at which we can hope to get the necessary attendance.

Very respectfully and truly,

JAMES CALLAN.

Now, gentlemen, you may raise 5,000,000 or 8,000,000 troops; you may equip them all with ammunition; but some military genius in the past has stated that an army moves on its belly; unless you provide the material to feed your troops your efforts will come to naught.

This Government has seen fit to create an agency to assist in the manufacture of all munitions necessary to carry on their war work. Many of these agencies were commanding, before the creation of the governmental agency, a much lower rate for credit than the producers of your foodstuffs. There has been no time in our history when the credit that the producers of the country were able to command has been higher or harder to get than now. The situation as it exists can not be allowed to continue, and if the producers are to perform that which is expected of them to feed ourselves and our allies.

I have a letter here from Mr. Tomlinson, the secretary of the American National Live Stock Association, to Senator Kendrick. If the committee will permit me, I will read it to you.

JUNE 14, 1918.

HON. JOHN B. KENDRICK,  
*United States Senate, Washington, D. C.*

DEAR SENATOR: My Washington office has sent me the following telegram from J. H. Nations, of El Paso, Tex.:

"The indications are that there will be a very unusual liquidation of cattle paper demanded by the banks through the cattle-paper brokers during this year. The result of which will be to enforce the marketing of large lots of mother cows, through the packers, and while that will produce a good supply of beef for this year yet it will further reduce the number of cows on the now much depleted ranges in the cattle-producing country and, to my mind, it will be like killing the hen that laid the golden egg. It seems to me that the cattlemen of the cattle-producing country ought to do something toward relieving this situation before it is too late. My judgment is that it would be disastrous to the meat supply of the United States in the future for the wholesale marketing of the cattle to take place during this fall season, brought about by the enforcement of collection of debts of the cattlemen whose only holdings are the cattle. I would advise that you look into this matter, and if it is decided that this view of the situation is correct, that the matter be taken up with Comptroller of Currency by the American National Live Stock Association."

Mr. Nations is a member of our executive committee and for a long while was president of the Panhandle and with the Western Stockmen's Association. He is well posted on live-stock conditions and the financial situation. From all sides I hear complaints of tightening of money market on live stock. I was out to the yards yesterday and commission men said it was very difficult to handle their loans. Unless cattle paper can be taken care of about as usual there will be a big liquidation this fall, lower prices and shortage next year. Can you not take this matter up with Federal Reserve Board and get their help? I am sure a word from you will go a long way towards solving this question. Let me know what to do, addressing me at my Denver office. I hope you can advise me definitely as to this so I will get your advice about the 25th or 26th.

Yours, very truly,

T. W. TOMLINSON.

Now, of course, I understand that this committee would like to be told ways and means to raise a billion of dollars of revenue. I do not think that you would give a welcome to anyone coming here asking for exceptions or exemptions from the taxation that you propose. But I believe one thing that should be borne in mind by this committee, and which is of great national interest, is that any legislation that is passed for the purpose of producing revenue should have in mind bringing the industries of the country in a condition to continue production.

As some of you gentlemen are well aware, the area of the United States that is practically known as the range country, that is, the country occupying the western part of the United States, the intermountain country, from the Canadian line to the Gulf of Mexico, has had several very unfavorable seasons; and that fact, together with the market conditions, has practically taken all the profits from live-stock production in that section for the past two years.

One of the reasons why I anticipate that the bankers are calling for the collection of the cattle paper of the country to-day is that, if that interest is to be held down, we will say, for the profit that you gentlemen decide upon for the general interests of the country that have been profitable since the commencement of the European war, there will be no chance for that industry to recoup itself, and they might just as well take what is coming to them now. And I can not believe that that can be to the national interest to force that situation upon the live-stock industry.

I do believe that it is a national interest, especially as it is up to the producer of this country, not only to feed ourselves, but to feed our allies, that some consideration should be given to the credit situation of the producer. I know of no better place to start than here.

I have heard the theory advanced several times that in the event that a given line of business is allowed to make too much money—excess profits—the Government will get it at the other end of the line, if it does not catch it here. A great many of us feel this way in regard to that: I feel that I have the right to buy my own proportion of Government bonds. I do not believe that any other agency should be allowed to handle the products I sell at an undue profit, and deny me that privilege; and I believe that is one of the sentiments that you will find is having its effect upon the mind of the country producer. Many of us do not feel as though we are allowed the privilege of sustaining the Government at this time, from the fact that the agencies that handle our products take more than their proportion of what the consumer pays.

Mr. GARNER. Mr. Lasater, would it interfere with your statement if I asked you a question at this point?

Mr. LASATER. I would appreciate it if you would question me.

Mr. GARNER. You speak about giving the live-stock industry a lower rate of credit, or a lower rate of interest, we will put it, if that term will suit you just as well—

Mr. LASATER. Yes; a lower rate of interest.

Mr. GARNER (continuing). A lower rate of interest for the producer than they are now getting; and in referring to the producer, you refer to the farmer and stock raiser, and not to the manufacturer?

Mr. LASATER. Yes; the farmer and stock raiser.

Mr. GARNER. Ordinarily the term "producer" would take in manufacturers and others, because they are producers in a sense. Your contention is that the live-stock man's and farmer's credit now is not as good as that of the different commercial enterprises and manufacturing enterprises, and you want some system whereby they can have the same rate of interest, as it were, on their capital necessary to do their business that the manufacturer and other business enterprises have. How could that be accomplished by taxation?

Mr. LASATER. No; you do not stop there; you can not stop there; but you can so regulate your tax—you take the live-stock interests of the West, in the semiarid country; you can practically limit the credit that can now be extended to them.

Mr. GARNER. Let us have a practical illustration. This is a taxing committee.

Mr. LASATER. Yes, sir.

Mr. GARNER. Suppose this committee should decide that they will allow 8 per cent profit on the capital invested and take 80 per cent of all profit in excess of 8 per cent. Would you give the farmer and the cattle producer a limit exceeding 8 per cent? Would you make any exception of them; and if so, what kind of exception?

Mr. LASATER. Well, in the situation which we are to-day, so far as the live-stock interests are concerned, I think it would be to the national interest to make that exception, because if you are going to start from where we are we practically have three years with no profit at all behind us; that is owing to weather conditions and market conditions.

Mr. GARNER. That particularly applies to the cattle industry, and not to the farming industry?

Mr. LASATER. No; not as a whole. But let me make this statement here, in which I think the facts will bear me out, and which I think some of you gentlemen know. I do not know of one of the producing countries of the world, as they are called, where the producing interests are paying a higher rate for credit than the manufacturing or mercantile interests. That is not the case with either France, Germany, Belgium, Austria, or Italy; but it is the case in this country.

Mr. GARNER. But you can not remedy that by a rate of taxation, can you?

Mr. LASATER. To some extent you can.

Mr. GARNER. Will you point out how that could be done?

Mr. LASATER. I will say this: As conditions are to-day—and I think one of the reasons why the various interests are probably making arrangements to cash in on cattle paper this coming summer and fall is the fear of just such a law as you speak of being passed. When it is passed, they say that there will be no cash for this industry to

recoup its losses for the last few years, so that they might just as well take the money while the taking is good.

I will say this: I feel like it is going to be necessary, in order to insure the food supply of this country, that some arrangement be made to finance food production on a reasonable basis by the National Government. Here is where I think you could force the producing interest to help raise this additional revenue. If you create the agencies—you have already created the Federal Farm Loan Board—there are about \$4,000,000,000 now out on farm mortgages. After December 31 last the Farm Loan Board had loaned about \$39,000,000 on farm mortgages. I understand now that they are loaning at the rate of about \$10,000,000 or \$12,000,000 per month, which would make something over \$100,000,000. As time goes on, that is going to have the effect of bringing down farm mortgage loans. I do not believe, however, that it will have the effect of meeting the emergency situation that we have with us during this war.

Now, if you created an agency for financing this cattle paper, and that agency should supply, at the same rates that we have been paying, say 8 per cent—6 per cent and 2 per cent, which you could call a tax, if you like—I think that would help to meet the situation. I have data here which would go to show—I will say that there is no exact data on the subject; I have tried in the agricultural, and all the data that I could get from the Farm Loan Board I have also obtained; and they frankly admit that there is no exact data so far as country loans are concerned. The farm mortgages amount, as I say, approximately to \$4,000,000,000, but on short-time credits there is no way of getting at a close approximation of the amount; but approximating the amount as best we can, you will find that that 2 per cent tax would produce anywhere from \$150,000,000 to \$180,000,000.

If that was done, you would add no additional burden to the producer, and he would be carrying no greater burden than he is carrying now. Nor would you add any additional burdens upon the consumers of the country. And it looks to me as if both of those are accomplishments very much to be desired.

Mr. GARNER. Indeed they are; but we are making up a bill now to get revenue, and your proposition, or your suggestion, is to create an independent agency of the Federal Government to assist in financing the cattle industry. Of course, that would be wholly aside from the question of obtaining revenue.

For instance, Congress passed what was known as the war finance corporation bill not long ago, in which we arranged for \$3,000,000,000 credit. Now, your suggestion is, in line with that bill, that some Federal legislation be had by which the cattle industry can borrow money on good cattle security at a low rate of interest.

I do not think we could do that in this bill. I can not see any possible way by which you could benefit the cattle industry as you suggest, in the matter of excess profits, except by giving it a higher exemption than is given to other businesses. That same identical idea has been suggested by the mining people and some others. You understand, of course, the difficulty in making exceptions in this bill.

Mr. LASATER. I certainly do.

Mr. CRISP. The public-service corporations are asking for them.

Mr. GARNER. Yes; the public-service corporations are asking for them. And I believe that if Congress undertook to specify a certain class of people and give them an advantage in taxation over other classes of people, we would have the various interests coming here in groups and saying, "We are entitled to the same consideration as these other people, and we want you to give us an exception also."

Mr. LASATER. But do you not think that you gentlemen are in a position to size up every proposition that is presented, from a national standpoint? I have but little sympathy with my own interest, or any other interest here pleading for an exemption for its own special benefit.

Mr. GARNER. I think you are right about that.

Mr. LASATER. But I do not believe this exemption would be local in its results at all or would inure any more to the benefit of the cattle interests, or, we will say, the producing interests; I would not limit it to the cattle industry. But I think one of the greatest problems of this country in the next few years will be to feed ourselves and our allies. Will you allow me to read to the committee something that Mr. Hoover has said that has a bearing on that situation?

At the time of the establishment of the Food Administration last summer, we were informed that we were confronted with a price level in feedstuffs for animals that had not been witnessed in the United States since the Civil War. Heavy exports to Europe of all character of feedstuffs during the previous 12 months had drained the country of its surplus production of feed supplies, and had also even exhausted our normal carry-over from one harvest to another. The consequence was that we entered upon the harvest of 1917 with a less supply of all kinds of feedstuffs than at any similar period in 15 years. In fact, had the harvest been a total failure, the human beings and the animals of the country would scarcely have survived for 60 days; a situation not only pregnant with speculation and high prices, but pregnant with danger to equalized production in any direction.

Of course Mr. Hoover was speaking of conditions last year; the situation is much more serious now than it was at this time last year. For years back it has been my job to supply feedstuffs for something like 15,000 or 20,000 cattle. We have gotten to a point, and this does not apply to my immediate locality alone, but to Colorado, New Mexico, Kansas, and a very large area in the Northwest up to the Dakotas; we got to a point last April where we had to have rain or let our cattle die. We could not get in feedstuffs from the outside. The year previous, when Mr. Hoover wrote this article, cottonseed products were bringing \$37.50 per ton. We paid this year as high as \$60 per ton; and they say that there was more protein in the cotton seed sold last year for \$37.50 than in that in this year sold for \$60. So that it does not take much stretch of the imagination to visualize people instead of cattle being in that situation. It is only in the last few years that that situation has applied to our country, where there was no place for the cattle to pasture, and no feed to ship in for them. I will say that pastures that we have been paying \$3 and \$4 for have commanded this year \$17 or \$18 a head, and none could be had at this time.

So that that is the food situation, with regard to the cattle industry. I do not know just how to tackle this proposition here before Congress, but it looks to me as if this is one committee that could deal with these facts. These are the facts, and it seems to me as if Congress could take a national view of the situation and take the proper steps to relieve it, either through this committee or some other committee.



I think the situation is such that, unless some action is taken, the country itself will be in a very serious situation. The individual farmer can not meet the situation; the States can not meet it in time to offset the threatened catastrophe.

Mr. GARNER. We agree with you that all the legislation possible should be had to encourage production on the farm and the range.

Mr. LASATER. Yes. Permit me to say this: I have heard our friends discussing cotton and suggesting a bale tax. It looks to me as if a tax of so much a bale on cotton would not be wise. I believe the man that has the money is the man that pays the tax. Cotton is subject to both drought and insect pests. And there might be communities where a tax of \$5 a bale would not be injurious; there might be other communities where such a tax would put them just as far below the line of efficiency.

Mr. GARNER. And it is the same way in the cattle business?

Mr. LASATER. It is the same in the cattle business. There is no business that has so many uncertainties connected with it as country products, either wheat or cotton or cattle; so it looks to me as if it would be a mistake to put a tax on production of a given amount, but it ought to be on net income, and a man who has that ought not to want to evade paying the tax.

Mr. GARNER. You favor, then, a very heavy income tax?

Mr. LASATER. I do.

Mr. GARNER. Starting as low as \$1,000 or \$2,000?

Mr. LASATER. I would consider whatever they estimate that the income is that a family needs to maintain itself, and start at that point, and increase the tax as the income increases.

Mr. GARNER. And after they reach an income of \$50,000, you would take practically all of the income, would you, allowing the man who had the income enough money to support his family, and giving the balance to the Government?

The CHAIRMAN. You do not want to apply it to the cattleman, do you?

Mr. LASATER. Yes, sir. Under that suggested arrangement I would frequently pay \$150,000 to \$200,000 tax, and there is nothing that would give me greater pleasure than paying that tax during this war.

Mr. GARNER. That is very patriotic of you. If I get your idea it is that in levying the excess-profits tax a certain exemption, we will say of 8 per cent, would be given to your business under this bill?

Mr. LASATER. Yes.

Mr. GARNER. Your idea is that the producers of the country should be put in a special classification; and the term "producers" as you would construe it would include the farmer and the cattleman?

Mr. LASATER. Those are the only ones it would apply to.

Mr. GARNER. And you would have a provision put in the bill whereby those producers would be given a greater exemption than the merchant and the manufacturer or the banker on his capital invested with regard to the excess-profits tax?

Mr. LASATER. Considering the situation as applied to the country as a whole, I think that would be justifiable from the national standpoint.

Mr. STERLING. May I ask you a question on that point? Would it require an 8 per cent exemption to farmers to accomplish that? The farmers in my section of the country are not making 8 per cent on their investment. Are they making 8 per cent in Texas?

Mr. LASATER. No, sir; for some years past we have not made 8 per cent.

Mr. STERLING. Then you will not have any excess-profits tax to pay at all as the bill now stands.

Mr. LASATER. I was not talking from an excess-profits standpoint; but my suggestion was to arrive at some given point, some given amount of income require to sustain industry, and start taxation from that point. I do not see any use discussing excess profits; excess profits are arrived at by figuring profits over a given period prior to the war; anything above that would be termed excess profits.

Mr. STERLING. The way that was fixed was, under the present law, to fix it somewhere between 7 per cent and 9 per cent.

Mr. GARNER. On capital invested.

Mr. STERLING. Yes. Do the farmers and cattle raisers of Texas make more than that on their investment?

Mr. LASATER. No, sir.

Mr. STERLING. Then you do not pay any excess-profits tax at all?

Mr. LASATER. No; from that standpoint we have no excess profits.

Mr. STERLING. Then it does not make much difference, so far as you are concerned, and I know it does not make much difference so far as the farmers in my section of the country are concerned, simply because they do not make the amount of the exemption.

Mr. LASATER. Yes; I understand.

Mr. STERLING. Now, such a provision would not help you any. Suppose we gave you 10 per cent, or 12 per cent, it would not do you any good, because you do not make what is exempted.

Mr. LASATER. Let me make this statement: Take the history of the semiarid country, the range country. In that country extremes follow each other, the bad years follow the good years; they come in cycles. Under the law of averages the good years come after the bad years. Now, it looks to me as if that section of country is the "best bet" that Uncle Sam has got, because we certainly have had several bad years behind us in the cattle business in that country. Now, there is a probability that if we can finance ourselves and keep the farms and ranches producing in that country, we will be able to make an excess profit, if you put the exemption at 8 per cent. I think that is one of the good bets you have to-day. Certainly, if you can judge the future by the past, that will be what will probably happen; we have some good years coming to us.

There is one other thing that I should like to mention here that does affect country production: I have heard you gentlemen discuss a tax on automobiles. Now, I am in no way interested in automobile manufacture or sale, but I do use automobiles, and I do think they largely affect the efficiency of the people as a whole; and it looks to me as if, when we have got to win this war by every man doing more than he has ever done before, it would be a mistake to limit in any way a man's efficiency; and of course if you lessen his ability or make it more expensive so that he is going to throw out of his organization the use of automobiles and attempt to use horse power, you would be lessening the efficiency of the directing minds of the country

that are engaged in agriculture—country production. I believe that would be a mistake. I thank you, gentlemen, very much for your attention.

The CHAIRMAN. Mr. Lasater, I do not think I quite understand the point you are trying to make; that is, what change in the present law you would have us make in order to accomplish what you desire.

Mr. GARNER. As I understand it, the main thing that was in Mr. Lasater's mind was to obtain some character of legislation that would enable the farmer and the stock raiser to get a rate of interest on the capital necessary to run their business in proportion to the rate that the merchant, the banker, and the manufacturer get.

The CHAIRMAN. What rate of interest do you have to pay the bank and loan companies now?

Mr. LASATER. From 8 to 10 per cent; the Government says that it averages a little less than 9 per cent, the country over.

The CHAIRMAN. How much is it in your State?

Mr. LASATER. In my State it is from 8 to 10.

The CHAIRMAN. Well, if I were a merchant in your State, and went to the bank to borrow money, how much would I have to pay?

Mr. LASATER. The wholesale merchant in the larger towns pays between 5 and 6 per cent.

The CHAIRMAN. What does the manufacturer pay?

Mr. LASATER. About the same rate.

The CHAIRMAN. And they charge you cattlemen from 8 to 10 per cent?

Mr. LASATER. Yes, sir; that is the usual rate.

The CHAIRMAN. Why is that? Do you not have as good security?

Mr. LASATER. We think so.

Mr. WHITE. Is there not some question of the security or protection to the lender of the money involved?

Mr. LASATER. Take it for a series of years, and I do not know of any paper that is better protected than cattle paper.

Mr. GARNER. Is not one reason for the difference in rate that the bank considers the account of the merchant and the manufacturer a little more important and desirable, because the cattleman has all his money in use; his account in the bank is not as permanent; he will sell his cattle; and for a short time he will leave a little money in the bank. Then he is out borrowing money again, and the result is that the bank looks upon the merchant and the manufacturer as better customers because they leave their money there, and therefore they get a better rate of interest?

Mr. LASATER. I think that would have something to do with it; yes.

The CHAIRMAN. Do you think that if the cattlemen should be allowed an exemption of 8 per cent on their cattle before the tax attaches it would be of any benefit to them?

Mr. LASATER. I do not think that exemption will assist the cattlemen in refinancing them.

The CHAIRMAN. Your trouble is not with regard to taxation; your trouble is in getting money.

Mr. LASATER. Yes; our trouble is in getting money.

The CHAIRMAN. Your trouble is to get the money to make those profits, so that there will be something for the Government to tax?

Mr. LASATER. Yes, sir; our trouble is to get the money. Now, let me make this statement, and I will not take any more of the time

of the committee: With regard to the rates of interest paid by the country producer and those paid by the manufacturing and mercantile industries, as I said, in the European countries, the farmer is on the same plane as to credit as the man who borrows thousands of dollars. Of course in France, Germany, Belgium, and Italy the farmer only has a small farm; as a rule the production is done in smaller units than in this country.

But there is a South American country, Chile, that in 1856 had great difficulty in financing farm production, and they created what they termed a bank of agriculture. I will not stop to describe it in detail; I will simply state the result; I will not attempt to analyze the bank at all. At that time country credits were commanding 8 per cent interest and up. In 1856 the Government undertook to supply the needs of the country producers at 8 per cent. They had to go to Europe for their money. To-day the agricultural industrial industry in Chile is doing business on a 5 per cent basis. The producers in this country, which has a banking wealth that no other country has, are still paying 8 and 9 per cent.

The CHAIRMAN. Has this distinction between manufacturing and commercial paper on the one hand and agricultural paper on the other always existed, or has it existed only since the war began?

Mr. LASATER. It has always existed.

Mr. MOORE. Could that not be regulated by State legislation?

Mr. LASATER. I suppose it is possible, but it is not likely that in this emergency the States will make any attempt to do it.

Mr. MOORE. They attempt to meddle in your affairs down in Texas, and it occurs to me that that whole matter would be in the hands of the State of Texas through its legislature. How is it possible that any State like Texas, which is supposed to be purely an agricultural State, a manufacturer can obtain an advantage in a bank over a farmer?

Mr. LASATER. I will not justify it at all.

Mr. MOORE. I say, how is it possible that it could be done under the laws of your State?

Mr. LASATER. I suppose, sir, that it is the custom of the country; the farmer has never been on a plane with a business man in this country as to a credit basis.

Mr. MOORE. Will you permit me to say that the members of your legislature are not all so alert as your Members of Congress? [Laughter.]

Mr. GARNER. Mr. Lasater, I want to say to you that your suggestions have had a good deal of the attention of Congress, not directly in the line you speak of, but the farm loan act is one of the provisions Congress has made for the farmers.

Mr. LASATER. Yes.

Mr. GARNER. Of course that character of legislation would be a banking proposition more than anything else. And I am sure that the Committee on Banking and Currency of the House would take great pleasure in giving you a hearing. We have one Member from Texas on that committee, Mr. Eagle; Mr. Glass is chairman of that committee.

So far as arranging for lower credits, or a lower rate of interest, or a better credit standard, as it were, for the agricultural interests, I am in fellow sympathy with you; but I do not see how we can arrange

it in a revenue bill, because we are not going to undertake to invade the province on the Committee on Banking and Currency in reporting our bill.

Mr. LASATER. Permit me to suggest this: Before you gentlemen devise a bill here that will affect the cattle interests in the West, will you go into the matter and see what the situation is? I do believe this is a matter of the greatest importance to the country at large. That is the great meat producing section of the country; that section of the country has more than one-fourth of the total cattle supply of the country.

I thank you gentlemen.

**STATEMENT OF MR. WILLIAM A. BRADY, NEW YORK CITY,  
PRESIDENT NATIONAL ASSOCIATION OF MOVING PICTURE  
ASSOCIATIONS.**

The CHAIRMAN. Mr. Brady, will you give your full name and address?

Mr. BRADY. William A. Brady, 316 Riverside Drive, New York City.

The CHAIRMAN. You are president of the National Association of Moving Picture Associations, are you?

Mr. BRADY. I am; and the association that I represent comprises every branch of the motion-picture industry. And as the motion-picture industry is rather a young industry, and many people have queer notions about it, it might be in order for me to explain what my association represents.

In the first place, we represent the producer, the man who takes the film; we represent the actor; we represent the director, who directs the motions of the actor in the film. Next, we represent the men who distribute the film after the film is made. Beyond that, we represent all the men who make the equipment necessary for the making of the film, for the original raw material of the film.

In fact, we represent probably 96 per cent of what is known as the motion picture industry of the United States.

At a meeting held yesterday in New York, we thought it was wise that all of the theatrical interests of the United States should present their case here this afternoon, so as not to bother you gentlemen any more than was necessary, and so as to put the case of all these entertainers, all of the theaters of the United States, in one whole.

And for that reason we have brought three men here: One who will talk to you about the admission ticket; one who will talk to you about the tax on the film, which we believe is manifestly unfair; and third, a gentleman representing the United Vaudeville Theaters of the United States, all of them, who will talk to you about another phase of the tax situation.

In a sort of a general résumé of the whole thing I will take a very few moments of your time.

Mr. MOORE. You do not represent the legitimate theaters, do you?

Mr. BRADY. I represent the legitimate interests also. The legitimate interests were also represented in this meeting yesterday; and I may state that I have been a legitimate manager for 30 years.

Mr. MOORE. Yes; I know you by reputation very well, Mr. Brady. Does this general aggregation include all the California companies?

Mr. BRADY. Yes, sir; it represents the Klaw & Erlanger interests, and it represents the Shubert interests, and therefore represents the entire legitimate interests of the United States.

Mr. MOORE. Then you are really speaking for 90 per cent of the profession?

Mr. BRADY. Practically. And we thought it necessary, especially as we have heard the noise around Washington during the last year—and I am sure the chairman of this committee will remember the fact that during the pendency of the last revenue bill the lobbies of Congress were crowded by gentlemen from all parts of the United States who had all sorts of ideas in regard to what taxation should be. As I say, we thought it necessary to appear here as a whole, as a unit, as an industry.

And I might say that we have been reading the newspapers recently. We read the remarks of a gentleman who appeared before this committee in the last 48 hours, who was honored by a column editorial in the New York Evening Mail last night. That gentleman—Mr. Emery—said, among other things:

If we would raise the price of those pictures to just double the amount of admission that the proprietor charges, instead of making the tax 10 per cent, make it 100 per cent, or double the admission, we would wipe out a lot of those pictures.

That will create a great reduction in the number of those who attend and will save a great deal of time of the people who are now patronizing these pictures, to the great detriment of their own interests and destruction of their morals and waste of their time.

With regard to the utterances of that gentleman, the New York Evening Mail says editorially:

We must all spend our evenings as Mr. Emery wants us to spend them. The father who used to spend his spare money drinking alone or with his boon companions, and who now takes his wife and children to the movies—he may now go back to his drink. It is nothing to Mr. Emery that the motion pictures represent the greatest contribution in history to the brightening of the lives of the masses.

I might go back a year and call your attention to the fact that the honored gentleman who now sits in the White House wrote a letter to me, as representing the motion-picture industry, in which he characterized the screen as the greatest medium in the world for conveying public information to the masses. A little later on he called upon the motion-picture industry to introduce into Italy, into France, into Russia, into Scandinavia, and into the Oriental countries, something that he could not do through the newspapers. I can quote him as saying that the screen speaks the universal language. I can say to you gentlemen that the screen reaches every portion of the world. That in the furthestmost water tank of the West, away down in Arizona, where you have to go through dust-covered deserts on a ramshackled old stage coach, and where you get far away where they have no newspapers, no country journals, you can go there and you will find the screen.

And therefore, standing here and representing the screen of the United States, I hope I will not bore you when I call your attention to the service that the screen has delivered to this country during the 12 months of the present war.

I call your attention to the fact that the "Four-Minute Men of America," and there are thousands of them, have had a public rostrum every night for 10 or 15 minutes, or as long as they wanted. I will call your attention to the compliment paid to the screen by

Secretary McAdoo in the first, second, and third liberty loans. I call your attention to the fact that in the third liberty loan Secretary McAdoo did not use the newspapers—he used the screen. I call your attention to the service rendered by the screen to the Red Cross.

And we do not stand here expecting to be exempted from anything. We do not want to do our bit—we want to do our chunk.

But we want just a square deal. We do not want to come in here, as we did six or eight months ago, and listen to one of your favored industries attack, as did the representative of that industry at the top of his voice, the chewing-gum and motion-picture industries. We have read in the newspapers about some crank that comes here and attacks this industry, knowing nothing whatever of what he is talking about. He talks about an industry that may teach the word of God some day. He talks about an industry that some day will put upon the screen the operations of your great industries, an industry by which your boys will be taught in the surgical schools, the dental schools, and all the schools that teach the great arts, and particularly the great operations of great doctors. The screen will teach those things. The day will come when every school in the world, and every classroom in the world, the kindergarten and the highest class in Harvard University, will teach by the screen.

Therefore we resent, as a respectable profession, as a respectable industry, which pays its taxes and works and frets and dies for its Government, that it should be criticised by cranks.

So, to come down to the meat of what I wish to say, I ask, and I do not object to being heckled either, as our friend from the newspaper association was heckled this morning. If any of you gentlemen desire to ask me any questions, I am willing to answer them.

So, in conclusion, if you do not want to ask me any questions, I would like to introduce to you Mr. P. A. Powers, who will next address you.

Mr. RAINEY. Are we taxing you too much, in your opinion?

Mr. BRADY. Shall I go into that question?

Mr. RAINEY. Yes; we want to know what you think about it. You have told us about the importance of the screen; we agree with you on that proposition. You have not told us why it should not be taxed.

Mr. BRADY. We want to be taxed.

Mr. RAINEY. Yes, that is what we want to know about.

Mr. BRADY. I am glad, Mr. Rainey, that you have called my attention to the fact that I had not spoken specifically on that. We ask that the admission tax should not be raised.

Mr. RAINEY. That is what we want to hear you discuss.

Mr. BRADY. Yes, I understand. In the excitement of the moment I forgot. You tax the admission 10 per cent. That means that if you go to a theater where the price of admission is \$2, you pay 20 cents war tax for each ticket; where the admission is \$1, you pay 10 cents tax for each ticket; where it is 10 cents, you pay 1 cent tax. I believe the 5-cent theaters are not taxed.

Mr. STERLING. The theaters where the general admission is 5 cents is not taxed at all, is it?

Mr. BRADY. No, sir; it is not.

Mr. STERLING. I am sure it was the intention of Congress to tax the 10-cent theater 1 cent on an admission ticket; but it seems to

be true that if that 10-cent theater sells tickets to children under 10 years, or under 5 years, or whatever the age is for 5 cents, the law seems to be construed so that that theater has to pay a 1-cent tax on each of those 5-cent tickets sold to children.

Mr. BRADY. No, not exactly; they construe it so that in any theater where the entire admission is 5 cents there is no tax.

Mr. STERLING. That is correct.

Mr. BRADY. But if the theater divides the prices, they have to pay the tax on the whole amount of tickets, including the 5-cent tickets as well as the 10-cent tickets.

Mr. STERLING. Do you think that is right?

Mr. BRADY. No; so far as we are concerned, we are willing that you should tax the 5-cent theater.

Mr. TREADWAY. You are willing that we should tax the 5-cent theaters?

Mr. BRADY. Yes.

Mr. STERLING. But it is not fair to tax the 5-cent tickets at the 10-cent theater, and not to tax the 5-cent ticket at the 5-cent theater.

Mr. BRADY. So far as we are concerned, we are willing that you should tax the 5-cent theater.

Mr. STERLING. So as to make it even?

Mr. BRADY. Yes, sir; to make it even. But as to the 10 per cent tax—you asked a question of Mr. Farrell this morning, and you cornered him by bringing out a list of publications and asking him individually which papers had lost money; and he could not answer you, except in the case of Every Week. But I can answer you, with regard to our industry. You tax us 10 per cent. It took us four months to partially recover from that tax, in the larger cities. In the smaller cities, and in some of the semilarge cities, they have not recovered from that.

Mr. TREADWAY. Just what do you mean by that, that it took them four months to recover?

Mr. BRADY. We figure that the business was hurt 25 per cent, save in exceptional cases. Of course, if you go to New York and take the larger motion picture theaters, like the Strand or the Rialto, or other large theaters where throngs pass the doors all the time, or a theater on State Street in Boston, or a large theater in San Francisco, or Dallas, Tex., it is true that those theaters have not been hurt so much.

But those theaters and others like them constitute a very small part of the motion picture business.

The CHAIRMAN. Well, take the month of May last, did not the attendance in motion picture theaters increase greatly over the attendance in the month of May, 1917?

Mr. BRADY. I am not acquainted with that fact.

The CHAIRMAN. Have you anybody present who is acquainted with that fact?

Mr. BRADY. I do not think we have.

The CHAIRMAN. I think there has been a large increase, and I think the Government books will show it. I know we are getting a larger tax return now.

Mr. BRADY. Yes; you are right as to that. I was just going to say that the amount derived from the tax on theaters was just twice



as much you gentlemen thought it would be, and for that reason we ask that they should not be raised.

The CHAIRMAN. Another reason for the smaller attendance last winter, is that this last winter was one of the coldest and most rigorous that we ever had.

Mr. BRADY. That was only in one month.

The CHAIRMAN. Was it not that factor that reduced the attendance considerably, and not the tax that was imposed?

Mr. BRADY. I will say that from about January 1 to January 20 the weather conditions were bad.

The CHAIRMAN. We had bad weather from January 1 to April 1, here in Washington.

Mr. BRADY. It was not that way in other large cities. And then you must remember that certain sections of the country did not suffer as much as the eastern section.

Mr. TREADWAY. Was not another reason for the small attendance last winter the fact that the Fuel Administration closed the motion theaters on certain days?

Mr. BRADY. Yes; but we made more money by being allowed two performances on days when the restriction did not apply. We were helped by that rule of the Fuel Administration, and not hurt. It helped us, because Monday naturally became a holiday and everybody went to the motion picture theaters, and we were allowed to close up on Tuesdays, instead of Mondays, as other businesses did.

The CHAIRMAN. Well, whatever caused the decreased attendance along the first of the year, whether it was the tax or the weather, you think you recovered from it, do you?

Mr. BRADY. Yes, sir. But if you do increase that tax, as we have heard rumors of, on \$2 seats, 10-cent seats, and \$6 seats—on everybody—we do believe that you are going to put a dent in us, and that you are going to reduce by an enormous amount the money that you are getting now in taxes.

The CHAIRMAN. What proportion of the 10-cent moving pictures shows increased their admission fees to 15 cents after this tax went into effect?

Mr. BRADY. A very small percentage, Mr. Chairman.

The CHAIRMAN. We do not know. There is no way to find out, except from you.

Mr. BRADY. We very much resented that, and we would be very glad if this committee would prevent that being done. We believe that nobody should be permitted in this country to put on a price which includes the tax. We think the tax should be plus the price, so that there would be no hanky-panky business about it.

Mr. MOORE. That is the way you do it now?

Mr. BRADY. No; a lot of gentlemen put it up to 15 cents, including the war tax. Such a man is taking advantage of the legislation in order to beat his neighbor, who has lived up to the letter of the law.

The CHAIRMAN. And to get an extra 3 cents.

Mr. BRADY. Right you are, and that, gentlemen, should be curbed.

Mr. TREADWAY. May I ask—I did not get quite clear your reason for the reduction of business—whether you actually had figures that your business had been reduced 25 per cent by the tax?

Mr. BRADY. That is the truth.

Mr. TREADWAY. For how long?

Mr. BRADY. Somewhere about 3 or 4 months and it gradually climbed back.

Mr. TREADWAY. The people gradually got accustomed to it?

Mr. BRADY. My business was to sit in the box office and study the people as they came in. When they came in to pay the 20 cents some would refuse to do it, but when they saw their neighbors doing it they gradually got into the habit of it, but if you raise the tax further, and if a man has got to pay 30 cents for a dollar ticket, as I read in the newspapers you are talking of raising it 15 per cent, he has got to pay 30 cents for a dollar ticket. You are going to get a lot of trouble and hurt us, and we ask, not for any exemption, though we have not charged for what we have done as other industries have done; our pictures are going to the front, our Mary Pickfords, our Chaplins, and our Fairbanks have toured the country from one end to the other, and we are devoting ourselves to the good of the country, and we ask, gentlemen, do not hurt us any more. Let us go along a few months—the President does not wish to make us a nonessential—but, if it is necessary, we will be patriotic and accept the proposition and stand anything, give 100 per cent from our earnings in this crisis, but at this time it is not necessary, and as we are doing good in a time like this you gentlemen do not want to hang crape on the Nation, and in my particular industry the pictures are amusing boys on battleships and in cantonments, I say that our little screens and our little pictures are a public necessity.

If you will allow me to go to the other proposition, we are the only industry in the United States that is taxed twice, and I am going to let Mr. Powers give you that because he is more expert than I am on this question. We pay a tax on admission and on our film you tax us at three-fourths of a cent for the film, that is the material used in production. I claim that that is not being done to any other industry in the United States.

Mr. MOORE. Before you go to that, the Treasury Department estimates that receipts for admissions for 1918, the current year, will be \$28,823,000, and it figures that we ought to collect from admissions in 1919, the year for which we are now legislating, \$54,800,000. That, of course, would double the tax on admissions.

Mr. GARNER. No, that it is not upon the theory of doubling the tax for admissions, but that there will be double the attendance under the present proposition.

Mr. MOORE. It would be double the amount.

Mr. GARNER. Double the number of gross receipts from attendance at the same rate.

Mr. MOORE. The Government figures that it wants to get \$54,000,000 in 1919; that it got \$28,000,000 in 1918.

Mr. BRADY. But the Government only participated for 3 months.

Mr. MOORE. They were figuring on the fiscal year ending June 30, 1918.

Mr. CRISP. These gentlemen are estimating what they expect to get, under the present law, what the present law will raise for the next year.

Mr. MOORE. If it is to double the taxes; it would mean that we would expect to get \$100,000,000.

Mr. BRADY. You would get one-half less because you would put most of them out of business.

Mr. MOORE. That was the point that I was bringing out. You are facing this problem of revenue just as we are. Mr. Brady, of course, you do not object to a man coming here any more than you object to pointing a moral and fully stating his side of the case. There have been one or two gentlemen who opposed moving pictures *per se*, and I don't wonder that you are offended at such, but I want you to know, as I want everybody else to know, that it has been the policy of the chairman of this committee to give a fair, square hearing to everybody and not to heckle anybody. He used a line of inquiry to ascertain facts that had not been developed by the witness. I mention that because we do not want to be unfair to anybody that appears and deny anybody a hearing, and I want to say for the chairman that up to the present time he has not denied anybody a hearing, and I understand it to be the policy of the committee to be perfectly fair to everybody. You are in a reasonable business that produces a substantial revenue, and from that business it has been said that twice as much will have to be developed for the next year with the problem we are facing.

I am glad that you quoted the President, I am taking some liberties with the chairman in doing this—because the President, who has told you these things about the value of moving pictures—and I heartily agree with it—has indicated that we have got to get this double taxation, and Secretary McAdoo has said that he has got to have that money. What I want to know is this, if we are compelled to put this double tax on the pictures next year, on the moving picture shows next year, whether the system that has already been divided in moving picture shows of making a charge plus the tax is satisfactory to the industry.

Mr. BRADY. Yes; but I earnestly beg, as the second oldest man in the theatrical or entertainment business in the United States—and if anybody could be called an expert I am, as I have been in every part of the entertainment business—

Mr. MOORE (interposing). Everybody recognizes that from East Lynne days down.

Mr. BRADY (continuing). I think as a patriot, a good Irish-American, I think that you would make a fatal mistake if you raised the taxes. Those words are given to you on my honor and according to my best knowledge. Instead of getting \$58,000,000, you would put 40 per cent of the theaters out of business.

Mr. MOORE. For one, I do not want to put out of business a single moving-picture show that is conducting itself properly to-day.

Mr. BRADY. I declare, Mr. Moore, that you will.

Mr. MOORE. You take a place like the Columbia Theater here in Washington, which charges 25 cents plus 3 cents. There isn't any doubt to any observer that that place has been doing an extraordinary business.

Mr. BRADY. Tax profits then.

Mr. MOORE. I want to be fair with you, that is a successful place.

Mr. BRADY. Yes, sir; I know what it makes.

Mr. MOORE. On the one hand I will admit that if you take a car here, when you can get a seat, in Washington, and will go to the outskirts you will find several places that have closed the doors and

the windows are barred and they have moved away because of no business. Now, I say that there are two cases in point, one of which sustains your contention. We do not want to put anybody out of business, and you contend that some places were put out of business by this law, because of the tax, but, on the other hand, some of the other places are doing more business.

Mr. BRADY. Take a concrete illustration, which you gave, the Columbia Theater. Now, doesn't the Columbia Theater, let us say that it makes \$75,000 a year, isn't the Columbia Theater, under the excess-profits tax, going to pay a large part of its earnings?

Mr. MOORE. Yes.

Mr. BRADY. Why put a tax on the thing that is going to queer the revenue, that is going to reduce that? Why not put it on the profits?

Mr. RAINEY. That is an argument applied to all taxes, why not put it on the profits, and in the last analysis that means a tax on profits, and nothing else. It applies to other businesses the same as this.

Mr. BRADY. But if what I say is true, that additional tax will destroy a large number of tax producers, and instead of having \$58,000,000 you may put 40 or 50 per cent out of business, because the general notion of the entertainment business at present is this, the expert notion, that if there are going to be any more liberty loans, and if we are going any further into this war—

Mr. MOORE (interposing). There will be.

Mr. BRADY. If the entertainment business is going to be put down—now the only entertainment business that keeps up in the summer time is baseball. Baseball and the circus are feeling the effect of this condition, and motion pictures will be the next to feel its effects. Secretary McAdoo has announced that the next loan will be 4½ per cent.

Mr. MOORE. Are you right about that?

Mr. BRADY. It has been announced.

Mr. GARNER. I think where you got that is that it was announced that temporary certificates would be 4½ per cent.

Mr. BRADY. Our wise financial columns last night so stated.

Mr. MOORE. I think the effect of that statement was that the temporary certificates would be 4½ per cent.

Mr. WHITE. Were you speaking of the higher-priced entertainments when you made the statement that there was a falling off of 25 per cent due to the tax, the screen business or all business?

Mr. BRADY. All of the business.

Mr. GARNER. How do you reconcile your statement, Mr. Brady, with the estimate of the Treasury Department? You ought to know, probably, more about it than they do, but we have to depend on their figures, and they say that for the year 1918 we will collect from this tax \$28,623,000.

Mr. BRADY. They only had a tax on us for three months for 1918. How can they figure that?

Mr. GARNER. These are the figures that they give, and they figure for the year at the same rate for 1919 we will get \$54,800,000, or nearly twice as much as we got under former conditions.

Mr. BRADY. That is an impossible calculation, because they knew nothing about our receipts until the 1st of November last year. It

is not based upon facts, notwithstanding it may have been made by the Treasury Department. The Treasury Department knew nothing of the theater business of the United States until November, last year, when the tax bill went into operation on the 1st of November of last year. For the first time of my life the Government was in touch with the receipts of the theaters of the Nation, and therefore that calculation is impossible, unless they base it upon the receipts for those three months.

Mr. RAINEY. Was the effect of the tax to cut down attendance?

Mr. BRADY. It was.

Mr. HULL. This estimate makes the receipt of admissions for the fiscal year 1918, which ends June 30, 1918, \$28,000,000 and for the full year \$54,000,000.

Mr. BRADY. Well, as I said before, in my opinion if you raise the tax on the admissions you will not get \$54,000,000.

The CHAIRMAN. What is your estimate of the tax paid by the moving picture shows and the amount collected from all these items?

Mr. BRADY. As the moving pictures have driven the legitimate theater out of about 65 per cent of the United States—where we used to play down in North Carolina, Raleigh and some of those towns, we do not send a company to Raleigh any more. We are wiped out in Raleigh, Dallas, and Fort Worth. Texas used to be one of the best legitimate places in the United States. We used to make thousands and thousands of dollars there. But the moving pictures have contributed most of the tax.

The CHAIRMAN. I should think more than nine-tenths of it.

Mr. BRADY. Yes; and the motion-picture tax keeps going everywhere.

Mr. RAINEY. If attendance keeps increasing the tax has not affected it, has it?

Mr. BRADY. Yes; it has.

Mr. RAINEY. Don't they pass it on, generally?

Mr. BRADY. The motion picture does not represent the high grade of intelligence. The motion picture is a melting pot. If you put an additional tax on it, your attendance will fall off.

Mr. GARNER. Do you admit that it is legitimate for us to tax the business for the greatest amount we can get?

Mr. BRADY. Yes, certainly; I think every business should be taxed to the limit in this emergency.

Mr. GARNER. Then, you are willing to admit that we are justified in levying the greatest tax that we can get?

Mr. BRADY. Certainly; you have as much right to take my money as my son. You can take the money and give me the son.

Mr. MOORE. One point that has not been passed upon—that is, the tax upon the consumer—the person who pays the admission. In most instances this is a tax on those who do not pay direct taxes like excess profits and income taxes, and this is about the only way many of them contribute to the revenue of the Government at all.

Mr. BRADY. Right, and I want to tell you one thing you did in that bill, whether you intended it or not, you taxed every deadhead. That was bully.

The CHAIRMAN. We intended to.

Mr. MOORE. We intended that.

Mr. GARNER. You are glad of it?

Mr. BRADY. I love to see the deadhead put out.

Mr. RAINEY. Since you mention that, I did that myself.

Mr. MOORE. The President was right and you are right, when you say that this country ought not to go into mourning because of the war. You speak of the boy going into the trenches and having amusements on the other side. Some amusement ought to be left here for the wives and children, even for the widows and orphans. I say that merely in passing.

Mr. BRADY. May I say one more thing, and I have communicated with any number of Senators and Representatives about it—you should put this in the next tax bill. It is impossible for us to pay the tax for a thousand soldiers as we have been doing every night in New York. You force these boys to pay a tax. In the next tax bill the uniform should not be taxed. My wife has conducted a series of entertainments in which all of the theaters have guaranteed to give a performance, and the uniforms are taxed. Take the Anzacs. While they were in New York the English Mission called up and asked me if we would not put them into theaters, 400 of them, and they were forced to pay a tax. That forces our boys to give 10, 15, or 20 cents, and I know in some instances the poor devils from Kentucky were not able to pay, and I met one one Sunday who did not know the way from Forty-seventh Street to Thirty-seventh Street, and he did not have the 20 cents to pay the tax, and I think they ought not be taxed.

Mr. RAINEY. I hope that can be done.

Mr. TREADWAY. In case there is an increase in the rate, will the 10-cent place or the \$2 place be worse affected by the increase?

Mr. BRADY. Well, he who can pay \$2 can pay \$2.60. The person who goes to a 10-cent theater, why the copper counts. In New York some people pay \$5 and \$6 to see the Ziegfield Follies. Those people can afford to pay taxes. The gentleman who occupies a box at the Metropolitan Opera House and pays \$5,000 or \$6,000 a year can afford to pay a tax.

Mr. HAWLEY. Would you favor a graduated tax?

Mr. BRADY. I would right up to the top price. I would tax the fellow who pays \$20 for the world's series, and I would tax him high and the fellow who pays \$50 for a prize-fight seat would also pay high.

Mr. TREADWAY. You are willing to be one of those?

Mr. BRADY. I get in free. I will introduce Mr. Powers.

#### STATEMENT OF MR. PATRICK A. POWERS, OF THE UNIVERSAL FILM CO.

Mr. POWERS. Mr. Chairman, I was down here last year when the Committee on Ways and Means were levying a tax on film. That is the footage tax, we call it. I had about 10 minutes with Mr. Kitchin and about half an hour with Mr. Rainey, but the schedules were made up, and I take it that when the schedules were made out, or when the schedule applying to the footage tax was made out the Committee on Ways and Means did not understand the modus operandi of the business.

I have been in the producing end of the business; that is, the making of the pictures, the putting of the pictures on the film, and the distribution of that film, and I am in no way connected with the

exhibition of the pictures. I simply produce and distribute to the theaters.

Now, there was a tax of one-fourth of a cent per foot placed on unexposed film before the producer purchases the film. There was a tax of one-half cent per foot placed on that same film after we got it and exposed the film to light. Now, in order to be able to get along with it, I thought I would bring you samples of the film, so as to give you an idea of the technical side of the motion-picture business. That is a blank film [indicating] without any emulsion on it, and that the film with the emulsion [indicating] and also the film with a picture on it [indicating].

This tax, I presume, was intended as a tax on motion pictures. There is no tax on the blank stock, that is the stock without any emulsion on it, but when the coating is put on that film there is a tax of one-fourth of a cent per foot placed on it.

Mr. GARNER. One-fourth of a cent per foot on which one?

Mr. POWERS. On the coated film, on this one [indicating]. It is purchased, and the man who puts this coating, when he puts this coating on and delivers it to us, there is one-fourth of a cent per foot. After we expose the film to light this one-half cent goes on.

Mr. MOORE. Before you go on, won't you explain the technique of this thing? You have given us the samples so that we will understand. Won't you explain what a moving picture film is positive, etc.?

Mr. POWERS. When a picture is made, it is just the same as when you go into a photograph gallery and have your picture taken. We stage the story in continuity form, and photograph it. It is a photographic process. We take the sensitized film.

Mr. MOORE. Which is the sensitized film?

Mr. POWERS. The opaque one. That is before sensitizing [indicating]. We expose it to the actors or the stage scene, or educational picture, whatever we are making, and we get a picture on the negative. Now, the negative only differs as to speed of the emulsion. There is no difference as to the film, except the difference as to speed, because the negative film has to have a more sensitive emulsion on there in order to take the impression of the scenes. That negative is developed. In the continuity of the story there is a lot of waste. For a 5,000 foot picture, a five-reel picture, that lasts in exhibition about an hour and a half, it requires about 45,000 feet of negative to photograph that picture, and some directors it may be will use 75,000 feet and will secure from that 5,000 feet of good negative for a picture.

Mr. MOORE. How long would that run in time?

Mr. POWERS. About an hour and a half. Now, all of the negative film that is used in the taking of a production is waste. It goes into the waste pan.

Mr. TREADWAY. About 9 feet for 1, if you actually use about 45,000 feet to secure 5,000 feet?

Mr. POWERS. Yes.

Mr. TREADWAY. About 1 foot out of 9?

Mr. POWERS. Yes, sir. Now, then we take that negative and we print our positive upon it. We also print up a sample of course of the negative of everything that is made, and from the negative we make a positive, and from this positive we sort out what we want

by projecting it on the screen. After we have the positive eliminated, we have the nucleus, the base of the story. We then cut down our negative to that, and then we have in the negative all that corresponds to the scenes in the positive, thereby getting a negative from which we can make a number of copies.

The CHAIRMAN. Which one of these is the negative?

Mr. POWERS. None of those, but the negative film is the same as the opaque before it is developed.

Mr. MOORE. Which one contains the story as it is thrown on the screen?

Mr. POWERS. The black one.

Mr. MOORE. This third one?

Mr. POWERS. Yes, sir.

Mr. MOORE. You say 45,000 feet or 75,000?

Mr. POWERS. Seventy-five thousand feet in many instances to take a 5,000-foot picture. Those 5,000-foot pictures run about an hour and a half.

Mr. MOORE. For purposes of illustration, I want to get the tax that is collected on a 5,000-foot picture.

Mr. POWERS. That 5-reel picture, or film, has been taxed, after calculating waste, about nine-tenths of a cent per foot. And there is one-fourth of a cent on the film before we get it.

Mr. STERLING. That would be on the 75,000 feet?

Mr. POWERS. On all of the negative film we pay one-fourth of a cent as it comes from the manufacturer of the raw stock. There is only one concern who makes it. On the raw stock one-fourth of a cent from the manufacturer of the film.

Mr. MOORE. Only one manufacturer?

Mr. POWERS. Yes, in this country, the Eastman Kodak Co. They simply add that one-fourth of a cent on the price and pass it on to us.

Mr. MOORE. And if the thought had been to tax the Eastman Kodak Co., which has a monopoly in the manufacture of these films, that purpose has been defeated by passing the tax along to the consumer of the film.

Mr. POWERS. To the user of it.

Mr. MOORE. From the manufacturer to the user?

Mr. POWERS. Yes, the user.

Mr. MOORE. We will call it the consumer. In giving a show which runs for an hour and a half, you would use up 45,000 feet of the film. How much is purchased from the Eastman Kodak Co.?

Mr. POWERS. On the negative stock when photographing the production we use possibly from 40,000 to 75,000 feet of negative stock for photographing the production. In other words, there sometimes is a scene that will require half a dozen pictures of the same scene in order to get the particular effect, or the director may not want to take the chance of getting his people together again, and they take a scene a half a dozen times.

Mr. MOORE. And all that time you are wasting film for which you have to pay taxes?

Mr. POWERS. Yes.

Mr. MOORE. So that all must be counted in before we get down to the 75,000 feet.

Mr. POWERS. The 5,000 feet.

Mr. MOORE. The 5,000 feet that goes to make the finished picture thrown on the screen?



Mr. POWERS. Yes, sir.

Mr. STERLING. And that 75,000 feet pays a tax of \$187.50 at one-fourth of a cent a foot.

Mr. POWERS. Yes, sir.

Mr. STERLING. How many times can one of those films be shown?

Mr. POWERS. We figure the average life of the film is about 50 or 55 days.

Mr. STERLING. That tax is only paid once?

Mr. SLOAN. How many times a day?

Mr. POWERS. Three or four times.

Mr. SLOAN. One hundred and fifty to two hundred times.

Mr. POWERS. Yes.

Mr. STERLING. That tax is paid once?

Mr. POWERS. Yes, sir.

Mr. STERLING. Then when it is produced and the waste is cut out there is one-half a cent on 5,000 feet?

Mr. POWERS. Yes, sir.

Mr. STERLING. That would be \$25. That would be \$212.50, then on an hour and a half picture.

Mr. POWERS. Yes, sir.

Mr. STERLING. You say that is good for about 50 days service, or 55 days?

Mr. POWERS. Yes, sir.

Mr. GARNER. How is it that the Eastman Kodak Co. has a monopoly in the manufacture of film?

Mr. POWERS. It has a monopoly due to the fact that they were the first in the business, and the laboratories have accustomed themselves to the use of the Eastman Kodak film—that is, the photographer, the man who puts the film into the tank, and he knows about what he is going to get on the film. It is a standard product and they do not like to change the material on which they photograph their acts. In other words you have a camera—we will say you have an Eastman Kodak—and you are accustomed to the use of the Eastman product in the camera.

Mr. GARNER. In other words, the good will of the business is the principal asset?

Mr. POWERS. Yes, sir.

Mr. GARNER. His reputation on his film is the principal assets?

Mr. POWERS. Yes; but of course he has profits, also, and is making considerable money on the films.

Mr. MOORE. Has the price of film advanced to the user?

Mr. POWERS. No, sir; only the one-fourth of a cent on the cost of the raw material; but the point I wish to make is that there is practically nine-tenths of a cent a foot that we pay in making the picture. The film is not a product which we make. We take that and place our picture on the film, in other words, to give it a simile, a shadow. We do not make the film, we expose it to the image, and the image goes on the film. Now, we are not taxed on the picture which we make. We are taxed on the container of the goods.

Take my own company, the Universal Film Co. We produce and publish weekly a great number of news articles, news reels, magazine reels, educational film, etc., from which there is a very small return. Educational films do not bring in anything; that is, in the way of profits. The news reels bring in a very small return. In fact, since

the war started, the returns on the news reels have been wiped out, and since this tax was put on, we have made no profits on the news reels. We figured, on the news reels, that the pictures do not cost very much. It is sent in from our correspondents, we assemble it together on this reel, and send it out. We rent it at a very low figure; as low a figure as we can rent it for during the life of the film. The life of a news reel is practically about 25 days, the limit to which it will last as news.

Mr. MOORE. These are pictures showing current topics?

Mr. POWERS. Yes, sir.

Mr. MOORE. Does the Government induce you to show those films?

Mr. POWERS. We have been cooperating with every department of the Government in the matter which we put on these news reels.

Mr. MOORE. Are you on cordial terms with the Government with respect to the news reels?

Mr. POWERS. Yes, sir.

Mr. MOORE. I observe many patriotic pictures thrown on the screen—these features, Washington scenes, pictures of the President, members of the Cabinet, flags, moving ships, etc. Do you do that voluntarily?

Mr. POWERS. We do that voluntarily; but it is all viséed by Mr. Creel.

Mr. MOORE. I was going to ask you about that, because an application was made for an appropriation by Mr. Creel's bureau, and I wanted to ask you whether you had been paid anything by the Government or by Mr. Creel's bureau for this service, or whether it was done at your own expense.

Mr. POWERS. Every patriotic picture we have issued since the war started, every propaganda picture, has been without charge to the Government; all free.

Mr. MOORE. Does Mr. Creel make any suggestions to you as to the kind of films that should be used?

Mr. POWERS. If we happen to make a picture of some Army activity—launching of a boat, or photographing of a man, photographing of an airplane, or making a flight in an airplane—we can not release that picture without the consent—we have not released any pictures of that kind without the consent—of Creel.

Mr. MOORE. He exercises a censorship over that picture?

Mr. POWERS. Yes, sir.

Mr. MOORE. To what extent does he pay the expenses that you go to in photographing and following up pictures of that kind?

Mr. POWERS. Mr. Creel does not pay any expenses to us for any work which we do. This work is all voluntary, at our own expense. Our men, our photographers, and our laboratories are at the disposal of Mr. Creel without any charge.

Mr. MOORE. You are entirely right about that; that that sort of work, that patriotic work that is thrown on the screen of a moving-picture show is approved by Mr. Creel as a representative of the Government, and is at no expense to the Government, but is at the expense of the film company?

Mr. POWERS. Correct.

Mr. TREADWAY. Isn't there a certain kind of work of that nature, pictures taken by the Quartermaster Department.

Mr. POWERS. Pictures taken by the Quartermaster Department, I do not understand what they are, but I know the Signal Corps, as I understand it, when the war started, called for photographers.

Mr. TREADWAY. I meant to say the Signal Corps.

Mr. POWERS. The Government sent over to France a number of photographers, and those men are photographing the movement of troops in France and sending them back to the Signal Corps. Mr. Creel has those pictures and we do not have access to those pictures.

Mr. MOORE. Take a show like Pershing's Crusaders, which is being exhibited under Government auspices, were those photographs taken by your concern, or under his auspices?

Mr. POWERS. Some of the contents of that picture were taken over in France, because I see Gen. Pershing was photographed with Secretary Baker, so those were taken in France, and sent over here to the Signal Corps, and I presume a copy sent to the Creel committee. Part of the picture was photographed in this country and was put on by the governor of Michigan. I think he was interested in the original pictures. The other part was the up to date part of it, Pershing's Crusaders at the front. They were the boys at the front, and were photographed by the Signal Corps photographers in France, and forwarded to this country and used by Mr. Creel.

Mr. MOORE. Is there any return to the company through the sale of these films?

Mr. POWERS. The returns on the sales of our news weekly has been practically wiped out.

Mr. MOORE. Has not been profitable?

Mr. POWERS. No; that is due to the fact that we have been releasing a great number of copies, wider propaganda and greater distribution with a quicker distribution of everything which the Government needed.

Mr. MOORE. And if you are doing that to stir up public interest in the war it certainly seems to be a highly patriotic movement. If the Government is bearing the expense of this in any way, and we are making appropriations to Mr. Creel, it is important that we should know it.

Mr. POWERS. The Government does not bear any expense of any propaganda pictures which the industry releases. We spend nine-tenths of a cent per foot on every foot of film that is released. In addition to this we have been furnishing films to cantonments, to the Navy, and to the various war departments, base hospitals, with practically no cost except shipping and handling. We have been doing this without any charge. We have eliminated our regular charges at cantonments and are furnishing them practically free at cantonments, except the cost of shipping and the handling of the film.

Mr. MOORE. The use of film in a cantonment is quite expensive, is it not?

Mr. POWERS. It is.

Mr. MOORE. A heavy demand for shows.

Mr. POWERS. Yes.

Mr. MOORE. And that you are doing without profit?

Mr. POWERS. No profit. We do not get the cost of the goods, because all we are charging is the physical handling of the pictures.

Mr. MOORE. Are you taxed on all those things?

Mr. POWERS. Yes, sir.

The CHAIRMAN. You get a return from the motion-picture men. For instance, you prepare one of these Creel pictures, then you sell that reel don't you, to moving-picture shows and get your money back that way?

Mr. POWERS. We get our returns from the rentals to the motion-picture theater only.

The CHAIRMAN. Really the spectators and visitors of moving-picture shows are paying for it finally.

Mr. POWERS. You are right, sir.

The CHAIRMAN. The Government, as I understand, from the Creel fund, or in any other way, does not pay you for your trouble.

Mr. POWERS. No, sir.

Mr. TREADWAY. How are the pictures taken by the Signal Corps actually put in the hands of theater producers?

Mr. POWERS. Heretofore the pictures taken by the Signal Corps were sent to this country and turned over to the Red Cross, or the returns from those pictures were turned over to the Red Cross. The news weeklies purchased these pictures when they were returned from France, and this money was turned over to the Red Cross.

Mr. TREADWAY. The money that the picture has paid?

Mr. POWERS. The money that the publisher of the news weekly paid in the motion-picture houses. The publishers of the news weeklies—there were probably 400 feet in 1,000 which would be war pictures—that picture was published with the Creel committee's approval, and they in turn turned the money, as I understand it, over to the Red Cross, or we paid the Red Cross direct, I am not sure which. I know we paid \$1 per foot for the negative, and we simply printed one print from which we could make a negative; that is, a duplicate negative.

Mr. TREADWAY. The Creel bureau established a price of \$1 per foot to the photographer?

Mr. POWERS. Yes, sir.

Mr. TREADWAY. And then he in turn charges the house?

Mr. POWERS. We in turn printed and made positives, say probably 150 prints, and distributed them all over the country; that is, our company would make 150 prints, another company 150, and another 100, and so on, probably three or four concerns in the business using news weeklies. All those concerns would take this film and pay for it, and release it all over the country. I think we have been doing that certainly. We have been deprived of the privilege of purchasing this film because the Creel committee has made a contract, and out of the entire industry they have selected one particular concern to make a contract with for the exclusive distribution of the war pictures, and the pictures of the boys at the front.

Mr. TREADWAY. Gives one concern a monopoly?

Mr. POWERS. Yes, sir.

Mr. TREADWAY. To supply the country?

Mr. POWERS. Yes, sir. Any concern that took that proposition ought to make a lot of money out of it by getting the monopoly. As we operated it, we hoped to sell and did sell at a very low figure. We did not make a very large amount of profit, but we got a wider distribution, got three or four times the distribution that one firm would get.

Mr. TREADWAY. I do not know that this has a direct bearing on the subject, Mr. Chairman, but I think the establishment of a picture monopoly is of interest. I brought out your reply to my question, and I am interested in what reason is given for the establishment of the monopoly.

Mr. POWERS. The reason as given was that the Committee on Public Information required primarily a large distribution of films, and also funds for the work of the committee.

Mr. TREADWAY. Did you say that that all goes to the Red Cross?

Mr. POWERS. Not since they have given the monopoly to one concern. Before they made this last arrangement, the cost of the film was turned over to the Red Cross.

Mr. TREADWAY. Is the concern that you represent prevented from procuring war pictures?

Mr. POWERS. We can not get a war picture except from the Creel committee.

Mr. TREADWAY. But they have in turn given it to one concern? That is if there are three or four distributors they give it to the rival concern?

Mr. POWERS. That points out the situation. I did not wish to make complaint.

Mr. MOORE. Mr. Treadway, did you get the name of the concern?

Mr. TREADWAY. I did not ask it.

Mr. POWERS. The Creel committee has made a contract with Pathe.

Mr. TREADWAY. Then pictures supplied by your concern would not show war pictures?

Mr. POWERS. Not war pictures of the boys at the front.

Mr. TREADWAY. That is what I am talking about.

Mr. POWERS. Neither can we show the French front nor the Italian front, because Mr. Creel has made another arrangement with the Italian representatives, and the Italian pictures and also with the British pictures, so that Mr. Creel controls these pictures also.

Mr. TREADWAY. What is the method under which this one concern secured this contract with Creel?

Mr. POWERS. I am at a loss to understand. They sent out a requisition for bids.

Mr. TREADWAY. Who did?

Mr. POWERS. The Creel committee.

Mr. TREADWAY. They asked for bids?

Mr. POWERS. Yes; competitive bids on the privilege of releasing these pictures.

Mr. TREADWAY. Your inference is that you were outbid?

Mr. POWERS. That is the only reason I can understand, because we offered to do the work at such a low nominal compensation that it was highly impossible—I did not know how anybody could be lower than we were. We had the distributing machinery all over the United States, Canada, and foreign countries to distribute anything required.

Mr. TREADWAY. Let me understand just this, and then I will stop. I understand that as a result of the Committee on Public Information, or Mr. Creel, selling the rights to the highest bidder for the distribution of war pictures taken at the front the result of that is that the Pathe Co. has a monopoly and that unless theaters buy of Pathe reels

the patrons of the theaters would not see war pictures taken at the front. Am I correct?

Mr. POWERS. Only pictures which we might be able to secure ourselves, but not official pictures.

Mr. TREADWAY. But you can not go over there and take pictures?

Mr. POWERS. We are not allowed to.

Mr. TREADWAY. The Signal Corps takes these pictures and Mr. Creel sells the right to produce?

Mr. POWERS. That is right.

Mr. TREADWAY. And the theaters that you show in—

Mr. POWERS (interposing). The theaters can show them if they buy them from Pathe.

Mr. TREADWAY. In other words, you are handicapped in supplying your patrons?

Mr. POWERS. Yes, sir.

Mr. TREADWAY. And how many concerns are similar to yours?

Mr. POWERS. There are three others.

Mr. TREADWAY. So that the Pathe has—

Mr. POWERS (interposing). The Pathe has a monopoly.

Mr. TREADWAY. And if the other concerns want them they must buy them?

Mr. POWERS. They can't buy them, possibly; no, sir.

Mr. SLOAN. Who is this Pathe Co.?

Mr. POWERS. Pathe is a French company; that is, I think the owners are in France.

Mr. SLOAN. No American connections?

Mr. POWERS. I do not know the officers, but I think Pathe is a Frenchman, and he comes here once in a while. Of course, he has a representative here. It may be an American corporation.

Mr. MOORE. Why is it called the Hearst-Pathe?

Mr. POWERS. Because Mr. Hearst finishes the negatives of the news pictures which they release.

Mr. MOORE. Do you know whether he is a part of the concern?

Mr. POWERS. I think he handles it on a percentage arrangement; a percentage of the profits.

Mr. MOORE. There is an understanding between Hearst and Pathe?

Mr. POWERS. They are partners in this weekly.

Mr. MOORE. And this is the concern that Mr. Creel has recognized as the agency through which these patriotic films shall be exposed to the public?

Mr. POWERS. That is as I understand it.

Mr. TREADWAY. Just one question further. Since this new arrangement has gone into effect, have you tried to buy the films from the Pathe Co.?

Mr. POWERS. We have tried to buy them and have tried to photograph them—get permission to do so.

Mr. TREADWAY. To make photographs from photographs?

Mr. POWERS. Of the actual scenes, even in this country. We are prohibited from even photographing any cantonment or any work in this country without permission of Mr. Creel.

Mr. TREADWAY. Under what disadvantage do you find yourself from procuring these films from the Pathe Co.?

Mr. POWERS. We are in the same position as a newspaper publication would be if it was prevented from printing war news.

Mr. TREADWAY. Is this a fair illustration? Suppose you were a member of the Associated Press, and the Associated Press is given certain information from the Committee on Public Information, but you as one of the persons being served by the Associated Press are prevented from using the material sent out by the Associated Press. Is that a fair comparison?

Mr. POWERS. That is the situation.

Mr. TREADWAY. That is the situation with you in regard to getting war photographs?

Mr. POWERS. Yes, sir.

Mr. SLOAN. What reason is assigned by Mr. Creel for this denial of the privilege to you?

Mr. POWERS. Because he has allotted to one concern the exclusive privilege of releasing these pictures on the arrangement he has made. I do not know what bid these people made, but I know they have secured the exclusive right to publish these pictures.

Mr. TREADWAY. Was any objection made to this bidding process by the other people?

Mr. POWERS. Yes, sir.

Mr. TREADWAY. You were all given the opportunity to bid and the highest bidder, you suppose, got the right? All the other concerns objected to completing bids?

Mr. POWERS. We have written letters protesting.

Mr. TREADWAY. Since?

Mr. POWERS. Before and after.

Mr. SLOAN. When did this monopoly start?

Mr. POWERS. I think it is about in operation now. Either last week or this week it was supposed to start. The Pathe-Hearst Co. is advertising now that it is ready to publish the news weekly of war news.

Mr. TREADWAY. I want to ask one other question about this bidding. Is the bid, as you understand it, based on the highest price you would pay for this reel; for instance, if that was a war picture, was it based on the lowest price at which you or the other concerns would distribute those pictures?

Mr. POWERS. As I understand the requirements which were noted on the bid, they embodied the number of prints which were to be distributed, which any one concern would distribute, and the price of the prints, the cost of the prints. Now, I do not know how they could have got a bid on that basis, because the mode of handling the business is very inconvenient, because I can release half the number of prints and reach the same number of people, and handle them with half the number of prints, but it would take a longer time. But whatever basis they had in mind it was a difficult matter for me to figure out, and I have been in the business 15 years, and know this business.

Mr. TREADWAY. You can not tell—

Mr. POWERS (interposing). I never knew the bid exactly.

Mr. TREADWAY. I understand from Mr. Brady that you represent 96 per cent of the people engaged in motion pictures.

Mr. POWERS. That is a business proposition that I did not anticipate discussing. It is one of our troubles.

Mr. TREADWAY. It is a matter in which there is not entire unanimity in this connection?

Mr. POWERS. That is a business competition, that we sometimes have to contend with. I intended to talk only on the question of taxation. I am willing to go into any phase of the business, but I do not want to get away from taxation.

Mr. MOORE. Being connected with Government taxation we are entitled to know about this.

Mr. POWERS. You are entitled to know anything in connection with the business end of it.

The news weekly, as I stated, is a picture which is of wide distribution. We are compelled to pay nine-tenths of a cent per foot tax on that, figuring waste. That means that we must sell it practically at cost. To take a picture that is exhibited to-day, *The Heart of the World*. On that picture they charge \$1.50 admission, down in Poli's Theater. I saw it advertised this morning. The film which that picture is on does not pay any more tax than our news weekly and educational pictures. The footage tax applies the same on the picture and the news weekly. There is no difference whatever. The idea, as I think now, that was in the minds of the Ways and Means Committee was to levy a tax on the picture not on the container of the picture, because there are no two pictures of the same value. The pictures have a different value, so you can not tax them by the foot because the value does not apply to the footage. You may take a picture of 500 feet, and it will be worth 10,000 feet of other pictures, as no doubt you have observed in the motion-picture theater many times when you saw pictures you would be glad to run out of the theater and not keep looking at them. In taxing the film you tax all pictures the same, *Heart of the World*, *Birth of the Nation*, regardless of the value of the picture when projected on the screen. We make different grades of pictures. We make pictures—for instance, we get a lot of money from pictures that have found favor. We made a picture recently which was a strong propaganda picture, the *Beast of Berlin*. That was profitable and made a lot of money for us. But that picture brings in higher prices on account of the timeliness of the picture.

Mr. MOORE. Do the theaters charging 5 cents admission pay as much for the film as these higher price theaters?

Mr. POWERS. No, sir.

Mr. MOORE. Then I misunderstood you.

Mr. POWERS. I am trying to bring out the fact that the picture that we put on the film, the tax on the man who charges 5 cents is just as high as on the man who charge \$1.50.

Mr. MOORE. That is what I understood you to say, that the *Heart of the World* pays just as much on its film and no more than the little show that charges 5 cents admission.

Mr. POWERS. Yes.

The CHAIRMAN. But you charge a great deal more to that moving-picture showman than to the 5-cent man.

Mr. POWERS. I admit it.

The CHAIRMAN. Just like in the case of sugar. A man who makes a high-priced candy pays the same for sugar as the one who makes old-fashioned lemon candy.

Mr. POWERS. We charge for the higher quality pictures and for the picture that brings in the greatest returns. We charge a higher price for the picture that brings in the greater amount of money than we



do for the small picture which brings no money, but the man who runs the picture show the 5-cent theater pays the same tax as the man who takes the better films.

The CHAIRMAN. In other words, when you add your tax that you have to pay, you just add to your cost, to your selling price?

Mr. POWERS. We have endeavored to pass that tax, which is not a percentage of the selling price. We have simply tried to pass that tax which we have been able to do in adding a certain amount of the tax on to the life of the film. We have worked on this proposition because it is truly impossible for us to pass that tax to the user of the film.

The CHAIRMAN. I want to get the practical workings of it.

Mr. POWERS. It is quite difficult.

The CHAIRMAN. We did not understand as thoroughly as you do when we wrote the tax, but I will tell you that other nations that have written this tax did not understand it better than we did. You buy this from the Eastman Kodak Co.?

Mr. POWERS. Yes, sir.

The CHAIRMAN. On that we tax the Eastman Kodak Co. one-fourth of a cent a foot?

Mr. POWERS. Yes, sir.

The CHAIRMAN. Now, when the Eastman Kodak Co. sells that to you, he is presumed, if he is a good business man—and I think he is—to pass this one-fourth of a cent to you.

Mr. POWERS. Yes, sir.

The CHAIRMAN. Now, then, you make up this [indicating]?

Mr. POWERS. Yes, sir.

The CHAIRMAN. And when you make up this and sell it to the moving picture show—

Mr. POWERS (interposing). We rent it, Mr. Chairman.

The CHAIRMAN (continuing). You are taxed on this one-half a cent?

Mr. POWERS. Yes, sir.

The CHAIRMAN. And in the price which you make to the Columbia moving picture man you add the cost of the raw material you bought from the Eastman Kodak Co., the tax of one-fourth of a cent and also the one-half cent that you pay a tax on, and make the Columbia man, for instance, pay all the tax, don't you? We intended for you to do that.

Mr. POWERS. We can not do that, as I will show you. There is three-fourths of a cent a foot tax, which is nine-tenths, figuring waste. We will call it a cent a foot, that is, \$10 per thousand feet. Now, the Columbia Theater down here runs 7,000 feet daily. If we were going to pass that tax to the Columbia Theater they would pay \$70 a day. We can't do that.

The CHAIRMAN. All right. Suppose your labor and other materials have gone up, haven't they—your costs of producing this?

Mr. POWERS. Salaries and everything have gone up.

The CHAIRMAN. And this tax which you have to pay is just as much a part of the cost as labor is.

Mr. POWERS. Yes, sir.

The CHAIRMAN. You put up your price to compensate for the increased cost of labor and materials.

Mr. POWERS. We have not been able to pass this tax on to the Columbia.

The CHAIRMAN. If your labor cost has increased 25 per cent, and it goes into the finished product that you sell, you have been able to do that, haven't you?

Mr. POWERS. The labor cost of the picture is in the picture, and all pictures have a different value.

The CHAIRMAN. I understand that.

Mr. POWERS. In the making of the picture all the labor goes into the making of the picture.

The CHAIRMAN. Here is my point. In fixing the selling price of your picture you try to cover all the elements of cost, and some little profit, don't you? All of us do that.

Mr. POWERS. We try to do that.

The CHAIRMAN. Now, were you in this business two or three years ago?

Mr. POWERS. I have been in it 15 years.

The CHAIRMAN. Have you sold a larger number of feet in the last 12 months than you did in the 12 preceding months?

Mr. POWERS. Before the tax went on we consumed about 1,500,000 feet of film a year, but after the tax went on we had to reduce that and we are using about 900,000 feet.

The CHAIRMAN. Take the month of May, 1917, and compare it with the month of May, 1918, in which month did you sell more feet?

Mr. POWERS. 1917. We had to curtail the use of the raw stock.

The CHAIRMAN. How about your competitors, did they use more?

Mr. POWERS. I am speaking of the whole industry; that is the entire amount that is released in the United States now as against a year ago.

The CHAIRMAN. So you think that the motion-picture show business, since the tax went into effect, is consuming a less number of feet?

Mr. POWERS. There is less film, less footage being used.

The CHAIRMAN. Less footage?

Mr. POWERS. Less footage being used.

The CHAIRMAN. Taking the same picture and showing it more times than ever?

Mr. POWERS. We try to make the work of one picture do the work of two before; that is, as far as the actual film is concerned.

The CHAIRMAN. Would you say that there has been a great increase in the attendance at moving-picture shows?

Mr. POWERS. There has not been an increase in attendance.

The CHAIRMAN. If they are prolonging the life of pictures 100 per cent and you gentlemen are falling off in an average of about 25 per cent—

Mr. POWERS (interposing). The life of the picture is based on the number of people who look at the picture, not on the physical condition of the film.

The CHAIRMAN. That is, the number of people who go to the show?

Mr. POWERS. That is, the people who look at the picture on the screen. It is not based on the life of the film. If a picture is still running good, we will print a new copy of it, or if the old film is worn out in service we will reprint and put out new copies.

The CHAIRMAN. Do you know anything about the experience in great Britain with moving-picture shows and the tax on films?

Mr. POWERS. I know that the tax on the base of the film which is taxed, in the minds of the Committee on Ways and Means when they levied this tax here, has practically put the British film business out of existence, so that all of the business of the world to-day, the British business, is in New York.

The CHAIRMAN. I think you are mistaken. I do not think Great Britain levied any tax on this at all, except a customs tax, because we were furnishing those films.

Mr. POWERS. As I understood it, they have a footage tax.

The CHAIRMAN. The tax of Great Britain on this when we wrote the bill—I do not suppose it has changed—was two-thirds of a cent a foot, over twice as great a tax as we have in this country. On those which were charged one-fourth of 1 cent, they charge 2 cents, four times as much, I understand. I made some inquiry some time ago at the department, and while they did not have definite information, they were of the opinion that the moving-picture business in Great Britain was still thriving. How does it thrive there with a tax of over two or two and one-half times higher than the tax you pay?

Mr. POWERS. I should say 75 per cent of the productions are made in this country.

The CHAIRMAN. Yes; but they are paying two or three times as much tax.

Mr. POWERS. In this country we stand the production cost. The cost of the machinery, and the actors, and the cost of the story that goes on the screen. When we get through with it in this country we send the negative to England, and it goes into England at a nominal expense. The British exhibitor has no negative expense against the picture, because they are using American goods. I should say 80 per cent of them are American productions. We have been able to do this, due to the fact that we have had no such tax in this country, and we were able to put more into our production; to put a better picture on the screen than the British manufacturer, and send them to England and sell them in competition with the British producer. Not the distributor, but the producer, and he can—

The CHAIRMAN. Now, would you sell the picture itself or the negative?

Mr. POWERS. I am speaking for my own company. We would send it to our London office; we would send the negative to our London office and have it printed there.

The CHAIRMAN. The negative, I understand, is the film from which you print off?

Mr. POWERS. Yes, sir.

The CHAIRMAN. As I understand it, when we wrote this act the negative charge was 10 cents a foot?

Mr. BRADY. May we have facts, Mr. Chairman, and not conjectures?

Mr. FRIEND. The chairman is right.

The CHAIRMAN. I know, because we have had that out. Our idea was to leave it as low as possible and get the amount we needed, and we were lower than Great Britain by 5 per cent. Five pence is right.

Mr. FRIEND. Five pence is right, on negatives.

The CHAIRMAN. That may account for the difference, that we sent them over there after we used them. I will say for your information, Mr. Brady, that the industry could stand more tax; not only that

industry, but other industries. I am certain that if the committee were convinced that it would destroy any industry it would not impose more tax. And we asked you gentlemen about this, and you answered very pertinently.

Mr. BRADY. May I answer this one thing that perhaps Mr. Powers may overlook. It costs \$20,000, \$30,000, \$40,000, \$50,000, \$60,000, or \$70,000 to make one picture. America is making pictures for the world. England buys her pictures by the thousands. The company I was president of sold its pictures in England that cost \$25,000 to \$50,000 to make, for \$4,000 apiece. Therefore England was driven out of the manufacture and can afford to pay any price.

Mr. CRISP. I understood you to say, Mr. Powers, in your opinion it was inequitable for a picture that was thrown on the screen for 5 and 10 cents to pay the same tax that a picture thrown on for an admission charging a dollar or \$1.50?

Mr. POWERS. That is the point; yes.

Mr. CRISP. Of course, you understand this committee is confronted with the practical problem of raising \$2 for every one we have now. The committee has no idea to make an inequitable bill. And you gentlemen are here to show where an injustice is being done. I would like to know if you have any practical suggestions to make whereby that injustice and inequality could be remedied?

Mr. POWERS. If I can bring to your mind, Mr. Crisp, the use that it is made for. The primary object of the picture is exhibition for profit. The means of making that picture and putting it on the screen is purely mechanical. We get the materials, we buy the story, and we hire the actor and we engage the director and he puts on the picture, and it may cost \$50,000 or \$150,000, depending on the lavishness of the production. That is the production expense, the film and all that is used goes into the production expense. Now, that picture is exhibited and that is what the picture is made for—exhibition for profit. The man who makes the picture may or may not make a profit on the picture. But if the picture is exhibited to the public some one has to buy it; some one has to pay to see it; that is where the consumption of the picture comes in. Not with the man who makes it, or stages it, or puts it on the film, put with the public who pays to see the picture. The man who is in the picture business may or may not make any money.

In fact, I venture to say that the production end of the business has lost money in the last year. I don't mean that every one in the business has lost, but the production of pictures has lost money; there has been more money spent on the production of pictures than has been taken back from the public. That is due to overproduction, and money going in which did not come back through the theaters from the public.

Mr. MOORE. Mr. Powers, getting back to the film, you spoke of the wastage in the production, or in the use of the film, in the early part of your address.

Mr. POWERS. Yes, sir.

Mr. MOORE. Is there any recovery, or salvage, on this film after it is sold?

Mr. POWERS. We sell that film, when it has been shown to our patrons, for about 12 cents a pound.

Mr. MOORE. After it has performed its function, is there anything that the Eastman Kodak Co. or anybody else could use.

Mr. POWERS. No; the Eastman Kodak Co. would not buy it; there is a little emulsion, or silver base, and they pay us 12 cents a pound for the scrap, and take the silver off the base.

Mr. MOORE. So that is worth something in the remanufacture of the picture, or of the picture?

Mr. POWERS. Not for the remanufacture of a film.

Mr. MOORE. Not for the film?

Mr. POWERS. No, sir, but the silver base; the film is worth nothing, but the emulsion, this [indicating to Mr. Moore on sample of film] that contains the silver.

Mr. MOORE. That is the only salvage there is?

Mr. POWERS. Yes, sir.

Mr. TREADWAY. May I for a moment return to the matter of bidding off the privilege of serving pictures to the country—the supply of films? There has been a hearing within a few days, as you know, before the Committee on Appropriations on the appropriations for the Committee on Public Information, of which Mr. Creel is chairman. There is a motion-picture division in the Committee on Public Information. I would like to call your attention to a few comments that appeared there in those hearings. Perhaps I need not bother you with reading this, but this was a statement of Mr. Creel's:

Now, we had a decision to make as to whether the Government was justified in giving those very profitable undertakings to private enterprise, or whether the Government had the right to receive moneys from those pictures to devote to the costs. Other governments have not given their pictures outright to private enterprise. Therefore we have evolved a plan by which they are to be commercial undertakings in the sense that we are to be reimbursed our cost, and I fully expect, as I explained in my estimates, that this division may be self-supporting before the end of the year.

Now, that plan that has been evolved, that has been referred to by Mr. Creel, is probably the one to which you referred that the privilege was bid off to a rival concern?

Mr. POWERS. Yes, sir.

Mr. TREADWAY. Then he speaks also of the scenario division.

Mr. POWERS. Yes, sir.

Mr. MOORE. That is Mr. Creel before the Appropriations Committee?

Mr. TREADWAY. Yes.

Mr. POWERS. Yes; I so understand.

Mr. TREADWAY. He says:

We have a scenario department, under the direction of Prof. George Baker, of Harvard University, which prepares scenarios for use in connection with this work. I think I am safe in saying that from now on there will be no resource of the screen that will not be at the country's demand.

Then, to return a little, he pointed out that the pictures were taken by the Signal Corps, and in order to secure the largest dissemination of this information to the public it was put in the hands of one concern. In other words, we are to understand from Mr. Creel's statement that by bidding off this privilege to this one concern the largest distribution will be reached and the news gotten to the public, rather than having all the concerns have the news?

Mr. POWERS. Let me ask you, do you think the news would be as widely disseminated in one newspaper as if it was in different newspapers?

Mr. TREADWAY. I would like to continue with this: Reference was made by you in answer to Mr. Moore's inquiry to one firm, Hearst's Pathe weekly film.

Mr. POWERS. They issue the Hearst Pathe News Weekly.

Mr. TREADWAY. Yes. Would you consider that this had any direct bearing on that? There are several things I might call attention to. The chairman, Mr. Sherley, asked Mr. Byior, who evidently is in charge of the film division under Mr. Creel:

The CHAIRMAN. Who is Mr. Hart, the director?

Mr. BYIOR. Mr. Hart is the man who was the advertising manager of the American Sunday Monthly Magazine and of Hearst's Magazine. He was getting, I think, \$10,000 a year, and he came for what you see there.

The CHAIRMAN. \$3,900?

Mr. BYIOR. Yes, sir; he has a wife and two children, and supports them from his salary, and I feel he has made a great sacrifice to do this work.

The CHAIRMAN. Mr. Smith, \$3,100, assistant manager of distribution. Who is he?

Mr. BYIOR. Mr. Smith has left since this statement was made up, having been called into the Army. He was manager of distribution and has been succeeded by Mr. Berst. Mr. Smith was one of the best known men in the moving-picture industry in relation to the problems of distribution, getting the widest possible showing of pictures.

Mr. CREEL. He has been drafted. Mr. Berst, who succeeds him, was at one time the president or general manager of the Hearst Pathe service.

Is there not a rather direct connection between the manner in which the pictures are now being distributed and as to who has the direction of the distribution contract?

Mr. POWERS. Mr. Berst also was a member of the Hearst Pathe service.

Mr. TREADWAY. So that the men who had the say about the monopoly, and who should have the monopoly, were formerly in the Hearst Pathe service, and now under the Creel bureau?

Mr. POWERS. Yes, sir.

Mr. TREADWAY. Is that correct?

Mr. POWERS. Yes, sir.

Mr. STERLING. Can you tell us how much revenue is derived from the moving-picture business in the United States?

Mr. POWERS. On the footage tax?

Mr. STERLING. Yes, on the footage tax.

Mr. POWERS. I think you will derive about \$4,000,000.

Mr. STERLING. How much did your company pay?

Mr. POWERS. We have paid to date \$40,000. I want to make a statement with reference to that. When the tax went into effect on the week of December 3, we were subject to a tax of \$10,000 a week, or \$11,000 a week—we were subject to a tax of \$11,000 a week in that week. We were making no such profit to start with. We couldn't pay any such tax. We were not making any such profit out of the business. We were doing at that time \$125,000 a week and we were not making \$1,000 a week profit; in fact, we have not declared a dividend in a year. This tax was three-fourths of a cent a foot, and when that tax went into effect on December 3 it meant that it was a tax on us of \$11,000 a week. You ask how did we adjust ourselves to it? We did it by a great deal of production. We put our work out on a rental. The rental on our productions will help us to pay the tax up to December 3. But there was no such profit. We had a great many films, and the result is we had to put out a great many pictures.

Mr. STERLING. And make them run longer?

Mr. POWERS. Make them work faster and harder.

Now, what I wanted to get to the minds of you gentlemen is that we had to use a large number of these weekly films. If it was on the receipts of the business it would be another matter; if it was on the receipts that this tax was levied, we might be able to adjust ourselves to it by adding to the rental price to the exhibitor. But the fact of the tax being levied on the film it runs 55 days in use and we couldn't levy it all on the first man, and when we come to distribute it to the exhibitors we must reckon the physical life of the film, and the amount which the last man who uses it should pay, and he should pay a smaller rental just as the first man who uses it has to pay a higher rental.

Mr. CRISP. What is your practical suggestion then? To repeal the footage tax and put a flat tax on the film?

Mr. POWERS. I say the primary purpose is the production for profit of a film, and the man who buys the amusement is the man who has something to spend. He is buying his amusement. The man who makes that picture may or may not make money. We hear a great deal of the pictures that make money, but we do not hear much of the pictures that do not make money. We hear, for instance, of the Birth of a Nation making \$3,000,000 profit a year, and he pays the same as the News Weekly which is distributed broadcast, and probably he don't pay as much in a year as the News Weekly pays in a year.

Mr. MOORE. Getting down to brass tacks, in line with Judge Crisp's suggestion, first, there is a tax on moving pictures now to which you object?

Mr. POWERS. Yes, sir.

Mr. MOORE. What would you substitute for that, in a few words, to raise the equivalent of that tax?

Mr. POWERS. From the same source?

Mr. MOORE. Yes; what would you levy or how would you levy a tax to raise the amount that you would lose by losing the film tax?

Mr. POWERS. I prefer a tax on the rental of our goods. You understand we have to pay practically for the film. If I were to frame the tax I would prefer to have the tax on the receipts.

Mr. MOORE. A tax on the receipts?

Mr. POWERS. Yes; on the rental value of the picture.

Mr. MOORE. Don't you actually sell them?

Mr. POWERS. No; we only rent them to the theater. We never sell them; we have no sale for our production.

Mr. MOORE. Would you prefer a percentage tax on the rentals?

Mr. POWERS. I prefer a percentage tax on the rentals, instead of the footage tax.

Mr. MOORE. Have you thought out what that percentage should be in order to make up for the present film footage tax?

Mr. POWERS. Yes, sir.

Mr. MOORE. What do you think it should be?

Mr. POWERS. As I figure it, now you are getting from the present footage tax about 3 per cent on all rentals. These figures are on the present rentals.

Mr. MOORE. Would it stand a 5 per cent rental tax if we had to increase the present rate?

Mr. POWERS. A business will have to stand any tax. Any tax you levy on a business will have to stand it. This tax is a production tax; it is a tax on a business. It is not a tax that the people who buy this commodity will pay, because you can't charge them the 3 per cent which you have to pay, and you can't pass on to the exhibitor the 3 per cent, and if you pass it to him he can not pass it on. The pictures should be made to pay the tax, and you can't pass the tax on to the box office. The box office is the place where all the tax that you are going to levy should be paid.

Mr. MOORE. I guess we would have to hold the box office as we do now, and Mr. Eastman will have to pay his excess-profits tax and an income tax.

Mr. POWERS. Yes; the same as any other manufacturer.

Mr. MOORE. And he pays the film tax now?

Mr. POWERS. Yes, sir.

Mr. MOORE. And you would like to be in a position to pass it on to the user of the film?

Mr. POWERS. If we could.

Mr. MOORE. And you would prefer to have a tax on rentals which you think now would be about 3 per cent, rather than a footage tax on the film?

Mr. POWERS. Yes, sir. You see, you take the automobile tax which you levied. It was levied on a percentage of the selling price of the automobile, not on the automobile. You did not levy the same tax on a Ford automobile as you levied on a Packard. There is a different tax. I will give you the example that the News Weekly is the Ford, and the Birth of a Nation is the Packard, and you place the same tax on both, as though they sold for the same price.

Mr. MOORE. Would the rental price of the film, assuming you had control of the Hearts of the World, would you rent it for a different price? In other words, would the rental value be the same to a house that charged a 10-cent admission as to a house that charged \$1 admission?

Mr. POWERS. When the Hearts of the World gets through with the higher-priced houses a great many people will see it at the 5-cent houses, and we will get a smaller rental value for it.

Mr. MOORE. Mr. Brady threw out a suggestion for a bill providing a graduated tax.

Mr. POWERS. Yes; on admissions.

Mr. MOORE. Suppose we put a graduated tax on the admissions to the Hearts of the World, what would be the tax paid by a house charging not more than 10 cents admission, and what should be the tax on a dollar admission?

Mr. POWERS. I don't think I get that clear.

Mr. MOORE. Well, I am running a 10-cent house here, and Poli is running a dollar house across the street.

Mr. POWERS. Yes.

Mr. MOORE. Poli gets the film from you, and if we fix the tax on a graduated scale for the admission, will Poli pay any more rental for his film than I do for mine, having a 10-cent admission?

Mr. POWERS. If you pay the same price for the rental of the picture, and you want to run it at the same time Poli is running it you will probably have to pay the same price, no matter what you charge for your admission.



Mr. MOORE. It looks then as if the 10-cent man would have to pay substantially the same as the dollar and one-half man.

Mr. POWERS. On the basis that he rents it at the same price, yes.

Mr. STERLING. Mr. Moore means a picture that the theater charges 10 cents for.

Mr. POWERS. No, sir.

Mr. STERLING. Is that your proposition, Mr. Moore?

Mr. MOORE. Yes.

Mr. TREADWAY. Now, take the Hearts of the World, if across the street there was another place running it at 10 cents, and a place over here running it for a dollar, whether or not the rental would be at the same price. I think the witness wants to convey the idea that the dollar house will get his rental and the 10 cent man will get his rental at about the same price; if the 10 cent man wanted to show the enterprise to run the picture as a rival to the dollar and one-half show he would have to pay practically the same rental to you?

Mr. POWERS. Yes; practically the same.

Mr. MARTIN. Would the film be damaged in the showing of it in the meantime?

Mr. POWERS. The damage would not amount to much.

Mr. DIXON. The rent would be just so much, any way?

Mr. POWERS. Yes; they can show it at the 10 cent houses.

Mr. TREADWAY. How close have you worked out this estimate, that you are now paying a 3 per cent tax?

Mr. POWERS. I have worked it out through Price, Waterhouse & Co., who do practically all the accounting for the moving-picture business. They have estimated that this tax will run about 3 per cent on our gross rentals.

Mr. RAINEY. If you can pass this on to the Eastman Co. you will have a good chance to get this into the next law.

Mr. POWERS. His statement showed that he made \$15,000,000 net last year, after paying all taxes.

Mr. RAINEY. You have made a very interesting statement, and we are glad to have had you before us.

Mr. BRADY. I think there is one thing that should be set right here. I was appointed by the President to cooperate with Mr. Creel in reference to this moving-picture matter. Mr. Creel sold that picture privilege to the highest bidders, and they are being distributed over the country, and are being circulated in such a way that a sure profit will come to the Government; that is, the pictures of Pershing's Crusaders. Other pictures have been made, propaganda pictures, Our Country at War, Putting up the Cantonments. I think this matter should be set right. I was appointed by the President to cooperate with Mr. Creel.

Mr. TREADWAY. There is no question that the pictures are being distributed by a monopoly?

Mr. BRADY. They were offered to all the moving-picture concerns in the country. As to whether that is the way to do it, I don't know.

The CHAIRMAN. Let me make a statement. Are Mr. Price and Mr. Hughes present? I see they are present, and we will not reach you gentlemen this evening, and when we adjourn we will adjourn until 10 o'clock to-morrow morning, and we will put you on at 10 o'clock to-morrow morning.

**STATEMENT BY MR. ARTHUR S. FRIEND, TREASURER OF  
THE FAMOUS PLAYERS LASKEY CORPORATION, 320 WEST  
EIGHTY-SEVENTH STREET, NEW YORK CITY.**

Mr. FRIEND. Mr. Chairman, before I speak of the tax matter, I should like to say a word about the Creel matter that Mr. Powers went into and tell you some things that Mr. Powers did not know, which I think justifies the monopolistic method of distribution which Mr. Creel and his committee have adopted. I understand that the British and Italian war pictures are privately controlled and distributed in the United States. The man who controls them and distributes them wanted and insisted on a deal with the American Distributing Co. that these pictures that he should distribute would give him the largest possible profit. The French war pictures are absolutely uncontrolled, and are open now to anybody who pays, I believe, \$1 a foot, and that goes to a French fund of some kind for charitable purposes or war purposes, and to-day these French pictures are not handled by any one distributor. Now, the American pictures, Mr. Creel's idea was that they should be distributed by any dealer who would exhibit them and give back the cost of them. But his thought was, I believe, that as the British pictures and the Italian pictures were monopolized, that the dealer should also have the privilege of adding to them the American pictures, as he could use the French pictures and the British and Italian pictures, because, obviously, the American pictures would be in very great demand. Therefore Mr. Creel had the choice of getting back nothing or of joining with the monopoly and letting the privilege of exhibiting the pictures to the highest bidder, and so I believe that was his idea. Mr. Creel is doing what the men in the motion-picture business did not want to see him do, but it seems he had little choice unless he should come back to Congress and get still more money.

Mr. TREADWAY. Do you mind stating who controls the British and Italian pictures?

Mr. FRIEND. They are controlled by a Capt. Banes, who has his headquarters in New York City, and he has made some arrangement with the Pathe Co.; the Pathe Co. gets the Banes pictures now exclusively. The French pictures are free in this country to whoever will pay the rental on the reels, and it seems that Mr. Creel had very little choice in the matter.

I want to say a word about the footage tax. As Mr. Powers has made clear to you, this is like taxing our container, it is like taxing the wrapping paper in which the packages are wrapped which you buy and take from the store. We are subject to a double tax, and we are the only industry that is subject to a double tax, because there is no consumer of our product. The picture, that is, the positive, is run or printed, and it will go down to A, B, C, and D, until there is no longer any demand for that picture; each exhibitor pays a certain rental price; that rental price is fixed according to the value of the picture, the setting of the picture, and the age of the picture. Obviously, we do not get as much for an old picture as we do for a new and popular one; you do not pay as much for a loaf of stale bread as you do for a loaf of fresh bread. The only person who is akin to the consumer is the man who pays when he goes in to see the picture, but in

addition he also pays this footage tax, because it was conceived to be a tax that could be passed on to the consumer.

Mr. MOORE. That is the reason I do not quite understand the argument that yours is the only business that is taxed twice. How do you make that out?

Mr. FRIEND. The ultimate consumer, assuming that he goes in to see the picture, that is, the man who goes in to look at the picture, he is the ultimate consumer as nearly as we can—

Mr. MOORE. The exhibitor passes the tax along, and he pays it?

Mr. FRIEND. Yes; he pays the tax. He pays the admission tax, and also the tax on the reel. It comes out that the exhibitor pays \$1.05 a day to the producer, and nobody has been hurt, but he can't pass that \$1.05 on.

Mr. MOORE. In order to be fair—I am very much interested in your argument—but might you not, with equal propriety, argue that an automobile manufacturer is taxed twice or three times; on the steel in his machine, on the leather in his machine, on the wood, and so on along the same line?

Mr. FRIEND. You could say that; yes, Mr. Moore, except that in each instance he pays the tax that the producer of the commodity which he uses in his product first pays; that is, he passes it on to him.

Mr. MOORE. It all comes back in the increased price of the car?

Mr. FRIEND. Exactly; it comes out of the ultimate consumer, and is paid by the people who buy the product.

Mr. MOORE. I do not want to break into your argument, but one of the other gentlemen made that statement too, and I did not understand you or Mr. Brady or Mr. Powers to say that there should not be some tax on the film in some form.

Mr. FRIEND. If I may be indulged, Mr. Chairman, of course, the simplest and fairest tax is an admission tax, because it is a small tax and it places the burden equally; but we are not trying to shift the tax finally altogether.

Mr. MOORE. If we should do that it would leave us with no recourse except a corporation tax if the concern was a corporation, or an excess-profits tax if it made an excess profit, which we understand some of the companies did not do, or an income tax, and that is where we would be left.

Mr. FRIEND. As a matter of fact, Mr. Moore, you would not be left, if the only desire is to do justice. I understand, of course, in our present predicament we can not always be so keen for justice.

Mr. MOORE. I tell you frankly now that if it was not for this war I would be for striking down this tax as soon as I could get a vote in Congress to do it. This is a question of getting the money; it is a cold-blooded tax proposition.

Mr. FRIEND. Still, no matter how cold-blooded we have to be, we must stop to think whether the form of the taxation is going to bring us in the cash that we so much need. The trouble is with the footage tax—

Mr. MOORE (interrupting). We do not want to destroy any business; we can not afford to destroy any business enterprise.

Mr. FRIEND. It would not destroy the business, I think. It was on the admission tax that I wanted to speak, although there is little Mr. Brady has left for me to say. I want to call attention to two or three things, however. It was my privilege to serve with Mr. Hoover

on the Food Administration last year—a year ago—and shortly after his administration was legalized we sent out slides to be exhibited in the motion-picture theaters, and at that time the number of motion-picture theaters in the United States was a few hundred over 17,000 and to-day it is a few hundred under 14,000.

Mr. STERLING. Do you ascribe that falling off in the number of theaters to the tax?

Mr. FRIEND. Not entirely.

Mr. STERLING. Let me ask you if it is not for this reason: I have an impression that those theaters that were closed were mostly in the outlying districts.

Mr. FRIEND. Very largely.

Mr. STERLING. Isn't it due to the fact that people go nearer to centers of the cities, or down town?

Mr. FRIEND. I think it is due to the fact that people want better entertainment in better places, and the better theaters are surviving and the poorer theaters are going out of business. At the same time the tax had some effect. We must realize that out of 14,000 motion-picture theaters in the United States a few are unimportant: there are some that could not house, for instance, the Hearts of the World. Many of these outlying theaters—neighborhood theaters, we call them—have been unable to compel their patrons to pay the tax. Thirty per cent of the motion-picture theaters have been compelled to absorb the tax themselves, and many of them could not do that, because their profit was not 20 per cent of the gross receipts, and it had to be 20 per cent of the gross receipts in order to meet this tax, and I wanted you gentlemen to know that fact when you come to consider amendments to this bill. The admissions tax as it exists to-day, I think, will result in a steadily increasing income to the Government, because the bigger and better theaters surviving will get a better patronage, and the business will net more in dollars and cents.

Mr. STERLING. What do you think of a tax like this: Repeal the tax on the film altogether and have an admission tax graduated on the amount paid for the admission, 1 cent on a 5-cent admission; 2 cents on a 10-cent admission; 3 cents on a 15-cent admission; and so on up, with 20 cents on a dollar admission?

Mr. FRIEND. Personally I think that would be a splendid thing. I think it would result in a great many more admissions.

Mr. BRADY. Do you mean, Mr. Friend, 20 cents on a dollar admission?

Mr. FRIEND. Oh, did you mean a 20 per cent graduated tax on the admissions?

Mr. STERLING. Yes; that is what I meant. It amounts to a 20 per cent tax on the admissions.

Mr. FRIEND. I did not understand that. I think you would have trouble and would be unable to maintain your averages when you got into the higher admissions. I think, starting with 1 cent on a 5-cent admission, and so on, it would work very well.

Mr. STERLING. I think you could maintain it in the higher prices better than in the lower.

Mr. FRIEND. I think you can in the very high prices, or in the very low, but in prices between 20 cents and \$1 I think we would stumble.

Mr. STERLING. I think that tax would hit the 5-cent theater harder than it would the higher priced theaters.

Mr. FRIEND. Of course, they could exempt children under 10 years; that is, children could be exempt from paying the tax, just as you exempt soldiers and sailors in uniform. I think children should be exempt now, for children to be compelled to pay a tax on a 5-cent ticket I think is obviously unjust. I think if we turned right about face and exempt children from the tax where they went in on a 5-cent admission and made adults pay that, that we would get a better result.

Mr. DIXON. What do you think of the tax on rentals?

Mr. FRIEND. I think it would break up some of the theaters. They would be unable to absorb that tax and pass it on to the public. And I am sure of this, that once you make the admission to the motion-picture theater prohibitive, you are going to do away with the most effective power we have in the country to-day, not only for entertainment, but for propaganda and education. I know I need not argue with you about that. The mere fact that the Government has seen fit to put a motion-picture at its posts and cantonments and training camps proves this. We do not want to hang crape on the nation just because we are licking the Germans, as Mr. Powers has said.

Mr. DIXON. You pay the present tax, instead of trying to pass it to the consumer?

Mr. FRIEND. At present the motion-picture theater owner pays it. It is passed to him and he pays it to the Government.

Mr. DIXON. You don't think they would be able to absorb a per cent tax on the rental?

Mr. FRIEND. The smaller exhibitor, the man who runs a picture late in life, might be able to absorb it, he gets it for about 15 cents a day as a rule. That is the way the footage tax is translated to make him pay; he pays 15 cents a day a reel. Of course he could absorb the percentage tax the same way, but when you get to the bigger man he can't absorb it, and I don't think he can pass it to the public without getting to the point where your motion pictures are going to be put out of business to such an extent that the motion pictures will not be as popular as now.

Mr. HAWLEY. You suggested a moment ago that the tax would be larger next year than this year. The Treasury estimate this year, as I understand it, is \$29,000,000; the Treasury estimate is for nine months.

Mr. FRIEND. The \$29,000,000 is based on the five months. I should be afraid to venture an opinion about that, because as I said before, the disposition of the people to go to the bigger and better theaters and pay a slightly increased price where they formerly paid 10 cents is going to increase the revenue to the Government.

Mr. HAWLEY. They will pay the higher price for amusement the same as they pay a higher price for clothes.

Mr. FRIEND. Up to a certain point. I think where a man can take his family and go to an entertainment for an evening for a dollar, he will go, but beyond that, I think he will think his entertainment is beyond his means.

I wanted you to know that the result of all we have gone through including our investigations of this tax, we have discovered a large reduction in the number of motion-picture theaters, a 30 per cent reduction, and that 30 per cent is made up of the small exhibitors, the

exhibitor who was unable to pass the tax on to the consumer, and the balance are now absorbing that expense and are paying the tax to the Government. I thank you.

**STATEMENT OF MAURICE GOODMAN, NEW YORK CITY,  
REPRESENTING THE VAUDEVILLE MANAGERS' PROTEC-  
TIVE ASSOCIATION.**

Mr. MOORE. That is a national association, is it?

Mr. GOODMAN. Yes. I am also its attorney and treasurer of the association.

That association comprises the leading vaudeville circuits of the country. The Keith's circuit in the Northeast, the Orpheum circuit in the West, and a large circuit throughout the South. It takes in practically all the leading vaudeville theaters. I do not know anything about the motion-picture industry, and all I want to call attention to is the position of the managers of the theaters—that is, the vaudeville theaters—with regard to the excess-profits tax, and while I am primarily talking about the managers, and for the managers' association, what I have to say has a bearing also on the legitimate or moving-picture theaters. There is a very pronounced conflict of opinion at the present time in the Treasury Department as to the application of these provisions of the excess-profits tax law in regard to nominal capital and invested capital, and it is very natural to understand how that conflict arises. It is due to a misunderstanding or difficulty in understanding the precise nature of the show business.

Now, soon after the passage of the excess-profits tax law this association wrote the Treasury Department, Commissioner Roper, suggesting that they should not be compelled to pay excess profits on their business and setting forth in detail the nature of its business. In other words, it was explained in detail that the vaudeville managers operate their theaters simply through a leasing of the theaters, not owning the ground on which their theaters stand in a great majority of cases, the theaters were held only on leases. Therefore, so far as the place to do business was concerned, it was an intangible asset; that the important thing in a vaudeville theater was a booking contract and an arrangement for the producing of the shows. Now, just what is the show business? The vaudeville managers do not produce anything; they contract with actors and sometimes with singers and others whose voices or whose performances are an attraction. The only necessity for a cash deposit or capital invested is for a small fund to pay for licenses and for advertising and for light and heat and other expenses incidental to the operation of the theater. The main or primary thing from which profits are derived in vaudeville theaters and in moving-picture theaters, so far as the manager and operator of the theater is concerned, is the service or personality and good will of the manager and his leasehold and his ability to use what he gets on his booking contract.

Now, in vaudeville we refer to booking franchises. Keith's, down here, has a booking franchise under or through or by which his theater procures the highest class bookings from the booking companies in New York. Some other theater in some other town has the same contract. Now, that contract is of more value now, but in the

capitalization of these companies some years ago, these companies were operated by one or two or three men; there was no occasion for much capitalization; they were not selling stock, and it was no matter whether they were capitalized at \$5,000 or \$500,000,000; in fact, it was to their interest to have a small capitalization in order to avoid State taxation. So the theaters were operated by a few men at a small capitalization—very small, I should say, the average being \$10,000. I know one of Keith's theaters that is capitalized at \$25,000. That is the one down here, although Mr. Keith originally paid Mr. Chase, I think, \$200,000 for this concession. Mr. Speer, the internal-revenue collector, suggested, in reply to our suggestion, that we should be taxed on a nominal capital, that in a case where the stock was the lease and where the capital was only nominal, and where the stock was practically only such as the incorporators put in, as they thought their booking contract and lease would be actually worth, that by reason of the service which we rendered and from which these profits were made, the tax should be and would be upon an 8 per cent basis. That was in the latter part of March, on the 30th day of March, 1918. That letter I am going to submit to you, gentlemen.

TREASURY DEPARTMENT,  
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,  
*Washington, March 30, 1918.*

VAUDEVILLE MANAGERS' PROTECTIVE ASSOCIATION,  
*Columbia Theater Building, New York, N. Y.*

SIRS: Receipt is acknowledged of your letter of March 6, 1918, in which you request, as the representative of 446 vaudeville theaters located in every part of the United States, to be advised whether the owners (individuals, partnerships, or corporations) of vaudeville theaters are subject to excess-profits tax under section 201 or 209 of the war revenue act approved October 3, 1917.

It appears from the information contained in your letter that such theaters are conducted under varying conditions, namely:

(1) Where the premises equipped for theatrical purposes are leased and the only expenditures are in connection with such lease, the employment of performers, stage hands, ticket takers, advertising matter, tickets, stationery, etc., most of which is paid for on a cash weekly basis out of the gross receipts, only a nominal invested capital being required to pay for the license fee, electric current, water rent, and other small items.

(2) Where a corporation organized to conduct a vaudeville theatrical business as above gives its total capital of, say, \$10,000 in equal proportions in payment of the lease and for a booking contract, respectively.

(3) Where the proprietor owns the land and building used in the conduct of the theater.

(4) Where the proprietor erects a building on leased ground for the purpose of operating a vaudeville theater.

Under the statement of facts contained in (1) the excess-profits tax would be imposed in accordance with section 209, war revenue act, approved October 3, 1917, the business being one principally engaged in rendering personal service in which the employment of capital is not necessary and the earnings of which are to be ascribed primarily to the activities of the owner; and the same rule would apply in the case of (2), the capital being entirely consumed and employed exclusively in providing accommodations and equipment necessary in the transaction of the business.

However, in determining whether or not the particular business is taxable under section 209, no weight will be given to the fact that it requires no, or only nominal, capital and is carried on by means of personal service, unless the principal owners are regularly engaged in the activities thereof.

With respect to (3) and (4), however, a different rule would apply, inasmuch as invested capital would necessarily be required in each instance. Therefore the excess-profits tax would be assessed in those cases in conformity with section 201 of the above-mentioned act.

It is deemed proper to add that the above is merely illustrative of the method to be followed in cases of this character. The application of the principle stated must be governed by the facts, and a definite ruling can only be rendered upon a detailed statement of the facts pertaining to each particular case.

Respectfully,

L. F. SPEER,  
*Deputy Commissioner.*

On the 18th day of May of this year, the Commissioner of Internal Revenue, Mr. Roper himself, writes us this letter and says:

TREASURY DEPARTMENT,  
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,  
*Washington, May 18, 1918.*

VAUDEVILLE MANAGERS' PROTECTIVE ASSOCIATION,  
*Columbia Theater Building, New York.*

SIRS: Reference is made to office letter addressed to you under date of March 30, 1918, in which it was held, in reply to your inquiry, that in a case where the premises equipped for theatrical purposes are leased and the only expenditures are in connection with such lease, the employment of performers, stage hands, ticket takers, advertising matter, tickets, stationery, etc., the excess profits tax would be imposed in accordance with section 209 of Title II of the act of October 3, 1917.

Upon further consideration of this matter, this office is of the opinion that the ruling stated in reply to the first and second inquiries of your letter dated March 6, 1918, was erroneous.

It is now held that the business of conducting and operating a theater, almost without exception, represents a business which should not be classed as one engaged principally in rendering personal service, in which the earnings are ascribed primarily to the activities of the owners.

It is also held that operating a theater represents a business that necessitates and customarily requires the use and employment of capital, whether the land and building is owned or leased, and the profits derived from its operation are due primarily to the use and employment of capital.

Hence in all cases involving the taxation of the profits of the business referred to, it is held that unless otherwise conclusively shown, the profits arising from the operation of vaudeville and moving-picture theaters in excess of the authorized deduction computed in accordance with the provisions of section 203 of the act are subject to excess profits tax to be computed at the graduate rates prescribed by section 201 of Title II, October 3, 1917.

Respectfully,

DANIEL C. ROPER, *Commissioner.*

The result of that is going to be that we are going to be taxed on a graduated basis; and I know of one case, and it is not an exceptional case, where \$10,000 was the issue of the capital stock for the lease. Now, that corporation is permitted in its statement an exemption of \$3,000; its capital was \$10,000, and therefore the tax which this corporation will have to pay will be on an entirely different basis than we understood from the first letter from the commissioner's office that we were to be taxed upon. Now, we contend that the business is of such a tangible nature that it creates nothing, it sells nothing but entertainment; it has no tangible thing from which entertainment is produced; that this business is in the same condition and ought to be treated in the same manner as a lawyer's business. Some lawyers, who have large suites of offices and employ as many as 75 or 100 clerks, have no tangible assets in their business. Now, the vaudeville business is the same. The investment, so far as anything tangible is concerned, is the little it pays in salaries and upkeep and heat and light, etc. Everything is on a strictly cash basis. Everything is paid up at the end of the week. Salaries are paid up, and all other expenses are paid up, and the accounts are balanced at the end of each week. Now, we wrote, in reply to the



last letter of the commissioner, and said just this. It is very short, and I think I will save time if I read it instead of trying to state it:

MAY 31, 1918.

HON. DANIEL C. ROPER,  
*Commissioner of Internal Revenue,*  
*Washington, D. C.*

DEAR SIR: We are in receipt of your letter of May 18, in which you state that after further consideration you are of the opinion that the ruling contained in your letter dated March 30, 1918, in reply to the first and second inquiries of our letter dated March 16, 1918, was erroneous.

Your letter gives no reasons for the reversal of judgment on the part of your office, nor does it point out any errors in the previous ruling contained in your letter of March 30, 1918.

May we call your attention to a striking misapprehension both of the facts and the law, as evidenced by your letter of May 18? You now hold that operating a theatre customarily requires the employment of "capital," whether the land or building is owned or leased, and that the profits derived from its operation are due primarily to the use and employment of "capital," but the law and your own regulations require the use and employment of "invested capital." Lawyers, doctors, accountants, and others engaged in similar professions require the use and employment of "capital." Every pursuit in the quest of profit requires "capital."

The second inquiry of our letter of March 16, 1918, referred to a corporation whose capital stock is \$10,000, half of which was paid for by the transfer of a lease of the theatre and the other half by a booking contract, with absolutely no cash or tangible capital of any kind invested in the business. In your letter of March 30, 1918, it was held that this corporation should be taxable under section 209; you now hold it taxable under section 201 of the graduated rates, on the theory that this corporation uses and employs "capital." You do not say it is invested capital, nor could you say so in view of article 47 of the War Excess Profits Tax Regulations, which provide that leaseholders when paid for by the corporation by the issuance of its own stock will not be regarded as tangible property. Certainly it will not be claimed that a booking contract is tangible property. If, therefore, this corporation began business without a dollar invested and only had a place to give a show and the booking means to procure the show, we still urge that it is conclusively shown that the profit is derived not from the use and employment of invested capital but from the use and employment of the activities of the owners, and we trust you will give further thought to this situation.

Very truly, yours,

VAUDEVILLE MANAGERS' PROTECTIVE ASSOCIATION,  
By PAT CASEY, *Manager.*

Now, in brief, this is the suggestion we make to remedy this situation.

Mr. MOORE. They held you under section 201?

Mr. GOODMAN. Yes; the said first section 209. Now, in the show business the amount of capital means nothing so far as the real profits are concerned, and the method of arriving at those profits. Give me Keith's Theater down here, or the Columbia Theater, and give me in addition to that \$1,000,000, and I can not make a 5-cent piece more. The capital invested means nothing, and therefore my suggestion is to eliminate in the consideration of the imposition of this tax any question of capital. Disregard capital because it makes no difference and a certain and definite profit can not be made from the amount of capital invested. You can not figure a profit of 5 or 10 or more per cent on the amount of capital invested. But fix some definite amount and fix and formulate this amount of tax upon a basis of reason. We have made so much money and let us pay so much tax, the same as the other fellow has to pay. I have a theater and have capitalized it at \$10,000, but in the operation of this law that means nothing because it is not invested capital in the ordinary sense. Another man has a leasehold that may cost him

considerably more than mine has cost me; his rent may be considerably higher; his obligations may be more and he may make less money or he may make more money out of his business than I make out of mine, but we ought to pay on the amount of business that we do. In the show business the amount of money received or made out of the business depends so much on the personality of the man who runs the business, his ability to advertise, and his ability to get attractive shows and so on. We have taken, and by that I mean the Keith's people have taken, some theaters that some other people have made failures of and we have made money. It is not the amount of money invested; it is the ability to produce new and unique attractions. That is also true of the motion-picture theater.

But if that suggestion does not sound fair then there ought to be a commission or committee or some board in cases of this kind, where the great bulk of the capital is intangible, who would fix a fair value upon the good will and leasehold; that should not be unequal but it should be fixed thoroughly on the tangible property and it should be taxable on a graduated rate because we have no capital in the ordinary sense invested in the business and really our capital is nothing. If we are to be taxed on a graduated basis on the theory that we have invested capital, then there should be some measure to determine what that invested capital is.

Mr. MOORE. Let me ask you, if I understand you clearly, the revenue department has held that the interests you represent should be taxed under section 209?

Mr. GOODMAN. Yes; here is the letter of March 30, 1918.

Mr. MOORE. Which would have given them an exemption of \$6,000?

Mr. GOODMAN. An exemption of \$3,000.

Mr. MOORE. And they first held you under section 201?

Mr. GOODMAN. Yes, sir.

Mr. MOORE. And subsequent to that they wrote you the other letter you mentioned?

Mr. GOODMAN. Yes, sir.

Mr. MOORE. You say you recommend a graduated rate of taxation?

Mr. GOODMAN. Yes; if the first suggestion I made does not sound fair; of course, I prefer the first suggestion I made.

Mr. MOORE. Under the section 209 you would be taxed an excess-profits tax?

Mr. GOODMAN. Yes; on a graduated scale.

Mr. MOORE. Which means up to 60 per cent?

Mr. GOODMAN. Practically 60 per cent of all of our profit; not a part but practically all. As I have explained, our capital is so nominal and so small that when we are allowed the allowable deductions, figuring capital within the meaning of capital invested, we practically have no capital.

Mr. MOORE. Assuming that their ruling would hold and that 60 per cent, or whatever the graduated rate was, what is the practical suggestion you make?

Mr. GOODMAN. I make two suggestions. The first is that in this new law, so far as corporations of this character are concerned, that you eliminate from consideration entirely the amount of capital, for the simple reason that the profit does not depend upon the capital

and that you fix a tax—I do not care what it is, we don't care what the tax is, so long as it is the same as anybody else has to pay.

Mr. MOORE. Are not some of the theaters incorporated? Do they not start out on the basis of capital?

Mr. GOODMAN. In the majority of cases. In latter years there have been some few theatrical promotions, but few in comparison with what there were in former years.

Mr. MOORE. Is Keiths an incorporated institution?

Mr. GOODMAN. Yes; but they have only two stockholders, Mr. Keith and Mr. Albee.

Mr. MOORE. What is the capital?

Mr. GOODMAN. There are individual companies or corporations ranging from \$10,000 to \$25,000; there are separate companies; of course there is a parent or holding company.

Mr. MOORE. How many separate companies are there?

Mr. GOODMAN. About 22. The holding company is capitalized for \$100,000, and \$300 of it is cash paid in and \$99,700 is stock and good will.

Mr. MOORE. You do not count anything for good will?

Mr. GOODMAN. No; we have never capitalized our good will. Here is an institution that could not be bought to-day at a minimum of \$5,000,000.

Mr. MOORE. But so far as the capital is concerned, that is nominal?

Mr. GOODMAN. Yes; it is only \$300 cash paid in. The law expressly provides that the stock should not be considered.

Mr. MOORE. This concern, I do not know what you call it.

Mr. GOODMAN. B. F. Keith's Theater Co.

Mr. MOORE. Do they own any real estate?

Mr. GOODMAN. No, sir.

Mr. MOORE. Some theaters have been especially built for them, have they not?

Mr. GOODMAN. Yes; they are under great obligations in the payment of rent.

Mr. MOORE. That business is all done under a leasing system, is it?

Mr. GOODMAN. All done under a lease system; yes, sir.

Mr. MOORE. They do not actually own a piece of theater property?

Mr. GOODMAN. No, sir; they do not.

Mr. MOORE. I would like to have your other remedy for the situation of which you complain?

Mr. GOODMAN. It is the first remedy that I suggested, if I have made myself clear, that inasmuch as capital means nothing in arriving at profit, eliminate capital and fix a definite tax, whatever that tax may be, but fix it upon the amount that we and our neighbor in the same business will have to pay in proportion. The man who runs a business across the street from ours, if he is making \$25,000 and we are making \$50,000, let him pay half as much as we have to pay. The other suggested remedy is that a provision be made that if you want to fix the capital, provide for the determination of the value of these intangibles. Have a board or a commission, and let them decide the value. But there is a great objection to that, and that is this objection: It is so difficult to get a standard of comparison. Section 201 provides that the Secretary of the Treasury shall, in certain cases, fix the value of property for taxable purposes.

Now, in the show business you can not take one business as the standard for another, and the law provides that in the fixing of these values the Treasury Department shall take standard representative values. There are so many conditions that enter into what may be the value of a show business, as I have said before, the personality of the manager and then again the location of the house and the size of the house, and all those things must be taken into consideration; and the nature of the show that he puts on and all these things. My second objection deals with this: That it would be most difficult to establish any standard for comparison and I think the first suggestion I made will work out to the interest of the Government and will be a great deal more satisfactory to the show business, because we are not here to avoid any taxes or to get any exceptions or to dodge any issues. We are here to get the same deal that other industries get, but we are placed in a class with other industries when we are not doing business on any such basis as the other industries are doing.

Mr. MOORE. The only difference between this and other industries, so called, is, I assume, that entertainment would be classed as luxury in comparison with some other industry. The question is whether we can tax entertainment or the person who enjoys the entertainment and meet the requirements of the Government in revenue.

Mr. GOODMAN. I hope I have made myself clear, that we are willing to be taxed and want to be taxed, and the only objection we have to the tax is the present basis of that tax, because we say it is unequal and inequitable.

Mr. MOORE. I think we understand all of you gentlemen to be fair on the question of willingness to help raise the taxes, but you suggest a change in the system which is rather intricate and difficult in view of the rulings of the department. It would help us very much, Mr. Goodman, if you, being an attorney, as I understand you are—

Mr. GOODMAN (interposing). Yes.

Mr. MOORE. If you would put it in the form of an amendment what you think would be sufficient to raise the revenue that we are now raising and that would meet your suggestion and such changes as the committee might make to raise the revenue that is being raised now. Will you do that?

Mr. GOODMAN. I will be very glad to do that. I will adopt your suggestion and will prepare an amendment.

Mr. MOORE. You have studied this question with great care and why not prepare such an amendment as you deem proper and submit it to the stenographer for the record.

Mr. GOODMAN. I will do that.

Mr. DIXON. You paid on the basis of this letter from the commissioner?

Mr. GOODMAN. Yes; we received the bill and we paid on that basis, but there was a letter came to us; there was a string attached to it, that it was subject to a change in the ruling, and I assume in the course of a few weeks, unless there is a change in the ruling of the department we will get other bills. I might add that we are still trying to have them see it as we see it. Now, on the general proposition of tax and the question of raising tax generally, in regard to theaters, I just want to add a word. There is not anybody that is

to be patted on the back for buying liberty bonds or for subscribing to the Red Cross or to any of the other of the war activities; nobody that does that deserves a pat on the back, and I do not want to suggest that we are entitled to that. But you understand, in a general way, what Keith's theater has done.

Mr. MOORE. I think everybody understands what the theaters have done in connection with the liberty loans and the raising of the other funds for the war activities?

Mr. GOODMAN. These drives have a deterrent effect on the attendance on the theatres, not due to a lack of patriotism, but due to embarrassment. A man goes into a theater and he has purchased liberty bonds or subscribed to the Red Cross to the limit of his ability and he has borrowed money to do it, and he sits with his wife in the theater and does not subscribe, and John Jones sits with his wife and Jones subscribes and a young lady holds up a card and announces "John Jones, \$10,000," and the audience applauds, and when the other fellow goes out he says, "Mary, I think we will not go back again to the theaters until these drives are over." Nobody knows that he has probably subscribed \$50,000 already to liberty bonds and has had to borrow \$50,000 to put in his business, or for some other purpose.

Mr. MOORE. I think you are right about that; you are absolutely right about that.

Mr. GOODMAN. I have heard that myself, and I personally have been embarrassed while sitting in our own theaters. There is a certain embarrassment where we are going to go and sit, if these drives are going to be continued, and of course we are going to work and continue to work, if we do nothing else in the theatres but that. But the reason I mention that is in connection with the taxation; bear in mind these things are not helping our business any; we are not war profiteers. With a million young men away—more than a million of young men away—the element in the country that usually goes to the theaters, it makes a big difference in the attendance upon the theaters. I suppose that is urged by everybody, but it is particularly true of the theaters, the young fellows are not here to take their girls to the shows. Of course, this situation is not true of the Washington theaters, but do not judge the United States by Washington, because there has been a falling off in the show business in other cities of the country, and there have been a combination of causes. There is not a week that vaudeville managers do not furnish anywhere from 12 to 18 films to the various benefits of one kind or another. That is one phase of their war activities. They maintain a department of war activities. This is a part of our burden and nobody is complaining, but in fixing the tax we would like to have you bear it in mind.

(Thereupon the committee adjourned to meet Wednesday, June 19, 1918, at 10 o'clock a. m.)

# REVENUE BILL

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No. 11

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## HEARINGS

BEFORE THE

## COMMITTEE ON WAYS AND MEANS

HOUSE OF REPRESENTATIVES

WITH REFERENCE TO

## THE NEW REVENUE BILL

[THIS PRINT OF THE HEARINGS IS SUBJECT TO REVISION  
BEFORE THE FINAL PRINT]

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JUNE 19, 1918



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1918

COMMITTEE ON WAYS AND MEANS.

HOUSE OF REPRESENTATIVES.

SIXTY-FIFTH CONGRESS, SECOND SESSION.

CLAUDE KITCHIN, North Carolina, *Chairman.*

HENRY T. RAINEY, Illinois.

LINCOLN DIXON, Indiana.

CORDELL HULL, Tennessee.

JOHN N. GARNER, Texas.

JAMES W. COLLIER, Mississippi.

CLEMENT C. DICKINSON, Missouri.

WILLIAM A. OLDFIELD, Arkansas.

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JOHN F. CAREW, New York.

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ALLEN T. TREADWAY, Massachusetts.

JOHN E. WALKER, *Clerk.*

# REVENUE BILL.

COMMITTEE ON WAYS AND MEANS,  
HOUSE OF REPRESENTATIVES,  
*Wednesday, June 19, 1918.*

The committee met at 10 o'clock a. m., Hon. Claude Kitchin (chairman) presiding.

There were also present Representatives Rainey, Dixon, Hull, Garner, Collier, Dickinson, Oldfield, Crisp, Helvering, O'Shaunessy, White, Moore, Green, Sloan, Longworth, Sterling, Martin, and Hawley.

## STATEMENT OF MR. A. C. DUSTIN OF CLEVELAND, OHIO.

Mr. DUSTIN. Mr. Chairman, I would like to hand to the secretary for the use of the committee a memorandum containing a draft on the question of depletion. I believe there was a gentleman who spoke some time last week before the committee on the question, but he did not have a draft covering the rights of lessees.

Mr. GARNER. What lessees do you refer to?

Mr. DUSTIN. Lessees of oil, gas, and ores.

## AMENDMENT OF THE INCOME-TAX LAW OF SEPTEMBER 8, 1916, WITH REGARD TO DEPLETION.

Deductions from gross income for depletion of mineral deposits (oil, gas, ores) is allowed to natural persons, citizens or residents of the United States by subdivisions "seventh" and "eighth" of section 5, as to nonresident aliens by subdivision "seventh" of section 6, and as to corporations by subdivision "second" of section 12.

The Treasury Department has ruled under the act of Congress of 1913 where depletion to the extent of 5 per cent was allowed and under the law of 1916 where full depletion was allowed that natural persons and corporations operating upon land owned in fee may take the depletion provided by the law, but that persons and corporations operating upon leases may take nothing for depletion. This inequity should be remedied and I beg leave to suggest an amendment to the language employed on the subject of depletion in the act of 1916, as follows:

Section 5: Combine subdivisions "seventh" and "eighth" of section 5 so that the new subdivision "seventh" will read as follows:

"Seventh. A reasonable allowance for the exhaustion, wear and tear of property arising out of its use or employment in the business or trade: (a) in the case of oil and gas wells such reasonable allowance shall be made for actual reduction in flow and production to be ascertained not by the flush flow but by the settled production or regular flow; (b) in the case of mines such reasonable allowance shall be made for depletion thereof not to exceed the market value in the mine of the product thereof which has been mined and sold during the year for which the return and computation are made, such reasonable allowance to be made in the case of both (a) and (b) under rules and regulations to be prescribed by the Secretary of the Treasury. The allowances for exhaustion and depletion herein provided for under (a) and (b) shall be made to all parties interested therein, including owners, lessors and lessees to the extent of the value of their respective rights or interests therein: *Provided*, That when such allowances shall equal the capital originally invested, or in case of acquisition prior to March first, and so forth."



(Here follow the draft of the original subdivision.)

Section 6. Subdivision seventh, covering nonresident aliens, should be the same as seventh section 5, as above, except that the words "within the United States" should be inserted and the words "purchase made" should be omitted, and the word "acquisition" substituted.

Section 12. Subdivision "second" to be amended to read as follows:

"Second. All losses actually sustained and charged off within the year and not compensated by insurance or otherwise, including a reasonable allowance for the exhaustion, wear, and tear of property arising out of its use or employment in the business or trade; (a) in the case of oil and gas wells such reasonable allowance for actual reduction in flow and production to be ascertained not by the flush flow but by the settled production or regular flow; (b) in the case of mines a reasonable allowance for depletion thereof not to exceed the market value in the mine of the product thereof which has been mined and sold during the year for which the return and computation are made, such reasonable allowance to be made in the case of both (a) and (b) under rules and regulations to be prescribed by the Secretary of the Treasury. The allowances herein provided for under (a) and (b) shall be made to all parties interested, including owners, lessors, and lessees to the extent of the value of their respective rights or interests: *Provided*, That when the allowance authorized in (a) and (b) shall equal the capital originally invested, or in case of acquisition prior to March first, nineteen hundred and thirteen, and so forth."

(Here follow the draft of the original subdivision second, sec. 12.)

In order to put lessees who acquired their leases prior to March 1, 1913, on an equality with the owners operating upon their own lands acquired prior to 1913, a new section should be written into the new law which will operate as a practical construction by Congress of the laws of 1913 and 1916. While the Treasury Department has ruled under these laws that lessees could not take depletion, as a matter of fact, in the majority of cases in the returns filed, the lessees have taken depletion so that the returns by them as already made would be in harmony with the construction mentioned.

The section in the form in which I would suggest it might read as follows:

"Sec. —. Lessees and other parties interested in oil, gas, mines, and other natural deposits are hereby declared to be entitled to the deductions provided for in the acts of Congress of October third, nineteen hundred and thirteen, and September eighth, nineteen hundred and sixteen, for and on account of the exhaustion or depletion thereof to the extent of their respective rights or interests therein."

**STATEMENT OF MR. WALTER C. HUGHES, EXECUTIVE SECRETARY NATIONAL CONFECTIONERS' ASSOCIATION, CHICAGO, ILL.**

Mr. HUGHES. Mr. Chairman and gentlemen of the committee, I wish to correct an impression that may have been formed in the minds of the committee on account of an inadvertent error that crept into the record in stating that I am an attorney. When your assignment clerk was getting a line on my pedigree, I may have inadvertently admitted I was an attorney, but I am not an attorney at the present time.

Mr. GARNER. You have reformed?

Mr. HUGHES. I have therefore prepared no brief, although I intend to be brief.

I appreciate the enormous task which the committee has undertaken in drafting this revenue bill. I am here in Washington as a volunteer member of the Food Administration, although I am not appearing before the committee in an official capacity as a member of the Food Administration but as secretary of the association to which I have referred. The confectionery industry, Mr. Chairman, is expressed in terms of sugar, and it is my purpose in appearing before the committee to bring certain facts to your attention—certain conditions that are affecting the industry and which will continue to affect the industry as long as the war lasts. When we think of the confectionery industry we think of sugar, and the average person thinks of confectionery as sugar, 100 per cent sugar.

You gentlemen are familiar with the situation that has been created on account of shipping conditions, and you are also familiar with the fact that the confectionery industry, the same as all other industries using sugar in the United States, is 51 per cent dependent upon the raw sugar that comes from Cuba, for that is the amount, practically speaking, we get from Cuba, so far as our total consumption is concerned.

There have been certain restrictions placed upon the confectionery industry since last October, when the Food Administration, because of the critical situation that had been created at that time and the acute shortage found it necessary to issue restrictions to the extent of 50 per cent in the amount that the industry could consume. A 50 per cent restriction on any industry is a mighty severe restriction, as you gentlemen well know.

On the 1st of January conditions appeared to be somewhat more favorable, and we therefore permitted the industry to have 80 per cent, which will continue until the 1st of July. However, recent developments, such as the submarine attacks on our Atlantic coast and the necessity of increasing the number of troops that must be sent to France and the supplies incident thereto which must be shipped to support our boys over there, made it necessary to withdraw from the raw-sugar trade certain ships that had been bringing up raw sugar from Cuba to the United States; and the submarines having sunk in the neighborhood of 26,000,000 pounds of sugar, in the opinion of the Food Administration, is a sufficient justification to place further restrictions not alone upon the confectionery industry, but a great many other industries that heretofore have always been classified as absolutely essential industries but which, because of the force of circumstances, it will be necessary for us to restrict nevertheless.

Mr. GARNER. Mr. Hughes, may I ask you a question without interfering with your argument?

Mr. HUGHES. Certainly.

Mr. GARNER. We have had up this whole problem of price fixing and restrictions, and there is a well-grounded opinion, or at least apparently a well-grounded opinion, that when it is necessary to fix the price in order to keep it from a run-away market, as some of them term it, or when it is necessary to restrict an industry in order to conserve the materials going into that industry, we might just as well do that by taxation and get some revenue into the Treasury. Suppose we had adopted a system of taxation on confections which had reduced it 25 or 50 per cent, we would have been getting a good deal of revenue and at the same time accomplishing the same thing the Food Administration has accomplished, according to your statement; or suppose, instead of the fixing of the price on some articles as Mr. Brookings and others are doing, we were to restrict the production of that particular article by taxation, we would then be doing two things—we would accomplish by taxation what you have accomplished and at the same time get a great deal of money into the Treasury.

Mr. HUGHES. In answer to that I would say that, of course, so far as the Food Administration is concerned, their restriction as to usage is because of a shortage of the product. In other words, there was, theoretically speaking, during the latter part of last year only 50 per

cent of the amount of sugar that could be used in the manufacture of confectionery as compared with the amount that was used during the corresponding months of the previous year.

Mr. GARNER. I have no criticism to make of the Food Administration.

Mr. HUGHES. I understand that.

Mr. GARNER. But I will say that looking over for a number of months many of their manifestoes with reference to what we should use now and use then, I find they are quite contradictory. For instance, I come from a stock-raising country, and one month they will say we must not eat any pork and the next month they will say that every cupboard is full of pork and that we must eat all the pork possible and save the beef. Now, I confess, the people in the country can not understand such a performance as that.

Mr. HUGHES. I appreciate the point you make, but as I stated before, the question of the Food Administration's attitude is merely one of taking a supply that is depleted and distributing it as equitably as possible, so far as the sugar proposition is concerned.

Mr. GARNER. You can make people economical by taxation. You can make them practice economy by taxing a thing to the point where it is hard for them to buy it.

Mr. HUGHES. Yes.

Mr. GARNER. Now, if we adopted a policy with reference to sugar and its products so that we would tax it to a point where it was difficult for the people to buy it, we would make the people economical so far as that product was concerned?

Mr. HUGHES. You would have to carry it to a point where they would not buy it or could not buy it.

Mr. GARNER. If we take confectionery and soft drinks, which are not essential, and tax them to a point where it is difficult for the people to buy them, we will force them to practice economy in reference to such things.

Mr. HUGHES. Yes; but at the same time you will admit that if you did that you would not get any revenue, because then you would throw the industry out.

Mr. GARNER. That brings us up to this question: Do you admit that your business is one that should be taxed during this war?

Mr. HUGHES. I am not here to protest against any action by the committee, and answering your question I should say that as to the question of whether the industry should be taxed or not ought to depend entirely upon the facts developed by your investigation.

Mr. GARNER. Suppose the committee should determine that your business is one that could very properly be taxed. Then the rate of taxation should be the rate that will get the largest amount of money into the Treasury?

Mr. HUGHES. Consistent with an equitable taxation, of course.

Mr. GARNER. In other words, whenever you select a business and say that that business is one the Government can afford to tax as a matter of public policy, then the only question is the rate that will yield the largest amount of money for the Treasury. Now, of course, as to what that rate ought to be you and I might disagree about.

Mr. HUGHES. Yes; I understand your position.

Mr. GARNER. And I am simply suggesting to you that if you admit and if the committee should determine that your business is

a proper business to tax, then it is a question for you to suggest the rate you think your business can stand and yield the largest amount of money to the Treasury.

Mr. HUGHES. That is absolutely correct. There is no doubt about that.

Mr. MARTIN. Mr. Hughes, while you are on the question of the scarcity of sugar, will you explain to the committee why that scarcity exists at this time?

Mr. HUGHES. There is probably—and I wish the committee to understand that I am speaking now not as an official of the Food Administration but simply in my capacity as Secretary of the Association—there is in all probability not a sufficient amount of sugar to take care of the fruits and vegetables during the canning season.

Mr. MARTIN. You mean in the United States?

Mr. HUGHES. In the United States. There is an enormous amount of sugar, as we all know, used by the housewives during the canning season, and the Food Administration has requested and in fact urged them to can as much as they possibly can. In other words, they want the fruits and vegetables preserved, and Mr. Hoover is very anxious that there should be a sufficient supply of sugar available for that purpose, and in order that there may be a sufficient supply, taking into consideration the fact that the stocks are short and for other reasons which I have mentioned, we are going to dam up, so to speak, the flow of sugar to certain industries in order that it may be sent around to the canning and preserving people.

Mr. MARTIN. Do you know how much sugar there is in Cuba at this time?

Mr. HUGHES. We estimate approximately 1,000,000 tons, which would be in the ports and on the plantations, but of course there again enters the situation as to the uncertainty of whether the Shipping Board is going to be able to arrange enough ships to bring up that sugar in sufficient quantities to take care of our daily requirements.

Mr. MARTIN. In other words, there is plenty of sugar in Cuba to take care of our necessities if we had the bottoms to get it over here.

Mr. HUGHES. It is a question of transportation entirely. If we had the ships there would be no difficulty at all so far as the sugar is concerned. It is there if we can get it, just the same as there is a large amount of sugar in Java, but it is a long ways over there and there is the submarine menace to be taken into consideration and all that sort of thing.

Mr. MARTIN. You made the statement a moment ago that we depended on Cuba for 51 per cent of our sugar supply?

Mr. HUGHES. Yes, sir.

Mr. MARTIN. Have you those figures at hand? They do not correspond exactly with my figures.

Mr. HUGHES. I am speaking only from memory, and I have the figures, of course, at the office, and I would be glad to submit them in a more substantial form for the consideration of the committee if they desire.

Mr. MARTIN. I wish you would, because they do not correspond with the figures I have on the subject.

Mr. HUGHES. I will be very glad to do that.

Mr. MOORE. We have been losing some sugar cargoes lately on the Atlantic coast, have we not?

Mr. HUGHES. About 26,000,000 pounds is the estimated amount that has been sunk; in other words, from 13,000 to 14,000 or possibly 15,000 tons, which, of course, at this critical time is a very great misfortune and one certainly to be deplored.

Not alone do we find this situation with reference to sugar which will affect the confectionery industry to this extent, that we must of necessity place very severe restrictions upon their usage, even perhaps to the extent of what we placed upon them last fall, which was 50 per cent—and I am not here before the committee to state positively as to what restrictions will be placed upon the industry because we do not positively know, but the conditions would justify as severe a restriction as was placed on the industry the latter part of last year, so that assuming, for example, that there might be a 50 or 60 per cent restriction placed upon the industry at the present time, you gentlemen can see at once what effect that would have upon the industry itself. Naturally, it means restricting the output of the various plants of the country to that extent and their overhead continuing practically the same as it was before, which means a very large increase in the cost of their product.

Not alone that, but the shipping situation has made it necessary for the Shipping Board to place embargoes, as you gentlemen know, upon the importation of nuts, upon which the confectioners largely depend to make up the difference in what they have been cut down as to sugar and what they had before, so we have cut out the importation of Chinese and Japanese nuts from the Orient and Brazil nuts from South America, coconuts being the only exception, and the only reason the coconuts are coming in is because the gas defense service requires coconut shells, and therefore the Shipping Board says, "All right; we will let them come in;" but the confectioner will be confronted with the difficulty that he will not have the sugar to work up the coconuts with.

Mr. MOORE. How does glucose enter into your calculations?

Mr. HUGHES. I will answer your question in this way: Glucose is used the same as any other raw material. It should be considered as a separate proposition and not as a sugar substitute. It is not used for that purpose. It is used the same as starch or any other raw material in combination with sugar in order to get certain consistencies in certain kinds of candies.

Mr. MOORE. If there is a shortage of sugar for use in the manufacture of confections, is not that very largely made up by the use of glucose?

Mr. HUGHES. I will answer your question in this way: Under normal conditions a confectioner will use a maximum amount of corn sirup or glucose, as you call it, because it is necessary for him to do that in order to make various kinds of candy. Now, furthermore, the Food Administration has requested all sirup manufacturers to increase their output of sirup, and has requested the public to consume sirup and molasses for the purpose of saving sugar. Therefore there is a very largely increased demand for sirups and molasses of all kinds for the public and for the Army and the Navy, so that the sirup manufacturers are giving preference to the domestic trade, and the confectioners find great difficulty now in even getting the

amount of corn sirup and glucose that it is necessary for them to have to work up according to their requirements. In other words, may I put it in this way: If the sugar restriction is 50 per cent, for example, you can not make up, by any means, the difference between 50 per cent and 100 per cent of your requirements by the use of corn sirup. You can use proportionately as much corn sirup to the extent of 50 per cent as if you had 100 per cent of sugar and use proportionately that much more corn sirup.

Mr. MOORE. The price of confectionery has gone up.

Mr. HUGHES. Yes, sir.

Mr. MOORE. Quite extensively.

Mr. HUGHES. Yes, sir.

Mr. MOORE. Candy that you could buy for 30 and 50 cents before the war is selling now at anywhere from .60 cents to \$1.10. I have seen them marked up in the retail stores. Since you are connected with both the confectionery trade and with the Food Administration, I would like to know whether that increase in price is justified in view of the fact that glucose is used to such a large extent in the manufacture of confectionery?

Mr. HUGHES. Yes, sir; it is for this reason: That not alone has everything increased in connection with the confectionery industry so far as prices are concerned—that is, in their packages, their raw materials and their labor, and everything else—but there has been a very large increase in the cost of their production, so that in some instances, according to the statistics that we compiled and prepared for submission to the Finance Committee of the Senate last year, we show there has been an increase of anywhere from 100 to 500 per cent in the various items that the confectioner uses. Of course, it must be kept in mind that the confectioner, so far as prices are concerned, would not be controlled entirely by the price of sugar and corn sirup.

Mr. MOORE. Has there been a scarcity of glucose?

Mr. HUGHES. Yes, sir.

Mr. MOORE. That is a corn product and not a sugar product?

Mr. HUGHES. Yes, sir. They are operating at the maximum of their capacity at the present time, but the demand exceeds the supply, and they are not able to fill their demand.

Mr. MOORE. Who are the principal glucose manufacturers?

Mr. HUGHES. There are half a dozen. The largest manufacturer of glucose is the Corn Products Co., with headquarters at New York; and there is the Clinton Sugar Co., at Clinton, Iowa.

Mr. MOORE. The Corn Products Co., is a subsidiary of the Standard Oil Co., is it not?

Mr. HUGHES. It is supposed to be, or it is supposed to be financed by the Standard Oil people.

Mr. MOORE. Is that the corporation that was involved in some litigation in New York sometime ago?

Mr. HUGHES. I believe so.

Mr. MOORE. For the dissolution of certain—

Mr. HUGHES (interposing). There was some action of that sort instituted against the company, but I am not familiar with the details of it. I could not qualify as a witness on that.

Mr. MOORE. Most of the glucose comes from the Corn Products Co.?

Mr. HUGHES. Yes, sir; that is, they have by far the larger percentage of the output as compared with other plants.

Mr. MOORE. Are we sending any glucose abroad now?

Mr. HUGHES. Recently that has been prohibited.

Mr. MOORE. Then, the United States is getting the benefit of the output of glucose from the Corn Products Co. and such other manufacturers of glucose as there are in the United States?

Mr. HUGHES. Yes, sir.

Mr. MOORE. There has been no restriction upon the use of glucose?

Mr. HUGHES. None whatever.

Mr. MOORE. There has been no restriction upon its use by the Food Administration?

Mr. HUGHES. No, sir.

Mr. MOORE. There has been an increased use of glucose in the manufacture of confectionery, and to that extent glucose makes up for the scarcity of sugar?

Mr. HUGHES. To a very small degree. In other words, there is one method which the confectioner can employ to increase his use of corn sirups: There are certain classes of goods in which there is a larger percentage of corn sirup than others.

For example, for lozenges they require 100 per cent of sugar, while for gum drops they require only 10 per cent, and if a manufacturer could manufacture all gum drops, he would increase his use of corn sirup proportionately, but he has the situation confronting him that certain departments of his factory are arranged to make certain classes of confectionery, and he is confronted with the question, not of making one class of goods in his factory, but of making different classes in different departments, so that the confectioners in working out their problems have increased their use of corn sirup only in certain departments. The point that I am trying to bring to the attention of the committee is that they can not possibly overcome any such restriction as that which has been imposed on them by the Food Administration.

Mr. MOORE. The purpose of my inquiry is in line with that of Mr. Garner, of Texas; that is, with a view to finding out where we can obtain additional revenue, and if we have overlooked anything it is your duty to advise us of it. If glucose is going into the market where sugar is going out, we might reach glucose. I believe you stated you were not an attorney.

Mr. HUGHES. I have been.

Mr. MOORE. You are a lawyer?

Mr. HUGHES. I used to be, but I am not practicing now.

Mr. GARNER. You have some knowledge of the law?

Mr. HUGHES. I have been an attorney.

Mr. MOORE. Do you live in Washington?

Mr. HUGHES. No, sir; in Chicago.

Mr. MOORE. Is that the headquarters of the National Confectioners' Association?

Mr. HUGHES. Yes, sir.

Mr. MOORE. Of which you are now the secretary?

Mr. HUGHES. Yes, sir.

Mr. MOORE. You are also associated at present, during the war, with the Food Administration under Mr. Hoover?

Mr. HUGHES. Yes, sir.

Mr. MOORE. What particular branch of the service are you in?

Mr. HUGHES. The work I have charge of in connection with the Food Administration is the sugar allotment to the manufacturers who have been restricted in their use of sugar. That includes confectioners, ice cream manufacturers, manufacturers of soft drinks, and all those classes of industries that are now restricted in the use of sugar. That includes, also, some of the products which are essential food products, such as sirups.

Mr. MOORE. Mr. Hoover has drawn around him experts in various lines of industry, and I assume you are an expert on the confectionery industry?

Mr. HUGHES. I do not know that I would qualify as an expert, but I have had practical experience.

Mr. MOORE. Therefore, I assume that you would not want to see any taxation imposed that would seriously interfere with the confectionery business.

Mr. HUGHES. No, sir; and I do not think that that would be the intention of the committee in framing the bill. I do not think it would be the intention of the committee in framing the bill to impose a serious handicap upon any industry.

Mr. MOORE. I think you are entirely right as to that, but I assume that you also agree with the fact that the Government needs extra revenue with which to operate the Food Administration and other agencies of the Government, and I assume that you will do the best you can, and so will Mr. Hoover, to give the committee information as to those places where we can obtain revenue from sources not now producing it.

Mr. HUGHES. Yes, sir.

Mr. MOORE. In view of the increased cost of confectionery to the consumer, what suggestion have you to make looking to affording the Government an opportunity to raise more revenue from that source?

Mr. HUGHES. As to the rate of taxation or the method?

Mr. MOORE. As I have said, the price has advanced——

Mr. HUGHES (interposing). As to the method of taxation and as to the rate of taxation, and as to the effect or result of any suggested rate of taxation upon that industry, I would prefer to leave that question to Mr. V. L. Price, who is chairman of the executive committee, and who is a practical manufacturer. He can give you better information than I can on that subject. My purpose in appearing before the committee is to give you general information that has come to my knowledge as a member of the Food Administration, and as to those difficulties that are confronting the industry at the present time.

Mr. MOORE. Since you are connected with the Government now, I thought that possibly you might be able to tell us how we could get more money out of this confectionery industry, for which you are a spokesman, because it is not now a question of reducing revenue, but a question of getting more revenue.

Mr. HUGHES. That is very true; but, as I said before, I would prefer not to express an opinion on that question. If I understand your question correctly as applying to the method and to the rate, after Mr. Price has made the statement that he will be glad to make, if you want to ask me any questions, I will be glad to answer them.



Mr. MOORE. I do not know whether Mr. Price, unless he is connected with the Government, would be as well qualified to answer the questions as you would be. You are aware of the fact that the Food Administration, or the Government, is furnishing ships to bring sugar to this country, in order that the manufacture of confectionery may continue, and in order that the wants of the people may be supplied. You are also aware of the fact that the Government is making certain restrictions upon the use of sugar, which necessarily adds to the price, and you have conceded in answer to one of my questions that the price of confectionery to the consumer has gone up.

Mr. HUGHES. Yes, sir.

Mr. MOORE. Now, if there is a difference in the general price of a box of candy of, say, 30 or 50 cents, or if there has been that much addition made to the price of a pound of candy, that is an indication to the lay mind that somebody is getting 50 cents more for a box of candy than he got prior to the war, and that being true, would not that be a proper source of taxation by the Government in order to get revenue to build ships to bring sugar to the ports?

Mr. HUGHES. Of course your question, in a sense, is a hypothetical question.

Mr. MOORE. I think it is an eminently practical one, because if I paid 40 cents for a box of candy two years ago and have to pay 80 cents for the same box of candy now, I know that I am paying somebody 40 cents more than I did formerly.

Mr. HUGHES. Yes, sir.

Mr. MOORE. If the manufacturer of confectionery is getting that extra 40 cents or if the Food Administration is getting it or if anybody else is getting it, it is a fair question whether the Government in time of war ought not to get some proportion of that extra 40 cents.

Mr. HUGHES. In other words, your position is that you must first find out who is getting that 40 cents, and if you find that the manufacturers are getting part of it, you would increase the taxes of the manufacturer proportionately. Naturally it would not be the judgment of the committee that the manufacturers should stand the burden to any greater extent.

Mr. MOORE. You must bear in mind that the manufacturers of confectionery are using glucose, as it is admitted, to a larger extent than before. He uses glucose as a substitute for sugar, and that helps him out. Now, the Corn Products Co. may be getting it. I do not know who is getting it, but somebody is getting that difference in the cost. I can concede what you say about the increased cost of labor, the increased cost of material, etc., but there is this vast difference between the cost then and the cost now. That being so, why should not the Government get something more out of it in order to make it aid in running the work of the Food Administration?

Mr. HUGHES. I understand your position exactly in that, but it seems to me that the committee should also take into consideration the greatly increased cost of the business, not only in the item of sugar but in cornstarch, flavors, nuts, and everything else that goes into candy. In other words, I hope to be able to convince the members of the committee that so far as this increase is concerned it is justifiable from the manufacturers' viewpoint.

Mr. GREEN. If we put a tax on candy, especially on high-priced candy, the manufacturer would add that tax to the price, would he not?

Mr. HUGHES. The manufacturer would, in all probability, add the tax to his price. There are certain facts which the committee would take into consideration of course, when they came to consider the method and the amount, because that amount accumulates as it passes from the manufacturer to the jobber, from the jobber to the retailer, and from the retailer to the consumer if they are going to maintain their average profit all the way along the line.

Mr. GREEN. Do you mean to say that we should be deterred from levying a tax on candy because some agencies along the line will unpatriotically not only add the tax, but a larger margin of profit also? If that were true, we would be estopped from levying a tax on anything.

Mr. HUGHES. Of course the consumer pays it anyhow.

Mr. GREEN. That is what I was coming to. Anybody who can afford to pay \$1 for a pound of candy can afford to pay the tax on it in the end.

Mr. HUGHES. In other words, so far as he is concerned, he can absorb the tax.

Mr. OLDFIELD. Are the candy people making more money now than usual?

Mr. HUGHES. The confectioners' profits during the year 1917 were on an average higher than they had been for several preceding years, and that was for various reasons. They have been able to get a larger business, as you might say, upon a higher plane, and to eliminate certain conditions in their plants. In other words, they have been able to market their products more intelligently, and therefore their profit has been greater, although I have no information as to what their profits would be.

Mr. OLDFIELD. When you go to a candy store here in Washington, you have to stand in line just as you do at the post office to get mail or at a theater to get tickets. I never saw anything like it. Sometimes you have to stand in line for an hour, perhaps, to get a pound of candy.

Mr. HUGHES. Yes, sir; but that is because the demand for candy is very large. As you know, you have to stand in line when you go down town to get lunch at a cafe. You must stand in line nowadays at the post office to buy postage stamps.

Mr. OLDFIELD. I think we should get an additional tax from the lunch people and hotel people, also. They are making more money because they are charging more and giving less food and service.

Mr. HUGHES. I have no doubt that is true in Washington.

Mr. GARNER. Is not that largely a result of your activities, or, at least, so far as the amount of food that they give you is concerned?

Mr. HUGHES. Do you mean the activities of the Food Administration?

Mr. GARNER. Yes. Don't you claim a good deal of credit for the fact that you have brought about economies in the use of food?

Mr. HUGHES. I suppose a part of it might be attributed to that, but I think it is largely due to the fact that they are getting higher prices for what they serve.

Mr. GARNER. Of course, they are taking all the market will bear. You do not pretend to be an expert, as I understand it, or to speak from the standpoint of an expert as to the method of raising taxes or as to the rate of taxes on confectionery, but you simply come to

tell us about the difficulties that the trade confronts by virtue of the action of the Food Administration, and about the higher prices of the different articles that go into the manufacture?

Mr. HUGHES. Yes, sir.

Mr. GARNER. Now, if this committee should take into consideration the activities of all of the different bureaus of the Government, either on the basis of what they may be doing now and on what they may do in the future, don't you think we would have great difficulty in making up a tax bill?

Mr. HUGHES. I imagine that even if you did not take into consideration those things that you have mentioned, you would have great difficulty anyhow.

Mr. GARNER. Take, for instance, the variations that may be brought about by the Food Administration. If the Ways and Means Committee of the House of Representatives should undertake to anticipate what the Food Administration may do next week or next month, I do not know where we would find a landing place.

Mr. HUGHES. That would be impossible, of course.

Mr. GARNER. Therefore, in the framing of a tax bill, we can not take into consideration the various methods that the different bureaus of the Government may adopt along these several lines, but we will have to levy taxes, or base our action in the levying of taxes upon the best information that we can get as to the circumstances and conditions that exist now. Then if the executive branches of the Government make a further interference with those conditions so as to increase prices, that will be a matter in their own hands. Now, you were speaking more for the confectionery people than anyone else. Have you any other business?

Mr. HUGHES. No, sir; I am the executive secretary of the National Confectioners' Association.

Mr. GARNER. That is the only business you have?

Mr. HUGHES. Yes, sir.

Mr. GARNER. You are down here connected with the Food Administration in order to give your attention practically to that subject, or to give whatever expert knowledge you have touching sugar and the sirups that go into the manufacture of various articles of confectionery?

Mr. HUGHES. Yes, sir.

Mr. GARNER. You have no suggestions to make as to the method or rate of taxation, and neither will you say that this is the character of industry that the Government could afford to tax for the purpose of getting revenue to run the war?

Mr. HUGHES. I would prefer to leave that for Mr. Price.

Mr. GARNER. As a matter of public policy, you ought to be able to express an opinion upon that.

Mr. HUGHES. I am willing to answer that question, but I want to add that appearing in my dual capacity, I want it understood that I am not answering as an official of the Food Administration. I want to make that point clear. As to the question of taxing the confectionery industry, as I said before, the confectionery industry and any other industry, for that matter, that can bear just and equitable taxation ought to be required to bear it, and the confectionery industry can not expect to escape the burden of the war any more than any other industry. Now, as to what is a fair tax and the method

of its imposition, that is something that the committee will have to determine.

Mr. GARNER. There are industries in this country that are essential, semiessential, and nonessential. For instance, I take it that the steel industry is an absolutely essential industry in this war. I do not believe you would put confectionery on the same plane or in the same class with steel.

Mr. HUGHES. No, sir.

Mr. GARNER. So confectionery must be a semiessential industry?

Mr. HUGHES. Yes, sir; or, as it has been referred to, it is a less-essential industry. That is simply comparative, and the proper term to use would be that comparative term, less essential.

Mr. GARNER. You would not pursue the policy of levying a tax for the purpose of getting revenue on the steel industry directly?

Mr. HUGHES. No, sir.

Mr. GARNER. Because it is essential in this war?

Mr. HUGHES. Yes, sir.

Mr. GARNER. What I was trying to get into your mind was the idea as to whether or not that is a less essential industry and one on which we might properly, as a public policy, levy a tax, and the next question is what the tax shall be.

Mr. HUGHES. That is the point exactly.

Mr. STERLING. I have not heard all you have said, but have you any judgment as to the best way to impose this tax on candies in case the committee does tax them?

Mr. HUGHES. As to the method?

Mr. STERLING. Yes.

Mr. HUGHES. Yes; but as I say, Mr. Price, who is to follow me, will talk on that phase of the matter. In our attempt to make the time as short as possible we decided that he would talk upon that phase of the situation.

Mr. STERLING. Then I will not insist upon your giving any opinion.

Mr. HUGHES. His opinion will be my opinion.

Mr. STERLING. All right.

Mr. HUGHES. He will merely express my opinion, and there is no need, in one sense of the word, in my telling you what Mr. Price will be likely to say, but his opinion will be my opinion.

Mr. HAWLEY. Any increased tax that has been placed on candy you have been able to shift to the consumer?

Mr. HUGHES. Yes; of course, there has been some cost that it has been necessary to absorb all along the line, by the manufacturer, the jobber, the wholesaler, and the retailer. But generally speaking it has been necessary to advance the price all along the line in order that the price will be maintained normally through the various parts, you might say, of the industry.

Mr. HAWLEY. Do the confectioners use saccharine in the manufacture of candy?

Mr. HUGHES. No; that is prohibited.

Mr. MARTIN. They use that in the manufacture of soda water and soft drinks, do they not?

Mr. HUGHES. The United States Department of Agriculture has issued a ruling prohibiting the use of saccharine in any kind of food products, and a great many of the States have prohibited its use in food products.

Mr. DICKINSON. You say there is plenty of sugar in Cuba and Java that can be brought into this country to meet the demands of the United States?

Mr. HUGHES. Yes, sir.

Mr. DICKINSON. Do you understand that there is enough sugar in Cuba, Java, and the other countries to meet all the demands of the world at large?

Mr. HUGHES. Yes, sir.

Mr. DICKINSON. Are you familiar with the different reasons that prevent the bringing of that sugar into this country?

Mr. HUGHES. There is just one word that answers your question and that is transportation.

Mr. DICKINSON. They have not a sufficient number of bottoms to bring sugar the short distance between Cuba and our ports.

Mr. HUGHES. No.

Mr. DICKINSON. Now, take Java. Do you know why sugar can not be brought from Java in foreign bottoms? For instance, in Japanese vessels? Are you familiar with any efforts being made to have Japanese bottoms bring sugar to this country?

Mr. HUGHES. No, sir. That would be a matter, of course, that the Shipping Board would be a great deal more competent to give you expert information upon than I am. I can give you just my own, what you might say, second-hand knowledge of the proposition, and that is that the boats are not available. If they were sent to Java the submarine menace is such that there would be no justification in attempting such thing as that. Of course, if it were a question of the transportation of troops and supplies, or something absolutely necessary, that would be a different matter.

Mr. DICKINSON. Have you any reason to believe that there are any interests in this country that do not desire the shipment of sugar at this time in large quantities into this country to meet the demands?

Mr. HUGHES. I do not think so. My personal opinion would be that that is not the case, and I know of no such condition of affairs.

Mr. MOORE. How about the importation of sugar on the Pacific coast? There is no submarine menace there, is there?

Mr. HUGHES. There it is a question, of course, of using those ships. They have taken off some of them and are using them for the purpose of bringing over rice, cocoa, cocoanut oil and those products which they consider to be absolutely essential. However, there have been no serious restrictions placed on the bringing in from the Philippines and the Hawaiian Islands of the amount of sugar that is over there.

Mr. MOORE. How do we get it from Hawaii now—through the canal?

Mr. HUGHES. No; we get it direct to the Pacific coast and then they bring it across.

Mr. MOORE. Are you having any trouble in transporting the sugar brought from the Hawaiian Islands and from the Philippines to the East?

Mr. HUGHES. No serious difficulty, except that to which I referred, the fact that they have classified all of these various products—

Mr. MOORE (interposing). How is your railroad transportation from the Pacific coast?

Mr. HUGHES. That is very much interfered with.

Mr. MOORE. It is interfered with?

Mr. HUGHES. Yes; the delays are very great. The fact is that a very large portion of that California-Hawaiian sugar does not find its way east of the Mississippi River but is consumed very largely west of the Mississippi River.

Mr. MOORE. Is the trade getting any perceptible relief from the Pacific coast at this time?

Mr. HUGHES. The conditions, so far as the distribution of it are concerned, are just about the same as we would have under normal conditions, compared with the amount we receive.

Mr. MOORE. How does that affect the general situation?

Mr. HUGHES. Let me put it this way: The situation that prevailed last fall, in November and December, was that the East was very short of sugar, and we were unable to transport, that is quickly, any of the sugar from the western coast due to transportation conditions, particularly in the wintertime, and therefore that sugar could not be brought from there to meet the situation here. It was brought here in considerable quantities, but not in sufficiently large quantities to cover the situation.

Mr. MOORE. Was the sugar that is said to have gone down as a result of the operation of submarines on the Atlantic coast Cuban sugar exclusively?

Mr. HUGHES. Yes, sir.

Mr. MOORE. And no Hawaiian sugar is coming through the canal?

Mr. HUGHES. Not that I know of; I am not positive as to that, but none that I know of.

Mr. MARTIN. The Hawaiian sugar is all refined in the San Francisco refineries, is it not?

Mr. HUGHES. Very largely, yes.

Mr. MARTIN. The output over there is only about 631,000 tons?

Mr. HUGHES. Something like that; yes, sir.

Mr. MARTIN. And the output of the Philippine Islands is about 79,000 tons; so that that is about enough to supply that section of the country?

Mr. HUGHES. Yes; that together with the beet sugar that they have in that section.

Mr. GREEN. The shortage of sugar seems to have been rather more acute in the Mississippi Basin; that is, in what is sometimes called the Central West. Is there any special reason for that?

Mr. HUGHES. That is due entirely to local conditions and they are largely transportation conditions. Last fall there was a time, for instance, when all through Kansas and Nebraska there was a very severe shortage, and that was due to the fact that the beet crop had been absorbed, and they could not get the cane crop from the East into that territory, because the East was in practically the same condition.

Mr. GREEN. Where did that crop go? It is not all used in the West?

Mr. HUGHES. No, although it is used very largely in the West. The beet crop normally seldom moves east of Pittsburgh and Buffalo.

Mr. GREEN. That is what I wanted to get at. They took that sugar out of that region, and left them without sugar, and supplied the East. I want to know why that was done?

Mr. HUGHES. The condition that prevailed last fall, I presume, could not be foreseen, and if it had been foreseen they no doubt would have held that crop back. This season, however, I presume they will hold there a sufficient supply of beet sugar to take care of the conditions in that territory, so that you will not have the acute sugar shortage that you had at that time.

Mr. GREEN. The point that I wanted to get at was whether your department had anything to do with saying where that crop should go and the territory to which it should be furnished.

Mr. HUGHES. You have reference to the distribution of it?

Mr. GREEN. Yes.

Mr. HUGHES. The Food Administration, through its beet-sugar distribution committee, which is located in Chicago, arranges for the distribution of all the beet sugar that is grown in that territory, as well as in Michigan, Ohio, and Wisconsin.

Mr. GREEN. It does not strike me that they made a very fair distribution of the sugar.

Mr. HUGHES. I presume they made as equitable a distribution as, in their judgment, they thought they could. But there was not enough beet sugar or cane sugar to go around.

Mr. GREEN. I live at Council Bluffs, on the big transcontinental lines that carry the sugar. Why should it have been carried right on through Council Bluffs, where there was a greater shortage of sugar than there was right here in Washington? For example, I know that people carried sugar from Washington in their grips in order that they might be able to get some white sugar.

Mr. HUGHES. Do you recall at what time that was?

Mr. GREEN. Last winter.

Mr. HUGHES. Well, that was due very largely to transportation conditions, but I can not understand why, if they were shipping sugar right through Council Bluffs, they did not distribute some of it there; but we all know that there were conditions which prevailed here and there that seemed, to say the least, paradoxical.

There is one more thing I would like to bring to the attention of the committee and then I will not worry you any longer, and that is this fuel situation. The confectionery industry and all other industries which have been placed in the classification of being the less essential industries, so far as their products are concerned, are going to be very seriously restricted in their fuel usage. That is absolutely necessary because of the enormous increase in the amount of fuel that is being used by the war industries. The priorities committee has classified certain industries on a preferential basis and those industries must have fuel whether anybody else gets it or not, and we all agree that they should have it.

Mr. GREEN. That is very important, of course, but the fact is that the Committee on Ways and Means has nothing to do with it.

Mr. HUGHES. The point I am making is this: I want you gentlemen of the committee to understand certain things affecting the confectionery industry at the present time which are vital to its existence, and I do not think it is the intention of the committee to place further burdens upon the industry to such an extent that it will have to go out of existence entirely. Understand, I am not saying what you are going to do, but I think there are certain conditions confronting the industry which you gentlemen should have placed before you,

although you may already have a great deal of knowledge about those conditions and I may be telling you something that you already know about.

Mr. GREEN. I know there is going to be a fuel shortage out in Iowa which will seriously restrict not only the manufacturers but also keep a good many people from heating their homes during this next winter.

Mr. HUGHES. The industries that I referred to, unfortunately, are in the class that have been referred to as the less essential industries, so far as winning the war is concerned. We are all as anxious to win the war as anybody, as far as that is concerned, but there are certain conditions which will confront us until the end of the war, and they will affect the industry very seriously so far as the industry as a whole is concerned. It is merely for the purpose of bringing these things to the attention of the committee that I appear here. In that connection I might cite the question of labor and the high wages that are being paid by these war industries. The labor in these candy factories can go out and get jobs in these various industries which are working on war materials at a great deal higher wages than are paid in the candy factories, and there is, in all probability, as you know, a very serious likelihood of the gradual elimination of these industries as the war progresses.

Mr. GREEN. Some people think that they ought to be eliminated.

Mr. HUGHES. That, of course, is a matter of opinion; but it shows the condition that faces the confectionery industry, and they are conditions which I am sure you gentlemen will take into consideration in framing new legislation.

I thank you gentlemen very kindly for your attention. I want to say this, whatever action you contemplate relative to the industry, that I can best illustrate my position by saying, as the Irishman said when he was about to be condemned by the court, "Judge, if you can not be aisy, be as aisy as you can."

I thank you very much.

#### STATEMENT OF MR. VINCENT L. PRICE, OF ST. LOUIS, MO.

Mr. PRICE. Mr. Chairman and gentlemen, first, I want to say to you that I am here after a conference with the executive committee of our association, a national association comprising about 500 manufacturers, all the principal manufacturers in the United States. We have been in existence as an organization since 1884. We started our organization for the purpose of having passed at that time by the various State legislatures what were known as pure-candy laws. In other words, there was a certain group of manufacturers who had an objection to the practices then existing in the industry. They could not by persuasion correct these practices, so that they started in and formed this organization for the purpose of having pure-candy laws passed in the States; so that really the first pure-food laws on the statute books of our States were the pure-candy laws, and unfortunately the prejudice which existed against the industry at that time extended for a considerable length of time.

Now, this executive committee, elected by this association in convention, has conferred here on various matters in connection with the industry and amongst them is this question of taxation. The things we tried to decide were these: Is there any reason why our industry



should not bear an additional tax to that which is now imposed? In other words, we are paying an income tax and an excess-profits tax. We decided that our industry should pay a tax in addition to that which is now being imposed. Then the question was: What is the best method? We took into consideration two things. One was the method by which the Government could impose the tax and have that method work out in such a way that the collection of the tax would be the least trouble to the Government or to the department of the Government collecting the tax. It is a rather complicated matter to impose an excise tax on confectionery and collect it unless it is done in a proper manner. In respect to the second question, as to the method, it has always been difficult, in coming before bodies to this kind, to get them to differentiate between the man who steps into the store and pays 80 cents a pound for candy and the manufacturers we represent who do not charge any such price for their candy, and whose prices range from 5 cents a pound up to 15 cents a pound. Those prices have been advanced in the last year on account of the conditions confronting the industry. But we want you to keep in mind that there is a difference between the two; that there is a difference between the store whose reputation and prestige entitles it to get \$1 a pound or \$1.25 a pound, or something of that kind—and there are always a lot of people who are willing to go in and pay for that prestige—and this large group of manufacturers who really represent the candy industry in the United States. If you impose a tax upon candy that is sold at \$1 a pound and impose the same tax on a manufacturer who sells his candy for a less price, which may be in excess of what he gets for his stuff, then he must go out of business.

We feel that the method of taxation should be to tax the sales of the manufacturers, and we mean by that that you should tax the sales of all manufacturers, not simply the manufacturer who sells to the wholesale trade, the manufacturer who sells to the retail trade, but the manufacturer who also sells to the consumer. We believe that is the best method, and we believe that for this reason: If you should impose a per-pound tax on the industry it would require records of production which, in the majority of cases, have not been kept, and which, in the majority of cases, will not be kept, and which, in the majority of cases, might be inaccurate, manipulated, or something of that kind. In other words, records of the pound production are very difficult things to maintain in our industry.

Mr. MOORE. There are a great many specialties in the manufacture of candy, such as are sold at newstands and railway stations. Do you speak for that class of manufacture?

Mr. PRICE. Yes, sir; I speak for all classes of manufacturers—manufacturers selling to the wholesale trade, but not for the retailers.

Mr. MOORE. Take the average newsstand which has on it a number of attractive novelties and confections of one kind or another which people buy to shove in their pockets and eat on the train. You find there a 5-cent package of chocolate marked up to 6 cents; a peanut package marked up from 5 to 6 cents; and a cocoanut bar marked up from 10 to 12 cents. Can you tell just why those extra cents were added to those standard-priced packages?

Mr. PRICE. Yes, sir.

Mr. MOORE. Will you give the reason?

Mr. PRICE. The reason is that those packages first are packed customarily throughout the industry, a certain number of packages to a carton; in other words, 24 to a carton. That is the custom. And sold at 5 cents per package by the retailer that would bring him \$1.20. Now, the increased cost to the manufacturer of those goods has necessitated an advance in his price; that increased cost due to the increased cost of raw materials, due to the increased cost of labor, due to the curtailment of production which has increased his overhead: those things entering into the cost of his goods has necessitated his advancing his price to the wholesaler.

Mr. MOORE. That is to say, to the jobber or wholesaler?

Mr. PRICE. The jobber or wholesaler; it is the same thing; and that man is required to advance his price to the retailer, and the amount that is left between what he would get at 5 cents per package and what the increased cost is to him makes it necessary for him to advance his price to the consumer in order to make his legitimate profit.

Mr. MOORE. Then the package that heretofore sold for 5 cents and which has moved up now to 6 cents does not pay the Government anything extra by reason of that additional cent?

Mr. PRICE. No; it does not, in any way that I know of.

Mr. MOORE. And that is all covered in along the line as between the manufacturer and the consumer and was not put on because of any war tax, but was due to the increased cost?

Mr. PRICE. That was due to things that have entered into the industries, increasing the cost.

Mr. MOORE. Does the manufacturer sell direct to such a newsstand as the one over here in the terminal, for instance?

Mr. PRICE. In some instances, yes.

Mr. MOORE. Do you mean to say his business is done with the agent at that stand? I am trying to get at the method of distribution.

Mr. PRICE. Of course, I do not know about that particular instance, but I do not think there is any question but what manufacturers do sell direct to news companies that supply stands of that kind. That is what I am trying to get at.

Mr. MOORE. Then the distributing agent of all that business at railroad stations is the Union News Co. or the American News Co.?

Mr. PRICE. In some instances, yes; and sometimes they are supplied by local wholesalers and jobbers.

Mr. MOORE. Then if the manufacturer wants to get his specialty on the market he gets it on the market through the American or the Union News Co.?

Mr. PRICE. Well, only in that particular instance, which is a very small percentage of the demand for candy. The demand that comes through those various sources which you mention is infinitesimal compared with the general distribution of the product.

Mr. MOORE. I call your attention to that because I think the average consumer who buys such a package and pays the extra cent has the same feeling with regard to that particular payment that he has on going into a moving picture show, that the extra cent goes to the Government; that it is a war tax, whereas in the matter of candy it is not a war tax but a tax that is absorbed by the trade.

Mr. PRICE. It is not a war tax, and I did not have in mind the particular instance you bring out, but I had in mind the general

conditions that prevail throughout the United States, and that that increase in price is due to these various conditions that have entered into the cost of the product.

Mr. MOORE. Mr. Price, speaking generally, has the candy and confectionery business generally increased or decreased during the last two years?

Mr. PRICE. It has decreased in pounds of production very materially.

Mr. MOORE. But as to financial returns?

Mr. PRICE. Well, I can not answer for this year. I think, generally speaking, the results during the year 1917 were better than the results during the prewar period, and that was due primarily to conditions of supply and demand.

Mr. MOORE. Is it not due partly also to the increase in price?

Mr. PRICE. Well, the increase in price is a natural result of the demand exceeding the supply.

Mr. MOORE. As one who is extremely anxious to keep the industries going and not to destroy any industry, I want to put to you the same question I put to Mr. Hughes a little while ago, and I would like you, as the chairman of the executive committee of the National Confectioners' Association, to consider it very seriously because it is well intended, but it is inevitable: Inasmuch as the financial returns of the business appear to have improved, notwithstanding that the per-pound production has fallen off, is there any way that the trade can stand any increased taxation without prejudicing its existence?

Mr. PRICE. First, I want to say that I referred to the financial returns of the industry during the year 1917, when the production had not decreased to the extent that it has since January 1, 1918. The curtailment of production has increased during that period. Now, of course, we have not any idea in mind that we shall not be taxed in addition to what we are now being taxed. We realize that the Government needs additional revenue. We fully appreciate the fact that our product will be taxed and what we want to do is to help the committee in any way we can to determine the best method of taxation, both with the idea of gaining the amount and also in the application of the tax. Now, I say that we should be taxed and the method we think is the application of a tax to the manufacturer's sales, the same way that you have done, for example, in connection with chewing gum.

Mr. MOORE. You would prefer a sales tax if there is any change?

Mr. PRICE. We prefer it.

Mr. MOORE. A tax on gross sales of the manufacturer?

Mr. PRICE. Yes; on gross sales of the manufacturer.

Mr. MOORE. You pay now a corporation tax where you are incorporated and you pay an income tax, generally, and where the excess-profits tax is applicable, you pay that, but there is no direct tax on the candy itself?

Mr. PRICE. No, sir.

Mr. MOORE. It could be traced in the box very readily, I assume, or be traced by the pound if the Government wanted to proceed against it.

Mr. PRICE. Well, I would like to say just this: There are a group of manufacturers who are naturally anxious in the payment of a tax

to have a method that would insure the payment of the tax generally throughout the industry. Now, there is fear on the part of a certain group of manufacturers that any method that was complicated or would allow for the hiding of records or anything of the kind would be a detriment to the man who would not do that sort of thing.

Mr. MOORE. I sympathize with you on that and I sympathize with the manufacturer who feels that way about it, but we do not want anybody to escape who ought to be held. Personally, I am very sorry that the taxes have to be levied at all, but the President started this thing. Our opinion generally was we would not need the extra taxes this year, but the President came to Congress and addressed it on this subject, and he was followed up by the Secretary of the Treasury, who told us the amount required would be \$8,000,000,000 in taxes, and the President stated the things from which the money should be raised, to wit, incomes, excess profits, and luxuries. Now, you come particularly within the latter class of luxuries, and I do not wonder that some of you may think the very existence of the business is involved. I do not want to see it go out of business, and we would not get any revenue if it did. Now, if you are to bear a part of this new, great burden by reason of your being in the business which the President himself classes as a luxury, how are we going to get more money out of the industry? If your remedy is a tax on gross sales, that is a suggestion. Some of us have been talking about the other method of putting a tax on the box or on the pound, and that, of course, is a consumption tax.

Mr. PRICE. Just as a matter of information, we discussed this question of the tax and the application of the tax so far as the manufacturer was concerned and the unanimous opinion of our committee was that any tax imposed should simply be added and passed on to the next man, who would pass it eventually to the retailer; in other words, without any accumulation of profit on that tax. Now the reason we came to that conclusion is this—and there is this factor in the situation, that if your tax is too large, whatever it may be, and of course I realize that facts are going to determine that in your mind, it would be such that it could not be passed on in that manner without disorganizing the general conditions throughout the industry and very seriously affecting consumption.

Mr. GARNER. I would like to ask—

Mr. MOORE (interposing). Now let us get at it in this way, and then I will yield to Mr. Garner. If there is a variance of 40 cents in a pound of candy, as between the before-the-war price and the present price, the inference is that somebody in the business is getting that 40 cents, counting in, of course, all your extra cost in the way of increased wages, etc. Now a tax on gross sales might mean that that 40 cents would go up to 50 cents or 60 cents, which would be passed on to the consumer in that larger sum. Which would be better for the consumer, to pay that extra 50-cent tax which would cover your increased taxes on gross sales or to have the person buying that candy pay a cent or 2 cents or 3 cents or 5 cents a pound on it and go away feeling that he had contributed something to the revenue of the Government?

Mr. PRICE. I can answer that question by saying that if it is a practical method, that the price per pound paid by the consumer would be by far the better for the industry.

Mr. MOORE. And would probably be better for the consumer?

Mr. PRICE. And probably better for the consumer. In other words, we want to avoid, whatever the tax is on sales of the manufacturer, allowing that to be passed on by adding profit to it and the accumulative effect of those profits as you go along, which will eventually reach the consumer, the consumer then having no knowledge, except by pure assumption, that this increased price is due to taxation. We would much prefer the consumer knowing exactly what he is paying per pound or per package for candy as a tax. That would be preferable.

Mr. GARNER. Mr. Price, you admit that your industry is one that the Government probably ought to tax under existing circumstances in order to get revenue into the Treasury?

Mr. PRICE. Yes, sir.

Mr. GARNER. Then it is only a question of the method and the rate to be levied?

Mr. PRICE. Yes, sir.

Mr. GARNER. They are the only two questions at issue? What would you say to levying a tax of 1 cent for each 5-cent package of confectionery or fraction thereof sold, to be paid by the consumer at the time he bought it? To illustrate: A man comes into a shop and says, "I want a pound of candy." The Government does not levy any tax on the manufacturer or anybody else, and the dealer says, "All right; here is a pound of candy for 80 cents. Now, you have got to give me on that 1 cent for each 5 cents' worth of candy sold, which would be 16 cents." The confectioner would have the stamp for sale and he would have the candy for sale, and when he sold the customer the 80-cent box of candy he would not have to figure on anything he had paid taxes for, because the customer would buy from him at the same time 16 cents' worth of stamps and give him 80 cents in cash and 16 cents in stamps. According to my viewpoint that would do two things: It would first let the consumer understand that he is paying a tax, and it would not permit some retailers or manufacturers to pursue the method that Mr. Moore has just outlined, of going up 100 per cent upon an article upon the pretense that they are putting that much into the Treasury of the United States. In other words, no manufacturer or retailer would have any excuse for charging a higher price for his candy on account of taxation, because he would not be paying it. Nobody would be paying it except the consumer, and he would know identically how much tax he was paying at the time he bought the article. What would you say about that method of taxation?

Mr. PRICE. If that method was worked out along practical lines—in other words, there are a good many complications entering into the question, all of which I think could be solved.

Mr. GARNER. Are not the complications entirely with the Treasury Department and not with your trade?

Mr. PRICE. Yes.

Mr. GARNER. Then, if the Treasury Department should tell this committee that that was a practical method of raising revenue and that they could administer that kind of law, you would have no objection to that kind of a statute?

Mr. PRICE. No. In other words, in the discussion of this matter in our committee we had in mind a method of taxation upon the

retailer in the sale to the consumer for the very reason we wanted the consumer to know what he was paying in taxes and prevent this accumulation of profit on the tax.

Mr. GARNER. Then, the method I have suggested is one which is in line with your thought?

Mr. PRICE. Only we concluded it would be so impracticable that it would not receive the favorable consideration of the committee.

Mr. GARNER. What would you say about that rate, one cent on each five cents' worth of candy sold?

Mr. PRICE. On the retail price of the retailer to the consumer?

Mr. GARNER. Yes.

Mr. PRICE. I think that would be very equitable, and I think it would bring you—

Mr. GARNER (interposing). Many millions of dollars?

Mr. PRICE. Yes; it would.

Mr. STERLING. That would be 20 per cent.

Mr. PRICE. I realize that. In other words, a package of goods that would sell to the consumer for 5 cents would sell for 6 cents. That is the way I am looking at it.

Mr. STERLING. Right on that point, is there not a great deal of candy sold in packages of less than 5 cents?

Mr. PRICE. Yes.

Mr. STERLING. What kind of tax would you put on that?

Mr. PRICE. As I stated in my answer, there are a good many complications entering into this question. In addition to the question of collection by the Revenue Department, there is also this question—and this is a thing I want you to keep in mind, and I am afraid you do not appreciate it—that candy in its great bulk as manufactured and sold in the United States is a food of the masses. It is consumed by the masses, and these people that you are constantly bringing up like Huyler, Maillard, and all of those high-priced people do not represent the great bulk of candy sold in the United States. The candy that is sold in the United States goes to the workingman and his children. It is their dessert. He spends his penny and his nickel for it, and according to statistics which we gathered about one year ago, the percentage of these high-grade candies to the total production of candy in the United States was about 15 per cent; in other words, they only represented 15 per cent—

Mr. WHITE (interposing). Do you know what percentage of your revenue arises from the sale of candy under 5 cents; that is, 1 penny and 2 pennies, etc.?

Mr. PRICE. I can not answer that question definitely, because I have no information, only I do know the general conditions prevailing in the industry. I do know the nature of the goods manufactured and sold and I also know what proportion they bear of the total business in a general way but not specifically. I do know that these so-called penny goods which are packed 100 pieces in a box and which sell to the consumer, the children, for 1 penny apiece, are very largely sold and very largely manufactured, and represent a very large proportion of the amount of candy sold; and next to that comes the candies that are sold for 5 cents, and then following that comes the general line of bulk candy which the manu-

facturer sells for anywhere from 8 cents to 9 cents or 10 or 11 or 15 cents a pound.

Mr. O'SHAUNESSY. Does the candy you have just described constitute the bulk of the candy sold?

Mr. PRICE. That is the bulk of the candy sold.

Mr. O'SHAUNESSY. And it is not in packages?

Mr. PRICE. No. When I refer to package goods I refer to the chocolates that come in 1-pound packages, etc.

Mr. O'SHAUNESSY. Is not there where the difficulty would come in, in reference to Mr. Garner's suggestion, the candy that would sell for less than 5 cents?

Mr. PRICE. No, sir; the difficulty would not come in there. The difficulty would come in connection with these so-called penny goods, as I refer to them, because they are sold for 1 cent each, and also in connection with the goods that are sold at a lower price. Now, if you go into certain markets, into the average retail drug store, or the average grocery store, the average bakery, and places where the children of the working people go to get their candy, you do not see any candy there at 40, 50, 60, 70, or 80 cents, or \$1 per pound. The people who sell the high-grade package goods do not sell to those people, because they have a different clientele that will take that class of goods, and there are only a few of them in the small towns throughout the country. Of course that condition prevails more largely in the East than in the West. That is where they call for those high-priced goods.

Mr. O'SHAUNESSY. Would it be practicable to put stamps upon the packages containing that quality of candy so that they would be open to the inspection of the official of the Internal-Revenue Department?

Mr. PRICE. No, sir; not if it required the opening of the packages.

Mr. O'SHAUNESSY. It would give rise to fraud, would it not? People might put stamps of their own on them, and evade the law in a thousand and one ways. Do you not think that is probable?

Mr. PRICE. That is one of the difficulties that would confront you; but the application of the tax to the package in any manner, as applied to the industry as a whole, would be very impracticable and rather dangerous.

Mr. O'SHAUNESSY. That is why you favor a gross-sales tax?

Mr. PRICE. We favor that because we think that it is more applicable to the great bulk of the production of candy.

Mr. O'SHAUNESSY. Could you raise as much money that way?

Mr. PRICE. I am not prepared to say that. We figure that a tax of 3 per cent on the sales of manufacturers would result in an income to the Government, according to the statistics which we have gathered, of about \$15,000,000, in addition to that which they are now securing.

Mr. GARNER. What is the rate you suggested?

Mr. PRICE. Three per cent.

Mr. STERLING. Why do you suggest 3 per cent on the manufacturers' sales, when you said in reply to Mr. Garner's question, as I understood you, that 20 per cent on the retail price would be equitable?

Mr. PRICE. I clearly stated that I had in mind the application of his idea, as he had put it, to 1-cent and 3-cent packages.

Mr. STERLING. Let us see about this question of taxing the retail price: When a person goes into a candy store to buy candy, he does not ask the clerk how much candy is worth and then say what quantity he wants, but a person in buying candy says, "I want a dime's worth of candy" or "25 cents' worth of candy." They do not know how much candy they put in the box, and when the clerk gives them a dime's worth of candy and charges 12 cents for it the customer is disappointed. The customer might sometimes be a child who would not have the additional money. Don't you think that great confusion would result if you should undertake to put a tax on the retail price of candy?

Mr. PRICE. Yes, sir. It was implied that we should not bother ourselves about that detail, but still we did bother ourselves with that detail.

Mr. STERLING. There are some classes of goods that are stamped with the retail price. Patent medicines, for instance, are stamped that way. For instance, when a person calls for a bottle of Scott's Emulsion, he first asks the price of it, if he does not know it, and the clerk says, "It is so much, including the amount of the tax, which is so much." In that case he knows what he has got to pay before he makes his purchase. Now, when you come to candy, that is an entirely different proposition. They will call for a dime's worth of candy, and the clerk will charge 12 cents; if they call for a quarter's worth of candy, the clerk may charge them 30 cents. I think that would cause a great deal of embarrassment.

Mr. PRICE. I think you are correct. Of course I did not consider this proposition at all. We considered two things. We considered the application of the tax to the retailer's sales to the consumer, and the application of the tax at the source of manufacture, and we concluded, for those reasons and several other reasons, that the application of the tax to the retailer's sales to the consumer would be a very complicated and uncertain thing, and that it would cause great difficulty on the part of the Government in the administration of the tax, because, as you know, candy is sold under all sorts of conditions. For instance, you will find people selling candy from pushcarts all over the country. It will also require a thorough investigation on our part into the question of the application of the tax. For that reason, we felt that the simplest and best method was the method which is applied now in connection with the chewing gum product.

Mr. LONGWORTH. What is the average difference between the manufacturer's price and the retail price?

Mr. PRICE. I could not answer that as to certain classes of retailers who sell goods on the basis of prestige, but, normally the jobber who resells the products makes from 20 to 25 per cent on the resale of his product, and that is on the manufacturer's cost. The retailer makes a profit of from 25 per cent to 33½ per cent on his resale based on the cost price of the jobber to him.

Mr. LONGWORTH. The retail price averages less than twice the manufacturer's price?

Mr. PRICE. Yes, sir.

Mr. LONGWORTH. Then, if you say that a 20 per cent tax on the retailer is a fair tax, why would not a tax of at least 10 per cent on the manufacturer be a fair tax?



Mr. PRICE. This is the reason why: If you impose a tax of 10 per cent on the manufacturer, the manufacturer must add that tax to his price to the wholesaler, and the wholesaler adds it to his price to the retailer, and there would have to be a readjustment of the retailer's price. That readjustment of the retailer's price would mean a complete readjustment of the industry or manufacturing confectionery.

Mr. LONGWORTH. You would add it to the price to the jobber right off?

Mr. PRICE. We would add it, because we could not afford to absorb it. We could not absorb a tax far in excess of the net profit.

Mr. LONGWORTH. Does anybody ever absorb this sort of tax? Has there ever been an instance where it was absorbed?

Mr. PRICE. Yes, sir.

Mr. LONGWORTH. Can you name one?

Mr. PRICE. Yes, sir; the chewing gum industry has absorbed it.

Mr. LONGWORTH. Did they not add anything to the price?

Mr. PRICE. Some of them did, but where the tax is very small, it is absorbed. Of course, where the tax is large we can not do it. Our idea is that the absorption of an excise tax means less profit and less excess profit taxes.

Mr. LONGWORTH. Now, you made the positive statement that you thought a 20 per cent tax on the retailer was fair.

Mr. PRICE. Yes, sir; but I want to correct myself on that. I had not in mind the application of the method I suggested for taxing the product. I said that if the candy sold for 5 cents, the retailer would sell it for 6 cents, or whatever the proportionate amount was on account of the taxes, or, in other words, he would make the price absorb the tax.

Mr. LONGWORTH. I understood you to say in answer to Mr. Garner's question, which was a specific question as to whether or not you believed a tax equivalent to 20 per cent on the retail price was a fair one—as I say, I understood you to say in answer to that question that it was eminently fair and would be a very wise tax.

Mr. PRICE. I said—

Mr. LONGWORTH (interposing). And you said it would raise millions of dollars?

Mr. PRICE. Yes, sir.

Mr. LONGWORTH. You say now that the retail price is not twice as much as the manufacturer's price. Now, under those circumstances, why would it not be absolutely just, from your point of view, to put a tax of at least 10 per cent on the manufacturers? If you put a tax of 20 per cent on the retailer, and if the retailer is not receiving as much as twice the manufacturer's price, on what possible theory would you not be able to justify a tax of 10 per cent on the manufacturer?

Mr. PRICE. I am not prepared to answer the question as to the application of the amount of tax at 20 per cent, taking it in that way. I was speaking more about the method. A tax of 20 per cent on the retailer's price to the consumer I think would be excessive. I think it would be an excessive tax because it would reach a class of products that go largely into the hands of children of the working classes.

Mr. STERLING. It would yield about four times as much revenue as the tax of 10 per cent on the manufacturer's price, would it not?

Does not the retailer pay almost twice as much as the manufacturer's price for his candy?

Mr. PRICE. Well, the accumulation of profit, as I say, would be in the neighborhood of 50 per cent over. I am talking about certain classes of retailers, but as to the general run of retail stores throughout the United States it would probably be in the neighborhood of 50 per cent or 60 per cent over the manufacturer's selling price; that is, the accumulation when it gets to the consumer.

Mr. LONGWORTH. If it is only 50 per cent more, it would justify a tax of about 15 per cent on the manufacturer's sales.

Mr. PRICE. As I say, the wholesalers are making in the neighborhood of about from 20 to 25 per cent. That is his profit on the resale of the goods to the retailer. Then, the retailer will make in addition to that in the resale of his goods from 25 per cent to 33½ per cent.

Mr. LONGWORTH. If you take the maximum in both cases, that would represent 58 per cent. Under those figures, you could justify a tax of 15 per cent on the manufacturer's sales.

Mr. STERLING. Based on what it would eventually cost the consumer, it would take a tax of about 35 per cent on the manufacturer's sales to equal a tax of 20 per cent on the retailer's price in the matter of revenue, and of course the ultimate consumer would have to pay it.

Mr. GARNER. In other words, on candy worth 80 cents a pound you would have to levy a tax of about 35 or 40 per cent on the manufacturer in order to get 16 cents into the Treasury, while under the system or method suggested of paying 1 cent on each 5-cent package, or 5 cents worth of candy, you would bring about \$200,000,000 a year into the Treasury. Now, a tax of this sort would in no way interfere with your business, nor with the jobber or anybody else, because the consumer would have to pay that tax and the Government would get out of that tax a larger percentage of revenue into the Treasury than by any other process. By the other method, as you say, you would add a percentage to the price to the jobber, the jobber would add a percentage to the price to the retailer, and by the time it got to the consumer the price would have gone up four or five times and the consumer would be paying four or five times as much taxes as the Treasury would get by the transaction. What we are trying to do now is to raise money and to have the money go as directly as possible into the Treasury. Now, a tax of 20 per cent on the consumer, or upon the man who buys it, as Mr. Sterling has suggested, would be equivalent to a tax of 35 or 40 per cent on the manufacturer.

Mr. PRICE. Of course, you must keep in mind this thing, and you do not seem to keep it in mind, and that is, that this 80-cent per pound candy that you speak about is not sold to the great bulk of people who consume candy. That price is never reached except in exceptional cases, but under the conditions existing you would find candy selling at 10 cents per pound and 20 cents per pound. I should say that now that is the prevailing price at which bulk candy is sold. Of course, candy must be considered in relation to the selling price, and according to what is in it. In other words, if you take an almond and coat it with chocolate it sells higher than sugar coated with

chocolate. The price would be in the neighborhood of 25 or 30 cents per pound.

Mr. GARNER. Now, Mr. Hughes here and the other people connected with the Food Administration are telling us every day that we must refrain from using sugar, and they are making orders or regulations limiting the retail stores in the amount of sugar that they can sell to a customer. I can not understand how that policy can be invoked by the executive branch of the Government and then have the legislative branch of the Government refrain from levying the highest possible rate or the rate that will get the greatest amount of revenue into the Treasury. If we levy a good big tax on the consumer of candy, 10 per cent or 20 per cent, that money would go into the Treasury, and it would tend to restrain him in the buying of candy.

Mr. PRICE. You referred awhile ago to your inability to take into consideration here all of the various rules and regulations of the Food Administration, and I sympathize with you on that. These requirements of the Food Administration naturally vary, and we are told at times to stimulate the production of certain things. For instance, just at present we are told to stimulate the production of coconut candy, because the Government needs the carbon from the coconut shells, and needs it badly. Therefore, we are encouraged to stimulate the production of coconut candy, and we are encouraged to stimulate the production of certain other things. Then, also in line with regulations, wherever we possibly can we are trying to substitute other things for sugar. Therefore, if you should impose a tax on us for the purpose of helping out the Food Administration, those differences in the requirements of the Food Administration would also apply and should be taken into consideration. My point of view is this, that you need greater revenue, and the question is what is the best means of getting it from our industries.

Mr. GARNER. The method I have suggested would give between \$150,000,000 and \$200,000,000, according to your calculations, while the method you suggest would give less than \$50,000,000 and would interfere with your business.

Mr. PRICE. The reason we preferred a tax on the retailer was that then there would be no danger of an accumulation of taxes and profits on the product from the manufacturer to the retailer, which is not right and which would be detrimental to the industry.

Mr. O'SHAUNESSY. I suppose if the tax were levied that way, to use a common word, somebody would get "soaked" in the successive taxes and profits.

Mr. PRICE. Yes, sir; that would be the case if that method prevailed.

Mr. O'SHAUNESSY. You think it would not be fair under that method.

Mr. PRICE. So far as the manufacturers are concerned, they are on record as being opposed to any such method. If the tax were imposed on them, it would simply be added.

Mr. LONGWORTH. Are you certain that the revenue taxes were absorbed by the chewing-gum manufacturers?

Mr. PRICE. I will say I am not certain, but I certainly recall something of that kind. I do not happen to come directly in touch with the purchasing part of the business, but I was under the impression that the tax had been absorbed.

Mr. LONGWORTH. They told us that it would be absorbed, and so did everybody else, but we have not found a case yet where a tax on sales was not paid by the ultimate consumer.

Mr. HAWLEY. They have absorbed the tax in this way, by reducing the amount in the package in proportion to the amount of the tax.

Mr. PRICE. Well, I really could not answer that question because I am not familiar with it; I am not prepared to speak for that industry. I was only assuming that they had billed their goods at a certain price and had not charged the tax in the invoice.

Mr. STERLING. Let me ask you in regard to Mr. Garner's suggestion that this will be a practical way of doing business. Suppose we should impose a tax of 10 or 20 per cent on the retail price, the retailer to stamp all of the packages he sells, and a customer should ask for a dime's worth of candy. Now, would it be practicable for the clerk to give him 8 cents worth of candy, put a stamp on the package, and say nothing about the tax? Would that be a practicable way of doing business?

Mr. PRICE. That might be practicable in some cases, but it would not be practical in other cases. In other words, if your goods were put up in packages or were wrapped, whereby it was necessary for the retailer to deliver to the consumer the package he had received from the manufacturer, of course, there would be no way of doing that, but if it were a case of a retailer putting into a package a certain amount of candy he might lessen the weight.

Mr. STERLING. Of course, it would be very irksome to compute the rate all the time if he undertook to simply discount the amount of candy.

Mr. PRICE. I think the practical application of a thing of that kind, and which would simplify the method to the retailer considerably, is to charge a certain price per pound or per package or per piece for his product. That would be, without any doubt, the better way.

Mr. STERLING. That could be done if the candy did not come in bulk. If it came in fixed packages, it would be a simple matter to just stamp the package; but where one goes in and asks for a certain amount of candy, a dime's worth or a half dollar's worth, I think it would be very embarrassing, both to the customer and the dealer, to handle it in that way.

Mr. PRICE. It would be troublesome, too. You mean by handling it that way to say that this candy is 30 cents a pound and then the war tax is 6 cents?

Mr. STERLING. Yes.

Mr. O'SHAUNESSY. How many of the manufacturers do you represent, 400?

Mr. PRICE. Five hundred, approximately.

Mr. O'SHAUNESSY. What percentage is that of the total?

Mr. PRICE. Of the total number of manufacturers?

Mr. O'SHAUNESSY. Yes.

Mr. PRICE. Well, I should say that on the basis of production, per pound production, it would represent probably four-fifths.

Mr. O'SHAUNESSY. In the other one-fifth are included these exclusive manufacturers of high-grade candies?

Mr. PRICE. Among those are included the manufacturers who sell to the consumer principally, and a few other small manufacturers.

Mr. O'SHAUNESSY. Have you the gross sales of the manufacturers you represent?

Mr. PRICE. Approximately \$350,000,000 per annum; those figures are based on the 1917 business.

Mr. O'SHAUNESSY. A year?

Mr. PRICE. Approximately that.

Mr. O'SHAUNESSY. What are the gross sales of the other manufacturers?

Mr. PRICE. Well, they would represent approximately gross sales of \$100,000,000; from \$100,000,000 to \$150,000,000 a year.

Mr. O'SHAUNESSY. That is the 15 per cent you spoke about?

Mr. PRICE. No.

Mr. O'SHAUNESSY. When you spoke of the 15 per cent, did you mean 15 per cent of the manufacturers?

Mr. PRICE. No; I meant that 15 per cent of the total production of candy in the United States is the high-grade candy, and that 85 per cent represents the lower-priced candies which are consumed by the masses.

Mr. O'SHAUNESSY. That is, 15 per cent of the candy manufactured. What is the percentage in money value?

Mr. PRICE. I spoke of production. Now, naturally, that 15 per cent production is out of proportion to the sales point of view, because that particular class will get a higher price for their products, so that a certain number of pounds production would represent a larger percentage.

Mr. O'SHAUNESSY. Have you any suggestion to make as to that particular line of manufacture?

Mr. PRICE. No; I have no suggestions to make, because I think it is impracticable to deal with this question except as a whole. But I do want to correct the impression that the great bulk of the candy produced in the United States is sold at such prices, because the fact is that the great bulk of candy produced in the United States is consumed by the masses.

Mr. O'SHAUNESSY. You say that the gross sales of the men you represent amounted to \$300,000,000 in the last year?

Mr. PRICE. To \$350,000,000.

Mr. O'SHAUNESSY. And what were the gross sales of the other manufacturers to whom you referred—\$150,000,000?

Mr. PRICE. Well, it will run over \$100,000,000.

Mr. O'SHAUNESSY. So that we would get \$15,000,000 under a 10 per cent tax?

Mr. PRICE. Yes; if you imposed a 10 per cent tax.

Mr. O'SHAUNESSY. About \$15,000,000.

Mr. PRICE. Yes, sir. That is information we gained from statistics that were gathered, but they may not be absolutely accurate.

Mr. MOORE. I want to give you a chance to emphasize that fact again, since you have suggested that the committee did not, perhaps, fully appreciate it. You said that all of these sales of high-priced candies, those that I was referring to in my questions to you, constituted only 15 per cent of the aggregate sales in the United States.

Mr. PRICE. I said production, not sales; I was referring to the pounds produced. That information was gathered by us from

statistics used in connection with a suit brought or a petition filed with the Interstate Commerce Commission on account of a classification of freight.

Mr. MOORE. By that I understood you to mean to say that if we should impose a tax per box that we would only reach about 15 per cent of the production.

Mr. PRICE. Well, yes; 15 per cent represents the high-priced package goods and also the bulk goods. As you know, you will step into a retail store and have a five-pound box of candy put up for you, and that will cost you as much as if you bought it in a box.

Mr. MOORE. Let us get at that, Mr. Price, in this way: If I go down to a certain store, which is quite popular in Washington, to buy candy that is sold on the reputation of a trade-mark, I have to fall in line, and the ladies who come in their automobiles have to step out and leave their chauffeurs waiting while they fall in line. They are perfectly willing to pay the advanced price from 40 or 50 cents, or whatever it was, to 60 or 70 cents, whatever it may be, and it seems to me that they ought, in all fairness, to be willing that a portion of that excess in price should go to the Government in revenue.

I understand that you do not dispute that proposition but that you do say that that kind of business is limited to about 15 per cent of the trade, so far as your statistics show. Now, if we imposed a tax per box how could we reach the other 85 per cent of the trade? Is not that particularly so in the case of gumdrops, which are sold in buckets, in the case of other specialties, and even down to a stick of candy? Are not those things sold in buckets or cartons of some kind or other that we might reach?

Mr. PRICE. They are sold in barrels, pails, boxes, tins, glasses, and various other kinds of packages.

Mr. MOORE. If such a tax as Mr. Garner has suggested goes down to the consumer in this way, could it not be made to reach everybody, by touching the retailer on the package received, even though he could not weigh it out on his scales.

Mr. PRICE. Well, the package received by the retailer, as you understand, varies. It is sometimes packed by count, as we call it, a certain number of pieces to a box, and sometimes packed by weight, and the various packages are 5-pound boxes, 10-pound pails, buckets, barrels, kegs, tins, and all varieties of packages are used; and those packages vary in weight and vary in count.

Mr. MOORE. Is it because of that varying condition that you think a tax of that kind would be impracticable?

Mr. PRICE. Yes; that is my idea, that a tax on the package would result in such terrific complications that its application would be impracticable.

Mr. MOORE. I put this thought up to you with regard to articles which are admitted to be luxuries. The masses, to whom you have referred, are large users of these articles, and some of them children. Now, the average child pays no tax, and ought not to pay a tax, of course, and many wage earners pay no direct tax. The purchaser of an eighty-cent or one dollar box of candy may perhaps be paying an income tax, an excess-profits tax and other taxes. In your judgment should we go down along the line and reach even the wage

earner, to whom these cheaper candies are sold, and let him feel that he is bearing a portion of the tax by having it added to the candy he buys, and which he knows, and which we all know, is a luxury?

Mr. PRICE. Well, I should say that his knowledge of it is not important, but I think he ought to bear some proportion of the tax, but it is according to your method of application.

Mr. STERLING. Can you give the committee some idea as to what percentage of the candy manufactured is penny and 2-penny candy.

Mr. PRICE. Well, I can say this, that approximate estimates have been made; we have no definite figures, but approximate estimates would show that all of the cheaper candies that are in this 85 per cent class that we speak of—that approximately from 50 to 60 per cent of those represent a resale to the consumer at a penny, 2 cents, or 5 cents; in other words, the great distribution is at the small resale price. Now, when you differentiate between that which sells for 5 cents and that which sells for a penny, you are dealing with the purchasing power, and you get to the purchasing power of an adult and the purchasing power of a child; the purchasing power of a child is one penny, and therefore a child will buy in penny lots, whereas an adult will buy in 5-cent lots, 5 and 10 cent lots, but principally 5-cent lots, so that the proportion of those goods that are sold at 1 penny would represent, I should say, probably one-half of the amount of the penny and 5-cent packages.

Mr. STERLING. You think it would?

Mr. PRICE. Yes, sir.

Mr. STERLING. If you imposed a stamp tax on the retail price it would not be practicable to put a stamp on a penny piece of candy, would it?

Mr. PRICE. You could not put it on; I do not see how you could do that.

Mr. DICKINSON. Are you associated in any capacity with the Food Administration or any other department of the Government?

Mr. PRICE. No; none whatsoever.

#### STATEMENT OF HON. LINDLEY H. HADLEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON.

Mr. HADLEY. May I make this suggestion before I make my statement? Senator Jones of our State, the State of Washington, was here during the morning in connection with this statement. He was compelled to go and he asked that I inquire whether he might, if he desired, subsequently file a written statement in connection with the one I am about to make.

The CHAIRMAN. There will be no objection to that at all.

Mr. HADLEY. I will necessarily be very brief on account of other immediate engagements.

I noticed, in looking at the assignments for the hearing to-day, that it is indicated that I would ask to be heard in connection with the lumber industry. In a sense that is true, but it is somewhat misleading, because the point which I desire to submit is even broader than the lumber industry, or any other industry, and yet that industry is involved on account of the relation of a branch of the lumber industry, to which I will call present attention, to one feature

of the existing law. To be specific, I wish to call the attention of the committee to a suggested amendment in connection with subdivision a of section 500 of the revenue act of October 3, 1917. That section, or the portion to which I refer, reads as follows:

That from and after the 1st day of November, 1917, there shall be levied, assessed, collected, and paid (a) a tax equivalent of 3 per cent of the amount paid for the transportation by rail or water or by any form of mechanical motor power when in competition with carriers by rail or water of property by freight consigned from one point in the United States to another.

The amendment which I desire to suggest for the consideration of the committee does not relate to a repeal or abrogation of any tax, but rather to an extension of the provisions of existing law in order to remove a discrimination which, it appears, exists against producers and shippers in our own country.

My attention was first called to the matter by a letter addressed to me under date of December 18, 1917, by the secretary of the Shingle Branch of the West Coast Lumbermen's Association, of Seattle, Wash. That is a general lumber association in which various branches of the lumber industry are associated for the welfare of the business, but it is a letter from the shingle branch of the organization. In order to get at the point directly I desire to read this letter. It is understood that I may file such communications as I desire in connection with my statement without reading them all? I only have four or five such communications and I will not take the time to read them all.

The CHAIRMAN. Without objection, you may file those communications.

Mr. HADLEY. This letter reads:

As you are well aware, there now exists a 3 per cent freight tax on freight shipped from one point in the United States to another point in the United States.

This does not apply, however, to shingles shipped from British Columbia into the United States. Not only at the present time do the British Columbia manufacturers enjoy certain advantages of manufacturing cost, through the employment of oriental labor and of an absolute bar against the shipment of American-made shingles into Canada, because of the Canadian tariff, but now he (the British Columbia shingle manufacturer) by virtue of a United States measure, enjoys this 3 per cent freight charge over American shingle manufacturers.

This obviously is an unfair advantage, and certainly one which Congress did not foresee. British Columbia shingle manufacturers are advertising the fact that they are not subject to this 3 per cent freight tax to the retail trade, and there is no question but what it is giving them a lot of added business that otherwise would be filled by American shingle manufacturers.

Speaking in behalf of the shingle industry of Washington and Oregon, the shingle branch of the West Coast Lumbermen's Association earnestly requests that you use your best efforts in securing remedial legislation.

Perhaps it may not be feasible to propose a law placing a 3 per cent tax on foreign expense bills, but it would be entirely so to work for a 3 per cent or 5 per cent ad valorem tax or revenue act or a 5-cent or 10-cent per thousand tax against foreign shingles.

What the American mill wants is at least an "even break" for the business. What the United States Government wants is revenue, and so such a law as we propose is just in every sense and necessary and imperative to a healthy condition of the American shingle industry.

We would very much like to see one of the northwestern contingent of Senators or Representatives present such a remedial bill and all work for the passage of it at a very early date.

Kindly let me have your views on this matter.

I may say that I did introduce a bill and I will refer to it a little later.



Mr. GREEN. Does that apply to all kinds of lumber as well as shingles?

Mr. HADLEY. Yes, sir. I will refer to that later. I am now proposing to illustrate the operation of the act in a concrete case.

The CHAIRMAN. I understand your proposition is to have freight that emanates from a foreign country carry the same burden as freight originating and shipped in this country?

Mr. HADLEY. Exactly.

Mr. STERLING. That would apply to passengers, too, would it not?

Mr. HADLEY. Well, I am dealing now only with the proposition of freight.

Mr. STERLING. Of course, but I was just inquiring whether the same injustice did not exist as to passengers. Suppose a man should buy a ticket from Winnipeg to Chicago. He would not have to pay any tax, would he?

Mr. HADLEY. No.

Mr. STERLING. But if he should buy a ticket from Chicago to Winnipeg he would have to pay a tax, would he?

Mr. HADLEY. I have not examined the law in that respect, but that is my understanding.

Mr. MOORE. Have you considered the constitutional question—

Mr. HADLEY (interposing). May I continue my statement very briefly, and then I will answer questions? In connection with this letter there is a postscript. It reads as follows:

I am attaching hereto a portion of a circular issued by the Red Cedar Products (Ltd.), Vancouver, British Columbia, in which they hold forth as an inducement to buy British Columbia shingles the fact that they are not subject to the 3 per cent freight tax.

Here is the excerpt to which he refers:

#### DUTY OR WAR TAX.

At present the United States Government does not assess duty or war tax of 3 per cent on freight when shipments of any kind move from a foreign country into the United States, however, this tax may be assessed at any time, and if it is, why of course it is understood that it will be for the buyer's account. As long as this tax is not assessed the shingles we ship from Canada into the United States really sell from 3 cents to 5 cents per thousand less than they would be were the tax assessed; in other words, the 3 per cent freight tax would amount to from 3 cents to 5 cents per thousand. This is an advantage worthy of consideration and worth mentioning to your customers.

Mr. MOORE. Have you your bill there?

Mr. HADLEY. I will present it in a moment. I wish to file without taking the time to read it, an indorsement of the principle of applying in some way this tax to the shipments within American territory of freight originating without the territory.

The CHAIRMAN. I would like to say to Judge Sterling in this connection that we now tax passengers going from one point in the United States to a point in Canada or Mexico under the last revenue act, but we do not tax freight on account of this constitutional question.

Mr. STERLING. There would not be any constitutional question involved if we simply sought to tax it to the line.

The CHAIRMAN. No; and at first blush I think there is a great deal of merit in Mr. Hadley's proposition.

Mr. MOORE. I think Mr. Hadley intends to discuss that question.

Mr. HADLEY. The letter I now desire to file is from the Seattle Chamber of Commerce and Commercial Club, attaching a resolution adopted by the board of trustees of that organization and drawn by former Senator S. H. Piles, as chairman.

SEATTLE CHAMBER OF COMMERCE AND COMMERCIAL CLUB,  
Seattle, January 17, 1918.

HON. LINDLEY H. HADLEY,  
House of Representatives, Washington, D. C.

DEAR SIR: Herewith I have the honor to transmit recommendations from the national affairs committee of this organization urging the Members of Congress from the State of Washington to endeavor to bring about remedial legislation which will overcome the advantage now enjoyed by British Columbia shingle manufacturers in competition with American manufacturers because of the 3 per cent tax on bills of lading.

Yours, very truly,

G. C. CORBALEY, *Executive Secretary.*

JANUARY 9, 1918.

BOARD OF TRUSTEES,  
Chamber of Commerce and Commercial Club, Seattle, Wash.

GENTLEMEN: The executive committee of the national affairs bureau respectfully recommends that the Members of Congress from the State of Washington be urged to use their influence and best endeavors to secure remedial legislation which will overcome the disadvantage imposed on American shingle manufacturers in competition with Canadian manufacturers because of the 3 per cent tax on expense bills of lading for domestic shipments which do not apply on shipments originating in Canada.

This recommendation is offered as the result of the suggestion made by the shingle branch of the West Coast Lumbermen's Association, referred by the board of trustees to this committee at the meeting of the board Tuesday, January 8.

It appears that the British Columbia shingle manufacturers are advertising to the American buyers the advantage in price which they enjoy, amounting to 5 cents and more per thousand on shingles because of their exemption from this tax.

Remedial legislation should, in the judgment of your committee, take such form as our Members of Congress find practicable. It might be accomplished by equalization of tariff differences, if that seems feasible.

Respectfully submitted.

S. H. PILES, *Chairman.*

Approved and adopted by board of trustees, Seattle Chamber of Commerce and Commercial Club, January 15, 1918.

Mr. SLOAN. Would not an import tax meet all the requirements and serve the purpose a great deal better than the suggestion you are making?

Mr. HADLEY. Well, that is a matter for the committee's consideration. I desire to present that——

Mr. SLOAN (interposing). But I would like to have your view on that.

Mr. HADLEY. May I finish filing these letters, and then I will answer your question.

I would like to file a letter from the Bellingham Chamber of Commerce, addressed to me under date of February 9, 1918, on the same subject; a telegram from the Aberdeen Chamber of Commerce, of Aberdeen, Wash., and also a telegram from the Hoquiam Commercial Club, of Hoquiam, Wash., both of which last-named cities are situated in the district represented by Hon. Albert Johnson, the third district of Washington, the chamber of commerce and commercial club of Seattle being within the district represented by Hon. John F. Miller, both of whom are present in connection with this hearing.

CHAMBER OF COMMERCE OF BELLINGHAM  
*Bellingham, Wash., February 9, 1918.*

HON. LINDLEY H. HADLEY,  
*House of Representatives, Washington, D. C.*

MY DEAR SIR: Your attention has probably been called to the fact that shippers of shingles from British Columbia escaped the tax of 3 per cent on expense bills, which tax applies to all the shippers of shingles in the United States. This places an additional handicap on them of about 5 cents per thousand.

At a meeting of our board of trustees on February 6, I was directed to write you that our people had no desire to evade this tax, but that we hope you will use your best influence to secure a similar tax upon our competitors across the line.

Our board of trustees unanimously passed a motion requesting Congress to place a 3 per cent tax on all goods shipped in by rail from foreign countries, in the same manner as this tax is imposed upon American shippers.

Respectfully,

P. E. MAGRUDER,  
*Executive Secretary.*

ABERDEEN, WASH., *January 28, 1918.*

LINDLEY H. HADLEY,  
*House of Representatives, Washington, D. C.:*

Reference to war tax, 3 per cent on expense bills on shingles, no war tax imposed on shingles from British Columbia to United States. We ask for immediate remedial legislation to place this large industry in Washington and Oregon on equal basis with British Columbia, who now has great advantage.

ABERDEEN (WASH.) CHAMBER OF COMMERCE,  
 By W. L. MORRIS, *Secretary.*

HOQUIAM, WASH., *January 21, 1918.*

Congressman HADLEY, *Washington, D. C.:*

Reference to war tax, 3 per cent on expense bills on shingles, no war tax imposed on shingles from British Columbia to United States. We ask remedial legislation to place this industry in Washington and Oregon on equal basis with British Columbia, who now has great advantage.

HOQUIAM COMMERCIAL CLUB.

I would like to give one other illustration of the effect of the act before referring to the question just asked. In a letter which I received under date of April 8, 1918—I will not take the time to read it all—is presented the point that a shingle shipper in this country was able to ship by water 50 or 60 miles to Vancouver, British Columbia, and there load in cars and reship from Vancouver, British Columbia, back into the United States, and was able to meet the competition by reason of the fact that the 3 per cent freight tax did not apply. I do not need to elaborate the point, because it is set forth in the letter:

WEST COAST LUMBERMEN'S ASSOCIATION,  
*Seattle, Wash., April 8, 1918.*

HON. LINDLEY H. HADLEY,  
*House of Representatives, Washington, D. C.*

DEAR SIR: Reference to Senate bill No. 3480, and House bill No. 8717, the same being an amendment to the recent war-revenue act placing British Columbia shingle mills on a parity with American shingle mills, as regards the assessment of this 3 per cent freight tax.

It has come to my attention that the Burke Shingle Co., of Anacortes, Wash., has shipped a large scow load containing several million shingles to Vancouver, British Columbia, loading shingles into cars at that point for shipment into the United States over the Great Northern Railroad.

While the primary object of the Burke Shingle Co.'s shipping these shingles from Vancouver was due undoubtedly to the fact that cars were more available at that point than at Anacortes, where their mill is located, yet by virtue of the fact that these shingles escape the 3 per cent freight tax when loaded out from Vancouver, their towing charges and other charges incident to making shipment in this manner are to a large extent compensated for, and their mill has been able to keep running while otherwise they would have been forced to close down.

But it certainly is an injustice when a company located in the States can ship their shingles 60 or 70 miles by water, and avoid payment of a tax that his fellow miller who loads the shingles direct into cars at his plant must pay.

This little incident further emphasizes that there has not been equal distribution of cars even on the same line, because Anacortes, as you know, is located on the Great Northern, and these shingles were shipped via the Great Northern from Vancouver. However, I am making no complaint on this ground because I understand the new plan of Car Distributor J. C. Roth will eliminate this.

I will be glad to have you place this information before other members of the Oregon and Washington contingent at Congress in an endeavor to have these bills favorably reported on the floor.

Very respectfully,

J. S. WILLIAMS,  
*Secretary Shingle Branch.*

Now, I have suggested an amendment by a bill which I introduced on the 15th of January, 1918, which proposes to add to the language which I read in subdivision A, the following words: "or consigned from a point outside the United States to a point within the United States."

That is simply extending under the existing law the operation of the tax to those commodities which enter the United States, and, of course, could only be made to apply to them in so far as that portion of the haul is concerned which is within the United States.

Mr. SLOAN. It is taxed when it leaves the United States and taxed again at the reentry point?

Mr. HADLEY. Yes. I do not see anything difficult about that. The carrier at this time in shipping from points within the United States to another point within the United States must collect the tax or he is liable for it; as I understand it; and so at the point of entry he must apportion the tax and collect it or remain liable, and I see nothing difficult in his doing so, and it is a revenue producer.

In connection with that observation, I have here the April number of the West Coast Lumberman, a very reputable paper published at Seattle and Tacoma, which gives some idea of the extent of shipments from Canada to the United States on this one item of shingles. I will not read it, but I call attention to two points: For the eight months ending with February of this year, 1,198,125,000 shingles, valued at \$3,365,678, have been brought into the United States from Canada, as against 1,184,978,000, valued at \$2,576,790, during the same period last year. The figures are also given showing increased importations in February and the value per month. I note that the increased importations for the eight months ending with February amounted to something more than 12,000,000 shingles more than the previous corresponding period, and the value had increased something over \$100,000.

Of course, the method of applying an important duty at the port of entry would perhaps remove that discrimination better than any other way, and would be a very effective way of doing it, but I did not understand the committee was at present considering a general revision of the tariff. If it was doing so, we would perhaps be here

considering this question on broader and different lines; but in order to equalize the relation of the American shipper and producer with that of his foreign competitor in this country under an act, the policy of which has already been determined generally and is now existing, I have merely suggested that the committee undertake to extend the operation of the act to foreign commodities coming in competition with American commodities in this way. I think the amendment I have suggested will reach it, but whether it is the best method of reaching it I will not undertake to say. There may be other and better ways, although I think this would cover the point.

Mr. MOORE. In doing that, Mr. Hadley, I would like to ask you why the present tariff laws do not afford protection in this instance.

Mr. HADLEY. Shingles, the item I have been referring to, are upon the free list. There was a time when we had, I think, a duty of 50 cents per thousand. Subsequently it was reduced to 30 cents, and finally shingles were put on the free list. Reference has been made in the letter which I first read here to the difference in the cost of production in the two countries.

Mr. MOORE. Were they put on the free list under the bill which we have become to know generally throughout the country as the Underwood tariff bill?

Mr. HADLEY. That is my recollection.

Mr. SLOAN. I want to say when I asked you that question I did not know the committee had concluded to ignore something like \$3,000,000,000 of imports that were coming into this country annually and to favor so richly the foreigners as they have during the last few years. I did not know the committee had concluded to continue that disastrous and unwise policy.

Mr. HADLEY. I did not mean to imply that the committee had reached any conclusion as to what it might do in that regard, although taking the act as we have it before us and the proposed amendments so far as I have heard suggestions made, I did not know that it was intended to enter upon a general tariff revision. If the committee should do so, then the entire lumber schedule and the shingle schedule would be such that the committee might consider with interest to the country and certainly with benefit to the people of the districts to which I have referred. I do not care whether the committee considers this 3 per cent item on the basis of an added tax to equalize it, or whether it considers it on the basis of an import duty in order to equalize it. If it undertakes to do the latter and also to effect complete equalization in the case of imports, it will have many other considerations to take into account to which I have not made anything more than a passing reference, and of course I would not at this time undertake to discuss them because I have not the time nor the opportunity to do so.

Mr. STERLING. What is the freight rate on a car of lumber or shingles from, say, Aberdeen, Wash., to Chicago, approximately?

Mr. HADLEY. I will ask Representative Johnson, who is present and who lives near Aberdeen, to answer that question.

Mr. JOHNSON. The rate on shingles from the north Pacific coast to Missouri River points approximately is 70 cents per 100 pounds, and the rates have recently been subjected to a percentage increase under orders of the Director General of Railroads.

Mr. GREEN. Would it equalize these conditions if the outsider or the person shipping from Canada was compelled to pay a 3 per cent freight rate on the distance that the lumber travelled within the United States?

Mr. HADLEY. Well, I have taken it for granted that having no extraterritorial jurisdiction, we would be relegated to that remedy.

Mr. GREEN. Of course, we could not collect a tax on the Canadian rate.

Mr. HADLEY. And whether it would equalize it or not, it would to the extent of this freight item only.

Mr. STERLING. We could put a higher rate on lumber coming in from a foreign country from the boundary line to destination.

Mr. HADLEY. You would have a perfect right to do that on the same principle on which we apply an import duty for protective purposes. The cost of production, the cost of manufacture, and the cost of the original materials is much greater in the State of Washington than it is in British Columbia, and that would require the taking into account of the difference in cost of materials and also the difference in cost of labor in order to determine just what would be a fair rate of equalization even in the form of a tax. Of course, this suggestion is as broad as the act, and applies to all commodities, irrespective of the character of the commodities, that are similarly situated, and it might be well considered, it seems to me, by the committee, whether in consideration of all the shipments into this country which are transhipped from without the country through and across the country to points within it, it might not be a very great source of revenue; and while I present it from that standpoint, we also have the interest, in the State of which I have spoken, of removing this manifest discrimination which now exists between these competitors.

I do not desire to extend my statement on account of other engagements, and I wish to call attention to the fact that Representative Johnson and Representative Miller are both present, and the three of us represent all of the portion of the State of Washington within which the lumber and shingle industry flourishes.

The CHAIRMAN. The committee understands that Mr. Miller and Mr. Johnson and yourself are behind this proposition, and so far as I am concerned it strikes me as being very meritorious.

Mr. HADLEY. If they desire to make any statement or to file any statement, I would be glad if they might have that opportunity.

The CHAIRMAN. All right, sir.

Mr. MOORE. Have you read your amendment?

Mr. HADLEY. I have here the bill which I introduced, H. R. 8717.

Mr. MOORE. Will you please read it so it may go into the record?

Mr. HADLEY (reading):

A BILL To amend paragraph A, section five hundred, of an act entitled "An act to provide revenue to defray war expenses, and for other purposes," approved October third, nineteen hundred and seventeen

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph A of section five hundred of an act entitled "An act to provide revenue to defray war expenses, and for other purposes," approved October third, nineteen hundred and seventeen, be amended by adding at the end thereof the words "or consigned from a point outside the United States to a point within the United States."*

Mr. MOORE. You think that would avoid the constitutional question?

Mr. HADLEY. I do not see that there is any constitutional question involved, if I may state it in that way, so far as the exercise of this authority is concerned.

Mr. MOORE. Of course, this would simply mean that as soon as the goods got into the United States they would be taxable?

Mr. HADLEY. Taxable for that portion of the haul within the United States.

**STATEMENT OF MR. BARNETT L. HOLLANDER, COUNSEL TO  
AMERICAN ART DEALERS' ASSOCIATION, NO. 44 WALL  
STREET, NEW YORK.**

Mr. HOLLANDER. Mr. Chairman and gentlemen, may I ask that the brief which I have tried to make short be printed in the record? I have tried to leave out all nonessentials. The American Art Association realizes that the cardinal point is the raising of revenue; so that our position, which at first blush may seem surprising, is reached from a very fair consideration of every issue involved at this unusual time. The American Art Dealers Association consists of the dealers in art of America, Europe, and wherever art is to be found. It is chartered, as a sort of board of trade, by the Supreme Court of New York, and has in its membership nearly all the art dealers of this country. We speak purely for them. We are not authorized to speak directly for the artists of America or for the museum, although both are vitally interested. They are allied in interest with us, and I think their interests and our interests are interwoven.

The proposition that we make is this, that since the President in addressing Congress on May 27 spoke of taxing luxuries, and since the Secretary of the Treasury in his letter, I think, to the chairman of this committee, spoke of laying heavy taxes on luxuries, the art world and the art dealers fear that under some general language, contrary to the intent, in every likelihood, of the committee, and certainly contrary to what we claim is the Government's policy as now established by the state of the law, the word luxuries might be so defined as to include works of art. We maintain, in the first place, that the definition as known to us and as given by the dictionaries does not place works of art in the same class with jewelry and perfumery. Congress, we claim, has, since the Payne-Aldrich bill of 1909 and in the Underwood bill, continued the policy which had been the policy of the country for upwards of 100 years, I think, with the exception of a short span, in 1890, or possibly in the eighties and nineties, of keeping works of art and antiquities on the free list, and we contend that any action taken here by the committee should be defined by that clause of the tariff act which places works of art on the free list. You will find the definition or classification in that clause of the tariff act.

Works of art have not paid any duty since 1909, and the Government, we claim, has recognized, through permitting the importation of works of art free, that they are educational. They endure for all time, and we must see to it that they continue for all time. The countries of Europe do not impose any tax of any kind in connection with the importation of works of art, nor do they tax works of art at this time for war purposes, although during the four years of the war they certainly have combed the field to find new methods of taxation

and new subjects of taxation. That is true of all the countries of Europe, with one single exception, and I will come to that in a moment. There is an export tax in Italy, and the purpose of that has been to keep their works of art in their own country. In both Italy and Spain, I think, all important works of art are listed so that the Government's permission must be obtained before any of those works of art can be exported. We all know to what extent, because we see a great deal about it in the papers, European countries have gone in the effort to have some legislative action taken to prevent their works of art from coming to this country. When I spoke about a single exception or instance of a country raising new taxes on works of art, I had in mind the recent law enacted in France, imposing a tax of 10 per cent on works of art, and I will for a moment refer to that. In March or April of this year, I think, they imposed a tax of 10 per cent on works of art.

Now, how did they do it, and it is important to consider that in connection with the general proposition before you? As I said, they imposed a tax of 10 per cent on works of art. That did not reach the commissions realized on the sale of works of art, but it was a direct tax simply on works of art and applied to the private collector. I have a copy of the law here, and it is very carefully drawn to reach the rich man, we will say, who is buying from a dealer in art there. Now, there have been two sales scheduled on works of art in France for May or June, and, as a result of that new tax, those large collections are not to be sold. The French Government thereby loses the tax that might be collected. The agitation on the subject has been very serious, and I have here an article from a French paper dated May 8 to the effect that the Paris Chamber of Commerce had advised that the tax be removed. The business dropped off to practically nothing. The tax simply defeats itself because of the fact that the rich man, or the buyer of these things, will not buy them apparently if there is to be a tax placed on something that is educational and for something that is only for a transitory period.

In America you have the Morgan collection, which Mr. Morgan acquired during the later years of his life, and it was passed on to the public at his death by his deed and by that of his son. The Altman collection is a very large collection and is quite equal to the Morgan collection. That was collected by Mr. Benjamin Altman, a New York merchant. That collection goes to the public, with a large endowment to the Metropolitan Museum. Then the John G. Johnson collection last year came to the city of Philadelphia. These art collections have been enjoyed by their owners during their lives, but very shortly after their deaths they have gone to the public, and that has been done by reason of this situation, or the way they have been regarded, and your encouragement should go out to them so that they may continue in that splendid policy. Now, we have seen pictures recently of the great efforts being made in Europe to preserve works of art from German attack. We have seen pictures of sand piles around cathedrals and monuments, and in some instances art treasures have been removed from museums even by the military to a safe distance behind the lines. I would like to quote briefly from a news item in the New York Evening Post of a few days ago, as follows:



MEASURES TO DEFEND PARIS—PREMIER CLEMENCEAU EXPLAINS OBJECT OF APPOINTMENT OF GEN. GUILLAUMAT.

\* \* \* \* \*  
 These defensive measures, Premier Clemenceau explained to a deputation of the Radical Party to-day, are of a precautionary nature, for the safeguarding of the capital. The Government, in this connection, has notified private art collectors that assistance will be accorded them in removing their treasures to places of safety.

Mr. MOORE. What does the annual business in works of art amount to?

Mr. HOLLANDER. We figure that it will be between ten and fifteen million dollars this year, but if any tax is placed on it, the psychological effect must be such that it will drop off, and that the excess profits and income taxes that have been paid from this business will be unbalanced so that the effect will be that the total taxes will be less than for this year.

Mr. MOORE. What percentage of that ten or fifteen million dollars goes outside to foreign artists or art dealers?

Mr. HOLLANDER. I do not mean that there is any such investment as ten or fifteen million dollars, but there is a turnover of ten or fifteen million dollars. At best, we figure that about two thirds comes from the other side.

Mr. MOORE. Ten or fifteen million dollars changes hands at the present time as between those who buy pictures and those who sell them?

Mr. HOLLANDER. No, sir; it is not pictures alone. We are speaking of works of art, including statuary, antiques, and art works of every description.

Mr. MOORE. And two-thirds of that is in foreign trade?

Mr. HOLLANDER. Yes, sir; about two-thirds.

Mr. MOORE. What tariff duty is there on works of art.

Mr. HOLLANDER. Absolutely none, and there has been none since 1783, with the exception of one or two short spans. When I get a little further, you will see that the jump came from \$3,000,000 of importations in 1897, when the duty was still on, up to \$21,000,000, I think, in the year following the enactment of the Payne-Aldrich bill, which took the duty off.

Mr. MOORE. I want to ask you a rather blunt question: We are engaged in this war, and it is a critical time. We need all the money we can get, and we are directed by the President and the Secretary of the Treasury at this time to raise \$8,000,000,000 of additional revenue. Now, is it wise at this time for us to send to Europe to buy art collections as much as two-thirds of the ordinary American turnover in that business?

Mr. HOLLANDER. I will say, as to that two-thirds, that a large part of that money is money expended by museums, and I do not know that we want to dictate to them. They are trustees for the public and their purchases, in any event, should come under a separate clause. But the answer to the point you make is that everything that comes in now, in the way of works of art, comes from one of three countries, France, England, or Italy. Therefore, that money goes to our allies, and we are lending them money ourselves.

Mr. MOORE. But bear in mind that we are turning over to that country money for a picture or piece of statuary that may be worth \$500,000. That \$500,000 might be very readily applied to the manufacture of munitions in this country during the war, and the

question is whether we had not better hold that money and defer the educational advantage which this picture or piece of statuary is going to bring to our country, and use the money for governmental purposes during the war?

Mr. HOLLANDER. That view of it has been discussed and that is where the selfish interests of the dealer would appear in the matter. That has been discussed by us, and it is believed that the injury done would more than offset any immediate good that could be obtained from such a course.

Mr. MOORE. You used as an illustration the sacrifice of Mr. Otto H. Kahn, who has decided not to buy any art works during the period of the war, but who prefers to make his investments, that might otherwise go into works of art, so that the money would go into Liberty bonds, and thus help the Government. Don't you think that in an emergency like that which now confronts this country, it might be wise for the Government to use for war purposes some of the money that might be spent by large purchasers of works of art?

Mr. HOLLANDER. There, again, we speak from the selfish standpoint. We say that we must live, that we have capital invested, that we occupy real estate, and that we have employees. That is a point that I want to make later. This business employs a class of labor that might at first blush seem to be a labor that might be employed at this time to a more useful purpose; but, in the very nature of things, this business is like no other, and we do not employ a class of labor that is adaptable to other purpose, or the average labor employed in this business is not adaptable.

Mr. MOORE. In the purchase of a picture or a piece of statuary you are benefiting the individual who works upon that picture or piece of statuary.

Mr. LONGWORTH. It very rarely happens that the man who produces a work of art gets a large amount for it. That money does not go to living artists.

Mr. MOORE. Then it goes for the benefit of those who manipulate the proceeds of his labor or of his art. I am merely raising the question of the wisdom of sending out of the country at this time large sums of money for the purchase of works of art when we are so greatly in need of every dollar that we can get for governmental purposes.

Mr. HOLLANDER. In the abstract that might be true at this time, but that policy might result in more harm than good, because that business is here, and it is an established business. The effect of that policy would be to stop buying, and you would then reduce the value of all art works in this country. In addition to that, when these rich men die if they own great works of art the Government benefits to a great extent. Taxes are getting higher all the time, and the Government receives large income and inheritance taxes from these wealthy people. It seems to me that in this matter we might very well take the experience of Europe, because, after all, we are young in the business. They have established certain policies in regard to this matter, and undoubtedly they are policies growing out of wisdom. Both England and France recently, during the war, have been making purchases of works of art at great cost out of the public treasury; and only last month, at the Degas sale, the French Government paid 360,000 francs for one of his pictures. They paid that

much for a picture by Degas, who had just died a short time before. Their artists receive Government subventions. Rodin, who died last year, was being paid by the Government. The artists over there draw Government pensions right along.

Mr. SLOAN. You have spoken about the art business, and all that, and I want to know how it would be effected by taxation. Is it not true that every business is in some form burdened by taxation, and will be burdened more by the taxation that we are facing in these revenue bills? In view of the acts of vandalism that are being committed by German troops in the destruction of fine works of art, and in view of the fact that a great deal of military defense is required for the protection of works of art, just why should the business involved in the transfer of these articles be exempt from taxation? Why should they be exempt, unless they are of prime utility in the conduct of the war?

Mr. HOLLANDER. I think the answer to that is, in the first place, that art is essential for the conduct of the war, which, after all, we will assume is largely mechanical. Art is something that we have about us all the time. It is in this room in the form of textiles, for instance. Certain textiles contain certain designs, and that must be continued.

Mr. SLOAN. A part of the expense in the providing of war machinery is required for the protection of works of art, and, that being true, why should not the business of transferring the various articles of the industry bear some of the burden of prosecuting the war?

Mr. HOLLANDER. Exactly, and we believe it should. We want to do that, and we are not here to quarrel with any tax that might be charged to us out of profits. Our business itself is a peculiar one, and, as I said before, it is like no other. It can not stand any direct tax.

Mr. MOORE. I did not misunderstand you, and I have no quarrel with art. I am anxious to encourage it, but we must protect art now with human life, and we must raise money to protect that human life. That is the problem that is before the committee.

Mr. O'SHAUNESSY. Would a tax on the sales of works of art to purchasers interfere with the business?

Mr. HOLLANDER. Yes, sir. We have had a number of meetings of the dealers in New York, and they were attended by 80 per cent of them. We have had meetings of the dealers, and that is their unanimous view. In addition to that, they have gone to firms like the old firm of M. Knoedler & Co., and firms of that character that have their customers who are buying these collections, to find out what their attitude would be. Their attitude seems to be that if a tax goes on they will either have to take down their signs or else wait until conditions change and cease buying.

Mr. O'SHAUNESSY. I asked that because you say that your purchases come from an exclusive class of the people, and I was wondering whether or not they would stop buying on account of the tax which would be levied to promote the war.

Mr. HOLLANDER. They would figure like Mr. Kahn that it would be better to put their money in another channel that would help in the war. That is why I spoke of the selfish consideration that is involved here. The effect on the museums is something to be considered. The Director of the Corcoran Art Gallery was in the room

a few minutes ago, and I asked him his opinion. His concern is directed to the American artist. The American artist must live, and, as you know, the artist is like no other person. He is not very readily adaptable. Their average age is about 53 years, and, of course, they are no longer adaptable. The younger artists are active in the service of the Government, doing camouflage work, poster work, and publicity work of various kinds for the United States Government.

Mr. SLOAN. If they can not serve, why not let them pay?

Mr. HOLLANDER. They hardly make a living as it is. Artists, as a rule, barely make a living. They have to pay the expenses of their studios, and there is very little that they can do. There has been a lot of what might be termed theatricalism about the art business. We hear of \$500,000 being paid for a work of art, but those transactions do not exist. They are greatly exaggerated, and the dealers themselves complain about that. You take the average American artist, and I know lots of them, and they have a very hard struggle. Mr. Coffin, who is a national academician, is present, and can tell you more about that. He has not an appointment here, but he has asked me to let him have a little of my time. So, as I say, there is very little to be gained from American art or American artists.

I have set down here some figures. If you will refer to page 16 of my brief you will see that I have given the figures of imports for the last 20 years. In the year 1899 the imports amounted to \$2,400,000, and in 1910 they had jumped to \$21,000,000, and in 1913 they reached \$52,800,000. That was the year in which Mr. Morgan brought over his great collection—when he took it out of the Kensington Museum and brought it over here. Then, with the coming of the war the imports amounted to \$35,000,000 in 1914, which was almost a normal year. In 1915 the imports dropped to \$18,400,000 and in 1916 the imports amounted to \$20,800,000. On page 18 of my brief I have some more recent figures—

Mr. MOORE (interposing). Will you state whether they are the import figures?

Mr. HOLLANDER. They are import figures, yes; and they are the only figures we can find.

Mr. MOORE. Is the art comprehended by those figures brought in by dealers or brought in by such men as Mr. Morgan?

Mr. HOLLANDER. That is everything that passed through your customhouse, because they are the customhouse figures.

Mr. MOORE. I want to find out whether they represent individual collections or whether they were brought in for commercial purposes.

Mr. HOLLANDER. I should say that about half of the imports were for private collectors and that the other half was for dealers. Turning to page 18 of my brief you will find that in 1916 and 1917, taking the recent months, December, January, February, and March—and the March figures are the last available—that the imports were, for December, 1916, \$2,604,000, and they dropped in 1917 to about half that. In January, 1917, the imports were \$3,605,000, and in January of this year, \$890,000; in February, 1917, \$2,437,000, and in February, 1918, \$770,000; in March, 1917, \$2,106,000, and in March, 1918, \$885,000. That shows that we are running about one-third of what we did last year.

Mr. HAWLEY. Is that altogether due to the falling off in purchases or the lack of transportation?

Mr. HOLLANDER. There is no lack of transportation from the other side. There are plenty of bottoms coming over, but we do not ship over any of these goods.

Mr. COLLIER. Your purchasers are pretty nearly all rich people, as a rule?

Mr. HOLLANDER. Yes, sir; that is true as to the greater portion of them.

Mr. COLLIER. They represent the greater portion of the purchasers and that is because they have a love for art and have the money. Now, do you think that a tax would stop these rich people from paying a few dollars more on a very expensive picture?

Mr. HOLLANDER. That is why we are here, because we think that is the fact, and that, as I said a moment ago, is the fact as they have gathered by talking amongst themselves.

Mr. COLLIER. I had to step out and did not hear all of your statement, I am sorry to say. Did you say anything about the character of your purchases, what part of your business is composed of small priced pictures, the cheaper pictures? Does that constitute a small proportion or a large proportion of your business?

Mr. HOLLANDER. One of the dealers is here, and he is, perhaps, the largest dealer; he is one of the committee sent down here, and, as I say, he is perhaps the largest dealer in the works of living American artists, and perhaps he can answer that after conferring with his committee.

Mr. MACBETH. I can answer that, I think. In our case it would be pictures—because we deal in nothing else—which sell at low prices throughout the trade, and they are practically, in every case, pictures by living American artists. Those pictures average with us, I should say, not more than \$800 and they are sold not to the wealthy class of collectors, but to the upper middle class, as you might call it.

Mr. COLLIER. What proportion of the business does that constitute, in a general way?

Mr. MACBETH. Of our business, or of the whole business?

Mr. COLLIER. You are speaking of the business generally, are you not?

Mr. MACBETH. Yes, sir. It is a very small percentage, I should say; certainly not more than one-fifth in money value.

Mr. COLLIER. Then about 75 per cent of the business you are representing here to-day is in the expensive pictures?

Mr. MACBETH. In our case, yes. In dealing with works of deceased artists, the prices would go up higher. I suppose that the total business throughout the whole United States, including sales by dealers and artists themselves, would not amount to more than a million dollars, and one million dollars would be a high figure for it.

Mr. COLLIER. You agree with Mr. Hollander that the purchases of the high-priced pictures have fallen off to a great extent?

Mr. MACBETH. Yes; we are finding that is already true.

Mr. COLLIER. I presume that is natural, because a great many people are now putting their money into liberty bonds and other things instead of putting it into these high-priced pictures, which always happens during such times as we now have before us.

Mr. HOLLANDER. At page 12 of my brief—

Mr. STERLING (interposing). Do you speak for the artists or for the dealers?

Mr. HOLLANDER. I speak entirely for the dealers and I was not authorized to speak for the artists. I think they are here to speak for themselves and for the museums, as both of those interests are closely allied.

Mr. STERLING. I think you stated a moment ago that the artists are having quite a struggle. I presume that is true.

Mr. HOLLANDER. Am I right in that, Mr. Coffin?

Mr. COFFIN. I think that is true; yes.

Mr. STERLING. If we had a protective tariff on importations of art would it help the American artists to any extent?

Mr. HOLLANDER. Well, that has been a subject which has been before this committee many times. You had a tariff on for about 15 years, and then took it off.

Mr. STERLING. Was it taken off at the request of the artists?

Mr. HOLLANDER. Oh, yes; it was taken off at the suggestion of the artists themselves.

Mr. COFFIN. I have appeared before the Committee on Ways and Means several times to ask for the removal of the duty on art. When Mr. McKinley was chairman of the Committee on Ways and Means it was taken off in the House, the duty having been 30 per cent; in conference the Senate insisted on a duty and they cut it in two and made it 15 per cent. Art was made free of duty in the bills which never became a law. At the time the Dingley bill was under consideration we were told it was no use to come to Washington, but in the last bill art was made free of duty and it has benefited the development of art in America and of American artists especially. All artists in America are opposed to any sort of a duty on the importation of works of art, because they feel it benefits them to have such works come in free.

Mr. HOLLANDER. Is that true as to the feeling of the competitive living artists?

Mr. COFFIN. Yes, sir. They do not feel that they are harmed by the free importation of works of art by European artists or the works of those artists who are dead.

Mr. HOLLANDER. I am going to be through in a moment. At page 19 of my brief I have set down some figures showing what has been the effect from the viewpoint of raising revenue by placing a duty on art. When you placed your duty on art you collected much less than was anticipated at the time. I am not going into those figures, but they are set down at page 19. The point we really make is this, that when you do this thing you cut down our earning power, and if you do that you cut down our income and you cut down the tax that we have been paying.

There is only one other matter to which I want to advert, and that is the peculiar nature of the business. You may think that this business ought to be legislated out of existence, that it is something that serves no immediate purpose, but in that connection I want to call your attention to the peculiar nature of the business. At page 20 of the brief I have set down some figures as to dealers in New York. We gathered statistics from fifty-odd dealers in New York and we found that the average number of employees they employed was seven.

Most of them have a packer and a bookkeeper or typist; the largest I do not think employs over 12. There are very few of them that

you would call adaptable men; they are of the student class; they are of the type of men who practically live in bookstores, and they are not very different from that type. They do not use very much. They do not use the banking facilities; in fact, the banks do not render any services to them at all, as they do to the usual business establishment. Their articles are not moved in the regular channels of trade, and, as I have said, they are not adaptable people at all. As to the real estate they occupy, they really need little more than office space for these things. Their galleries are used by the public, and the public goes to them and walks around them just as it does in the museums. While we are on that subject let me say that last year in New York the attendance at the public museum was over 1,000,000; in Chicago it runs nearly that, and in Boston about the same. The director of the Corcoran Art Gallery told me this morning that 160,000 people attended the Corcoran Gallery last year. If I am not wrong in my estimate, taking out the children and those who are too old to go, everybody in Washington went to the Corcoran Art Gallery once last year.

Mr. COLLIER. Right on that line, you say that of 50 dealers you selected in New York they had an average of seven employees, or a total of 350.

Mr. HOLLANDER. Yes, sir.

Mr. COLLIER. How many people do you roughly estimate are engaged in this business in the United States? Have you any figures on that?

Mr. HOLLANDER. I will ask the committee to correct me if I am wrong. I know something of the business, and I should assume that there were over 1,500 in this country engaged in the business; that is, outside of the artists themselves; I am talking about the mercantile end of it.

Mr. MACBETH. 1,500 is far too high.

Mr. HOLLANDER. I am told that is far too high by Mr. Macbeth, and I am also told that the number is not more than 800 or 900.

Mr. COLLIER. There is no way of estimating the number of artists?

Mr. HOLLANDER. No; everybody is an artist. Now, I will only advert briefly to the fact that you can not turn their premises into anything else. On page 20 of my brief I give the ages of those employees. I think that those under 21 are about a half dozen among all of those fifty-odd firms and about 20 average between 31 and 41 of these fifty-odd firms.

Mr. SLOAN. I did not get your statement correctly about these classifications, or else I did not understand you a little while ago. I understood you to say that the average age sometime ago was 53 years.

Mr. HOLLANDER. That related to a different class. I was then talking about the American artists, but I am now talking about the average age of those engaged in the business, and on page 20 of my brief I give some figures as to the average number of employees of 51 firms and the average ages.

Mr. SLOAN. They are not the ones you were speaking about a little while ago?

Mr. HOLLANDER. No; now, as to their real estate. They do employ real estate amounting to considerable in the aggregate, and it is nearly all in the city of New York. We know over in New York, and those on the committee from New York know, what is

happening to real estate in New York. I think it has been attributed to the fact that the subway systems have taken a great deal of the population out of the city, but the fact is that real estate in New York City, when sold at public auction, brings less than the assessed value. I have heard it stated that the New York Legislature is considering the proposition of declaring a moratorium in order to prevent collections under mortgages on real estate in New York, because of the present unsettled conditions, and due to the fact that the banks and trust companies are not willing to continue the loans beyond the due date.

There is only one other thing that I want to say, and that has reference to the curious nature of this business. There is no wholesaling in this business and there is no wholesaler, because each transaction is different. Many of the transactions are transactions between dealers. A dealer will know that another man has a picture, a piece of furniture, or a tapestry, and he thinks he can place it, or the reverse is true, and the man having such an article will go to a dealer that he thinks can place it for him. Now, those transactions are made on a very narrow basis, and 10, 15, or 20 per cent would be the maximum as between dealers. Now, those transactions will have to be taken care of, and they will not stand a tax to the same extent as will transactions between dealers and customers. Then there are purchases at auction and they make a curious complication. Then there are many transactions in which the dealer only acts as the purchaser on commission, and that is a 10 per cent commission. So I have adverted to those different classes, showing the difficulty in arriving at any system of taxation.

Mr. MOORE. Before you go, let me ask you this: If our tariff conditions were so changed that we derived a revenue from imported art works, would it not help to encourage American artists?

Mr. HOLLANDER. Mr. Coffin could speak with much more authority on that than I could, because he makes his livelihood at it. He has been appearing before this committee for, I suppose, 20 years, and he is secretary of the Association of Artists. He says unqualifiedly no, and that a duty would not help the artists in any degree. Am I right, about that, Mr. Coffin?

Mr. COFFIN. Yes.

Mr. LONGWORTH. I was a member of the committee which considered the Payne law. I was always very much in favor of admitting works of art free of duty. I heard Mr. Coffin's speech and I was convinced that it would do no harm to the artists, but, on the contrary, would be of benefit to them.

Mr. HOLLANDER. That seems to be the enlightened policy of the world.

Mr. MOORE. I respect Mr. Longworth's opinion and I know that his views on this subject are entitled to respect, but it has always occurred to me that when we admit foreign art free, and permit large sums of money to go abroad for the purchase of European art, generally at very excessive prices, that we were discrediting our own American artists.

Mr. HOLLANDER. That is not the view they take. They say that art is broader than that, and they take it on very large grounds, which seems to obtain in all countries.



Mr. MOORE. The American artist is the junior of the old master; there is no question about that, but the American artist apparently concedes, when he sanctions these high prices for foreign art, that he may not be in the same class with the foreign artist, and that I am inclined to resent, as a general proposition.

Mr. HOLLANDER. Mr. Macbeth, whose galleries are the largest sellers of American pictures, has just called me aside and says that since the tax has been removed on European art and upon all art coming in here, there has been an impetus to art collecting and to art education to such an extent that the sale of the work of American artists has vastly increased, and I think Mr. Coffin will bear that out.

**STATEMENT OF MR. WILLIAM A. COFFIN, N. A., CHAIRMAN  
OF THE AMERICAN ARTISTS' COMMITTEE OF ONE HUN-  
DRED, 58 WEST FIFTY-SEVENTH STREET, NEW YORK  
CITY.**

Mr. COFFIN. Mr. Chairman and gentlemen, I was asked to come here on behalf of the American artists, which, of course, means the living American artists, by the National Academy of Design, which is our principal professional art institution in the United States, and which was founded in 1826 by Morse, the inventor of the telegraph, and I am authorized to say on their behalf and on my own, as an individual artist, that we think it would be inadvisable, if it is proposed by your committee, to tax the artists when they make a sale of one of their works to a customer, even if it were a small amount; and presumably there would also then be a tax paid by the purchaser, which I suppose would be the same amount, so if it were 10 per cent that would make a tax of 20 per cent on each transaction. We feel that is true, because it would limit the sales and cause them to decrease very much, because, contrary to a generally held opinion, many of the works of American artists are not sold to rich people but to people of moderate means. I have sold pictures in recent years to two men in particular, who are collectors in a small way, and I have sold my pictures on the installment plan. They were fond of art and they wished to have these pictures in their homes, and that was money saved out. One was a prominent insurance agent in New York and the other was the head of an advertising agency. Now, that must be so all over the country.

Referring to this duty which was formerly imposed on the importation of works of art from foreign countries, it has been principally since that was abolished that the museums have been established in the cities within the States, I think, that most of the gentlemen of the Committee on Ways and Means represent. I do not mean the old-established museums like the one in Boston or the one in New York or even the Chicago Art Institute, nor the one in St. Louis, or Cincinnati, but at this time you have one in Toledo, Detroit, Memphis, Indianapolis, Dallas, Fort Worth, Omaha, and Portland, Oreg. In Savannah there is the Telfair Academy, and in New Orleans there is the Delgado Museum. American artists are deeply interested in those institutions, because a good many of our sales are made in connection with these museums for their permanent collections. So far as regards works of art by old masters and what you may call the more expensive productions, it is not fair, I think, to call them luxuries because they are bought by rich people, because

they have their educational value and the best of them eventually go to the museums, generally by bequests. That has been instanced in the case of the Morgan collection and notably the Altman collection, which cost Mr. Altman a great deal of money, and the same is true of some of the noted American artists.

Mr. MOORE. It is a question of the displacement of so much money in war times, Mr. Coffin.

Mr. COFFIN. Do not imagine for one moment that the artists are not patriotic. We are working as hard as we can, and some of us were in the war before war was declared by the United States, helping our confreres in France.

Mr. MOORE. Granting all that, I want to ask you if it is the position of the artists that they would be willing to bear a tax on their work when sold?

Mr. COFFIN. They are afraid it would discourage the customer, because we do not suppose you would tax the artist alone and not the purchaser.

Mr. MOORE. I understood you to say the matter had been talked over and the feeling amongst the artists was it would be better, if they had to be taxed, to tax their work when sold.

Mr. COFFIN. Pardon me, that is what they thought would be inadvisable, because it would restrict the sales. The sums involved are not large, and as I tried to point out, many of our patrons are not people of large means. They are not of the rich class.

Mr. MOORE. Do you know what George Gray Barnard got for the Lincoln statue which is now in controversy?

Mr. COFFIN. I do not know, sir; but I know some of the details. I know that statue is not going to London.

Mr. MOORE. You know it is not going?

Mr. COFFIN. It is not going to London, and the St. Gaudens statue, which it was originally intended to send there, is going. The money has been raised to pay for the replica and the complications which arose have been straightened out. The Barnard statue is on the docks at Brooklyn, and I believe by a ruling, if I am not speaking indiscreetly, of the Treasury Department or the proper department, can not be shipped now in war time, and very likely will remain there.

Mr. MOORE. To whom does that statue belong now?

Mr. COFFIN. I can not answer that because I do not know.

Mr. MOORE. Was it paid for by Charles P. Taft?

Mr. COFFIN. I believe Mr. Charles P. Taft of Cincinnati was the donor, I presume entirely. That is my understanding.

Mr. LONGWORTH. I think it is the fact that Mr. Taft bought the original statue and these are replicas of the original.

Mr. COFFIN. Yes; these are replicas.

Mr. LONGWORTH. The two or three which were contemplated to be sent abroad. The original statue is in Cincinnati and was bought by Mr. Charles P. Taft.

Mr. COFFIN. Yes; I know that.

Mr. LONGWORTH. And these are replicas of the original.

Mr. MOORE. I see.

Mr. COFFIN. But this committee that proposed to present a statue of Lincoln to Great Britain and to France, a large committee in the United States, chose the St. Gaudens statue at Chicago, but the Barnard statue was substituted for it. That is a matter of history

which has been looked into. The result quite recently is that the members of that committee—if this interests you I am very glad to give you the information—have been communicated with and the matter has been straightened out. The money has been raised to pay for the replica of the Lincoln Statue at Chicago by St. Gaudens, and arrangements have been made with Sir Alfred Mount, the director of works, or his successor, and I believe that when the proper time comes the St. Gaudens statue is to go to London as originally intended, but as to what money consideration passed I have not any information.

Mr. HAWLEY. In reference to the question of a sale tax, are the artists more able to pay a sale tax on their product than anybody else in the country?

Mr. COFFIN. I should say not, sir; because we are running in rather hard lines at the present moment. Many of us have turned to other things. I am fortunate enough to be able to make the greater part of my living by writing. The sales are not great.

Mr. STERLING. If we should put a tax on the sales by the artists, we certainly ought to put a tax on the sales made by the dealers, ought we not?

Mr. COFFIN. I should think so. I can not speak for the dealers, exactly, but I presume they are very patriotic people and want to bear their share of the burden.

Mr. MACBETH. Is it really the same thing, if I may interrupt.

Mr. STERLING. Would it not be better, if we should levy any tax at all—and I do not know that we will—to tax the sales of the dealers rather than the artists?

Mr. COFFIN. The living American artists?

Mr. STERLING. Yes.

Mr. COFFIN. I should think so.

Mr. MACBETH. In the case of living men it is the same thing.

Mr. COFFIN. When they sell American works.

Mr. HOLLANDER. The works of American artists are sold on commission largely by the galleries. It is not two transactions but one transaction, and if there is to be any tax there should be one tax from the original transaction into the private owner's hands. Sometimes these things are handled two or three times, but they are only parts of the same transaction. They cover up their clients because there is a great amount of secrecy involved. Their clients do not want their names known and they do not want the names of their clients known, and therefore all of these transactions are not always in the open and frequently they are on a very small basis of profit in between the various dealers until they get to the one dealer who sells it to the private collector and then the percentage of profit is substantial.

Mr. STERLING. We would not reach all works of art if we limited it in that way. If we just taxed the gross sales of dealers in art that would not reach all sales, because I have no doubt the artist himself sells some pictures to the final customer; does he not?

Mr. MACBETH. Yes, sir.

(The committee thereupon took a recess until 2.30 o'clock p. m.)

(The afternoon proceedings will be printed as No. 12.)

# REVENUE BILL

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No. 12

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## HEARINGS

BEFORE THE

## COMMITTEE ON WAYS AND MEANS

HOUSE OF REPRESENTATIVES

WITH REFERENCE TO

## THE NEW REVENUE BILL

[THIS PRINT OF THE HEARINGS IS SUBJECT TO REVISION  
BEFORE THE FINAL PRINT]

AFTERNOON SESSION

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JUNE 19, 1918



WASHINGTON  
GOVERNMENT PRINTING OFFICE  
1918

COMMITTEE ON WAYS AND MEANS.

HOUSE OF REPRESENTATIVES.

SIXTY-FIFTH CONGRESS, SECOND SESSION.

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HENRY T. RAINEY, Illinois.

LINCOLN DIXON, Indiana.

CORDELL HULL, Tennessee.

JOHN N. GARNER, Texas.

JAMES W. COLLIER, Mississippi.

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# REVENUE BILL.

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COMMITTEE ON WAYS AND MEANS,  
HOUSE OF REPRESENTATIVES,  
*Wednesday, June 19, 1918.*

AFTER RECESS.

The committee reassembled at the expiration of the recess.

## STATEMENT OF MR. JOHN QUINN, ATTORNEY AT LAW, NEW YORK CITY, REPRESENTING ASSOCIATION OF AMERICAN PAINTERS AND SCULPTORS AND THE SOCIETY OF INDEPENDENT ARTISTS.

The CHAIRMAN. Will you state your full name and address and whom you represent?

Mr. QUINN. My name is John Quinn; address, 31 Nassau Street, New York City; attorney at law.

I have not prepared any briefs, Mr. Chairman, and if any members of the committee want to ask questions I will be glad to answer them.

I appear, Mr. Chairman, on behalf of the Association of American Painters and Sculptors and the Society of Independent Artists. Those are two societies of artists. The Association of American Painters and Sculptors is a national association, incorporated under the laws of the State of New York; and the Society of Independent Artists was incorporated about two years ago and has 1,200 members. This society is composed of the poor and unknown artists.

Incidentally I may remark that I incorporated both of those organizations at my own expense, and that I am here at my own retainer and paid my own expenses here. I am not paid by anybody for appearing, and I do not speak on behalf of the art dealer; I speak on behalf of the living American artists. This is introductory.

I would like to state my view on the question as to whether art is a luxury or is not a luxury. I do not regard art as a luxury any more than I regard literature as a luxury, or music as a luxury, or poetry as a luxury. Some people do, but I do not, because, after all, the question, as I take it, is not how long we live, but what kind of lives we live; and the duty of the State, it seems to me, is to make itself a partner not merely in force and efficiency, but in art and in literature.

Therefore I am not apologizing for art. I do not regard artists as parasites or as necessary evils. They are not as necessary as physicians or surgeons; I will admit that. If I had to gas one profession—if the dreadful alternative was put up to me of abolishing physicians and surgeons or abolishing artists—of course, I would

abolish artists. . But, fortunately, we have not got to that dreadful alternative. No civilized community thinks of doing anything that will hinder or make more difficult, much less destroy, the pursuit of art. Art is not to be classed with jewelry, for example, or with perfumes. I am in favor of taxing those during the war, and even after the war.

It is not to be classed with automobiles; they are luxuries. I am told that there are 42,000 privately employed chauffeurs in the city of New York. If a way could be devised of discriminating between automobiles that are a necessity and those that are merely for pleasure, and if I were a member of this committee, I would vote in favor of a tax that would tax every one of those pleasure automobiles out of existence during the war and force those privately employed chauffeurs into some occupation that would be of use toward the carrying on of the war. They would make excellent mechanics in a munition factory or an aeroplane factory, or in other places.

I regard pleasure yachts as a luxury. During the war I would tax them. If a man wants to maintain a pleasure yacht I would put a tax upon it, and try to close them all out, and make their owners turn them over to the Government.

I do not regard art as a luxury, the way some people regard liquor as a luxury, or wine. I think it would be an insult to art if the national policy of the Government should be such as would put art on the same basis as whisky or other liquors, or even cigars.

Some kinds of dresses may be a luxury. Very expensive silk dresses, which are unnecessary, may be a luxury. You may want to tax the men who sell those dresses. We may come to that. I was told by the man from whom I buy my shirts that he was not certain that in six months he would be able to get linen out of which to make shirts. I do not want to place an unnecessary burden upon the ladies, but I am willing to admit that some kinds of dresses are a luxury and should be taxed. But that is not art.

And it has not been the policy of the Government to tax art as a luxury. Mr. Walker, the father of the idea of raising revenue by taxing luxuries, taxed luxuries, but he distinctly said that art was not a luxury, and he was in favor of free art. That has been good democratic doctrine to have free art. I had the pleasure of appearing before this committee, Mr. Chairman, when Mr. Underwood was chairman, and speaking in favor of taking the customs duty off of modern art.

In 1909 we took the small duty off of old art, because of its educational value. There was a nation-wide campaign made for that purpose. Our associations all over the country petitioned for it. The educators, the librarians, the art galleries, the art leagues, museums, and even the present President of the United States, who was then president of Princeton University, went on record in favor of the educational value of art and of the impolicy of trying to get revenue from art.

Congress then took the duty off of all except modern art, and I made in this room the argument at that time that modern art was the poor man's art; that it was the humble art; that the artists in this country wanted to get in the galleries the late development, as well as the old art, what I call "live art" as against "dead art;" and I said that Congress had taken the duty off of the rich man,

because only the rich man buys old masters, and had left the duty on the poor man's art, live art; and this committee took the duty off; and that has been the policy of the Government ever since. Your committee gave a very thorough hearing on the subject at that time. Of course, the previous action of this committee is not binding upon the committee now; but I alluded to that for the reason that a most exhaustive hearing was given to the matter at that time, and the whole country was stirred up about it.

Senator Stone led the discussion in the Senate. I had quite a long argument with him personally, he claiming that art was a luxury; and on what I may call the luxury argument he got the Senate to put back the duty on art. But in conference the Senate receded from its position, and the present law was the result.

I think it is an impolitic thing to try to raise revenue by taxing sales of art. I think, as has been said, that it will very largely discourage sales of art. It will not altogether. There are men who are keen enough collectors, who feel that they must fill out their collection, who will still buy. There is no question about that.

But art is a living thing; it is a growing thing; it is a continuous thing; and the stream of collectors has got to be replenished as collectors die out. Such a tax will discourage men from collecting. It will discourage men from beginning the formation of a collection of art. And that is a tender thing, collecting is.

One good painting will drive out of a room half a dozen bad ones: I remember the story of a man who had his room full of very inferior pictures. A friend of his gave him a very good one; but he said, "I do not care for that." His friend said, "Well, let it hang on the walls of your room a little while and see what you think about it in three months." At the end of three months his friend called on him again and said, "What about that picture I gave you." The man said, "That has driven everything else out of the room."

You do not want to discourage men who might become collectors; and with all respect to the gentleman who sat on the right of the Chairman this morning, it does not follow at all that if a man does not buy art, he will give the money to Uncle Sam, or buy Liberty bonds. I am a good enough patriot to believe that a man will do his duty, whether he buys pictures or not.

Mr. Moore said that he did not believe so many millions of dollars should go abroad for the payment for works of art; that the money should go for the prosecution of the war.

I think that there is a non sequitur there. It does not follow that if Mr. Frick, or somebody like him, does not buy a certain quantity of paintings, he will do more than he already has done toward lending the money to Uncle Sam or giving it to the Red Cross. I think there is a non sequitur there.

I do not see any reason why art should be singled out from any one of fifty kinds of business, and be taxed on its sales; it is the last thing that should be taxed. It will, in my judgment close up some of the dealers; it will not close them all up. It will seriously discourage the purchase of works of art. It will not come out of the dealers.

I will tell you how it will work, in my judgment. I will divide it into two classes. I will take the works of the old masters, the men that are dead and gone, and then take the works of living men.



The dealer will add that much to the price of his pictures; that is all. He may be able to chisel it out of the man who will sell it to him. I am now talking about the work of the old masters. The man who sells it will say, "Well, I want \$10,000 or \$12,000 for this picture." The dealer will say, "I have got to pay a tax on this sale. I can not pay you that much." That may possibly come out of the seller. I do not pity him especially; I am not arguing on his behalf.

But as to the living artist, he will get it both ways. The dealer will say to the living artist, who has a hard time to make a living as it is, "I can not pay you \$300 or \$400 for that picture, because I have to pay a tax on it. I pay you only \$200 or \$300 for it." Then the dealer will say to the person buying from him, "That is a \$1,000 picture; but I have got to pay a tax on it now, and therefore I must charge you more than I otherwise would for it."

That is just one illustration of what I think is the impolicy of taking this business and taxing it. It would be very much like saying, "This country pays so many million dollars a year for music"——

Mr. GARNER (interposing). You do not think that art is a business that should be taxed at all?

Mr. QUINN. I do not think so; no, sir.

Mr. GARNER. Do you pay any duty at the custom houses now?

Mr. QUINN. No, sir.

Mr. GARNER. There is no duty on art, is there?

Mr. QUINN. There is no duty on art.

Mr. GARNER. And there is no excise tax on it at the present time?

Mr. QUINN. No, sir.

Mr. GARNER. I think you talked it out of us when you appeared here before.

Mr. QUINN. I argued against a duty on it. That was modern art; and I am rather proud of having done so.

Mr. GARNER. You had such good luck the last time you appeared before the committee that you thought you would try it again?

Mr. QUINN. No; I am down here now, just as I was before, on behalf of living American artists. I am through with the dealers—and I am coming to them.

I ask this committee in all earnestness and sincerity, whatever they do as to sales of art not to tax the sales of art by living artists. That would not be fair. It would be almost indecent.

I know those men well, and I know what hard times they have. Some of them, as Mr. Coffin said here to the committee—he is an artist himself—have gone to the war; others are doing illustration work for the country. Mr. Gibson and others have tendered themselves to the Government as ready to be of service in any way they can. They are protecting the boys that go over in the ships. You go up to New York Harbor at any time and see the ships that are going across the ocean, and see how they are painted; and that is the work of our artists, who are making those ships invisible. An artist knows that if you have black and white crisscross in any way, it appears to be gray, the color of the ocean. And if you want to see art as the right-hand man of the god of war, the ships now going abroad will show it to you. In France, French artists, and even American artists, are engaged by the hundreds in what is popularly known as "camouflage," decorating trees and painting other things

as a protection against the enemy, protecting hospitals and everything else.

But I am basing my argument that no tax should be put upon sales of works by individual artists on the ground of humanity. Those men, to my knowledge, have a hard time to get along now, in these days of taxes, war loans, appeals from the Red Cross, etc. Of course, there are exceptions. Men are not buying works of art; some few are sticking to it and still buying them. But if you put a tax on buying the work of an artist, you are going to discourage that. And I think the world needs those men.

Of course, you can not discriminate; there are bad artists as well as good artists, just as there are bad doctors and good doctors.

But even in this war, even with the greatest battle in the world's history going on, we do not want this country to go on record as being in such a white panic that it is going to tax artists out of existence.

So that if you are going to adopt the policy of taxing sales of art by dealers there ought to be written into the law some such provision as this: "But sales by living artists of their own original work, whether in oil, mineral, or water colors, or statuary, shall not be subject to this tax."

Those men already pay two taxes, those of them whose income goes above the limit. They pay just as I do; I pay two taxes. I pay an income tax, and then when I get through figuring on my income tax, I pay an occupation tax. I pay twice the taxes that the man on the street who does nothing but spend his life in clubs pays.

Mr. GARNER. You are very lucky if you only pay two taxes. [Laughter.]

Mr. QUINN. I pay indirectly many more taxes, but I mean directly I pay two taxes. I think it is unfair. But the artist now pays two taxes. The artist pays his income tax and then pays his occupation tax. Then, if you impose this other tax upon him, you will have the individual artist paying three taxes, which I do not think is fair.

Mr. LONGWORTH. Here is one of the difficulties of the situation: I agree with you entirely that we ought not to put a tax on art, except in time of war, and then only as a last resort. But suppose we are forced, as we may possibly be, to put a great consumption tax on absolute necessities of life, or on near-necessities, like tea and coffee; could we justify putting a tax on tea and coffee, and not putting a tax on art?

Mr. QUINN. I think you could, because the income from that would be very large, and the income derived from the tax on art would be negligible, in my judgment.

Mr. GARNER. Suppose we adopted an excise tax on the right to own them?

Mr. QUINN. The right to own works of art?

Mr. GARNER. Yes.

Mr. QUINN. I would not object to that, if it was applied to everything. I do not see the difference between owning works of art and owning anything else.

Mr. GARNER. There is one difference; it is not everybody who owns art. and everybody probably owns something else. It is a

question of getting the revenue from the people who are most able to pay. You realize that principle of taxation, do you not?

Mr. QUINN. Yes; I do, provided there is equality.

Mr. GARNER. It has been suggested by some people that those who are owners of works of art are better able to pay a tax than somebody out in Oklahoma, for instance, who is the owner of 8 or 10 children and of practically nothing else. [Laughter.]

Mr. QUINN. Provided you have equality. Now, I think that the more you go into specific things like art, the more unfairness and inequality you breed. I am in favor of getting your revenue from something that is more universally applicable. I do not believe that anybody should grow rich as a result of this war. I believe the governmental expenses should primarily, therefore, be met out of the increased and excess profits. That is my doctrine.

If you think the artists are not paying enough, then reduce your minimum exemption of the income tax, or leave it as it is. But already, if they make enough income, they are paying an income tax. I think it is a wrong principle to pick out a particular class of business and say, "That is going to be taxed."

It is a historical growth, this consumption tax; certain things are not in favor. And then you take whisky and cigars and tobacco, and they are regarded as luxuries, and there is a sentiment in favor of taxing them. A few years ago it was munitions which were very unpopular. But when we got into the war the impolicy of a special munition tax was recognized.

And it seems to me that the philosophy of the thing is that the revenue should be raised in such a way that it will not bear too hard upon any particular class, or any particular business, and yet the Government will get the revenue.

The tax on tea and coffee is rather historical; I think it started during our Civil War; perhaps before that.

Mr. LONGWORTH. We have never taxed tea and coffee.

Mr. QUINN. I thought we had.

Mr. LONGWORTH. We may possibly have done so in the Civil War, but not since then.

Mr. QUINN. I think we did in the Civil War.

Mr. LONGWORTH. I mean in the last 50 years.

Mr. QUINN. No; I believe we have not. It has been agitated many times. I should hesitate to put a tax upon tea and coffee.

Mr. LONGWORTH. So should I.

Mr. QUINN. But the justification would be the amount of the tax. That is the difference between that and art.

Mr. GARNER. You do not oppose a tax on tobacco, do you?

Mr. QUINN. No; I certainly do not.

Mr. GARNER. I understood you to say that you did not think any particular kind of business ought to be taxed.

Mr. QUINN. No; before you came into the room I discriminated between art and other things, trying to point out that art was not a luxury, and I made the distinction between jewelry, diamonds, perfumes, yachts, and pleasure automobiles, and expensive dresses, etc., on the one hand, and art on the other. Tax those things, if you like, but art is a different thing.

I was going to say that you might as well tax teachers; it is just the same principle. You might as well get your statistician to com-

pile the statistics of the amounts paid to professors in colleges and librarians and say: "Here are a great many endowments; these colleges are kept up by rich men." Rich men give money to those colleges; there are very large sums paid to them. Harvard gets \$5,000,000 a year; Yale, \$4,000,000; Columbia University, \$3,500,000; Cornell University, very large sums. They are principally kept up by rich men. You might say, "Those are large salaries. Now, Mr. Walker, what is the total amount spent on colleges and libraries? It is \$140,000,000; let us tax that. Let us tax every professor so much."

That would be a monstrous thing. Why? Because it is a tax on civilization; a tax on culture. And art is just next after that.

Mr. GARNER. We had a gentleman here the other day who argued very well, I think, on behalf of the talking machines. He said that, outside of food and munitions, talking machines were the third thing essential to win the war.

And I have not found anybody who has come before this committee—except two men—who did not make an argument against imposing a tax on his business. We did have a gentleman here from Texas yesterday who favored levying a tax that would take all a man's income over \$50,000, and he said under such a law he would himself pay \$150,000 or \$200,000, and he was perfectly willing to do it. And then we had a gentleman from Missouri who said that he was willing that his industry should be taxed.

But it seems, from what we have been told by the gentlemen who have appeared before the committee, that all of these things are absolutely essential, either fundamentally or in connection with the war.

Mr. QUINN. No. I once saw Mr. Underwood, when he was chairman of this committee, point to a couple of hundred letters on his desk; and I asked him if he was going to read them all, and he said, "No; they all amount to the same thing—'tax the other fellow.'"

I am not urging the committee to "tax the other fellow." I have given my reasons quite disinterestedly here why I think sales of works of art to dealers should not be taxed. Let me express the difference between dealers and private artists. I am speaking only on behalf of private artists and sales by them.

Mr. GARNER. Let me state my view on the subject. I am very much opposed to taxing art, for two reasons. The first and most important reason is that you could not get anything out of it; by taxing art, you would get a nickel of revenue where you would get a dollar on some other business. You would not get any great amount of money from the tax.

Mr. QUINN. Yes, I think that is exactly the difference.

Now, there is a tax on art in France. That is an historical thing. In France, when art collections are sold at auction, there are experts who are paid by the Government, who authenticate those pictures. When a man buys a picture at the Hotel Drouet, or any other great auction place, he gets an authenticated picture. Before the war there was a tax of 10 per cent on those sales, 5 per cent of which went to the Government and 5 per cent to the expert who authenticated the picture. Then, there were two or three eminent experts, so that when a man buys a picture there he gets a government expert to guarantee the genuineness and authenticity of the picture. They have lately increased that tax by 10 per cent.

But that tax does not apply to the sales by individual artists. I am coming back to that.

I hope the committee will not impose a tax upon art generally; but if they do, I hope they will discriminate between sales by the dealers and sales by the artists personally.

Let me illustrate: The artist himself sells only his individual work. He does not make a corner in it; it is only his child that he is selling. The dealer may be collecting works of dead men. They collect the works of Reyburn, for example. Reyburn was a first-class Scotch painter. I remember when a picture by Reyburn could be bought for \$3,500 or \$4,000. The prices of Reyburn pictures certainly took a jump, until they got up to \$35,000 or \$40,000. Now, some dealers made that profit; I do not say American dealers, but some dealers made that profit. They just quietly gather in those things; then, when some essays are written about that painter, and books are published containing copies of his drawings, collectors say, "I must have a Reyburn." In those cases the poor artist does not make that money when the price of his works increases. The artist generally dies poor; he lives on the side of a hill, and is lucky if he can maintain his wife and children. He does not deal in the old masters—and the great prices are paid for the old masters; they are paid for the eminent names. I think, myself, that lots of men that buy the old masters get sold; I think they are buying "dead ones." I am not at all in sympathy with a lot of them, but that is where the big prices are paid.

The living artist, with rare exceptions, does not get big prices for his work; he gets \$300, or \$400, or \$500, or \$600. And if he sells two, or three, or four pictures a year he is very lucky. Then he has to wait until the dealer pays him; and the dealer will say to him, "I have not got the money from my customer yet; you will have to wait three or four months." It is a very hard road that the artist has to travel; so I hope you gentlemen will not break his back by putting a tax upon him.

I think I have covered the ground, Mr. Chairman; but if there are any questions the members of the committee desire to ask, I would be glad to answer them.

But first let me say this: I think it was said in answer to your question, Mr. Moore, about the percentage of the sales, that about one-fifth of the total sales were by living artists. I think that is a tremendous exaggeration. I venture to say that one-twentieth, in dollars, of the sales by the combined dealers of this country, would be of the work of living artists, and the rest would be of the so-called "old masters," each one of which would run into the thousands; men that have been dead 50 or 100 years.

Mr. MOORE. That is what I had in mind in asking the question to which you refer. I want to encourage the living artists; and I do not see that it would hurt anybody very much if we tax the artists who are dead, especially when foreign artists are competing with our own talent.

Mr. QUINN. I just want to make the point clear now. I am pleading here now for you not to impose a tax on sales by living American artists, of pictures made by the artist himself. I believe they should not be taxed.

Mr. MOORE. I think there is a misunderstanding as to Mr. Coffin's statement. I understood him to say that the artists had got together, and that they were in favor of a tax upon their sales. He subsequently corrected that.

Mr. QUINN. No; you misunderstood him. He is an artist, and I have read his brief, which is a very intelligent and interesting brief.

I just want to say that it has been said here that probably one-fifth of the sales of art works were works by living American artists. I should say that one-twentieth would be a high estimate. In other words, if the total sales were \$20,000,000, and \$1,000,000 a year went to living artists, they would fall dead.

Mr. MOORE. Will you let me give you an illustration of what I had in mind? During the last month I visited a show place in the United States where, perhaps, 100 specimens of Italian sculpture was strewn about the ground; some of them were not set up at all; some of them were out where the rain could get at them—

Mr. QUINN (interposing). Did they happen to be upon Manhattan Island?

Mr. MOORE. I will not mention any particular location.

Mr. QUINN. I know the place.

Mr. MOORE. I do not want the name of the owner to become public. But those works of statuary were gathered, some of them, from the Florentine Hills, and some of them, possibly, came from Spain. A question went through my mind then, as it has before, and since; Why could we not have used some of the vast sums of money that went into the purchase of that foreign statuary in the encouragement of art in the United States? Not that I do not want to give full credit to the ancient masters, who developed those particular figures. But the Florentine Hills were spoiled when those bits of statuary were taken away; and they may go to waste here; I do not know. But I would have liked to see some American sculptor encouraged to do that kind of work. I would have liked to stand by and applaud his ability to do it.

Mr. QUINN. All I can say about that is, that I hope the time will come when Americans will not have to go abroad to study art; I hope we will have enough here, in our museums and art schools. Heretofore, as you know, they have had to go abroad to study art; principally to France, the home of art. But that is rather a broad subject.

I am fond of saying that this war is for art. That is putting it in a shorthand phrase. It is really about the difference in civilization; it is the civilization of the civilized man; it is not a matter of language; it is the civilization of civilized man; the English and French, primarily, who want to live in a certain way, in the free enjoyment of certain ideals of life and liberty that has made those nations grow, as opposed to militarism, to the penitentiary discipline of the Germans—a nation of slaves. And, therefore, I sum up my feelings on it by saying that this war is fundamentally for art.

That is a long way from the taxation of artists in America, of course.

Mr. MOORE. I suppose we will need the artists to-day to preserve the history of this war in portraiture, just as we need men like Fredrick Remington to preserve the traditions of the West.

Mr. QUINN. Yes, I think so. Napoleon fostered art when he was fighting his greatest campaign. And our men over there, as well as the French and English artists by the score, are engaged to-day in camouflage and other work for the allies. An artist is not of an effeminate breed; he is just as much a man as anybody else.

Mr. MOORE. Anyone who has gone on the ships which go over to France knows that the artists are at work in helping to win this war.

Mr. QUINN. Yes. And I hope the committee, when they frame this bill, will exempt sales by living artists of their own works, whether in painting or sculpture.

Mr. MOORE. What do you think about deriving some revenue from imported art? Have you covered that subject?

The CHAIRMAN. I think he covered that subject when he was before the committee in 1913.

Mr. QUINN. Yes; I made that fight in 1913; and, of course, I am really opposed to it. The whole of America at that time took an interest in the matter, and all were in favor of taking the duty off. If you are going to have any tariff, I would put it on the old things, and let the new things come in free.

Mr. MOORE. An American paid \$500,000 for one picture which came over from England. That picture is in the United States now, and you are probably familiar with it. That \$500,000 has been displaced; it left the United States and is over on the other side. Would it not have encouraged American art a little if some of those men who have so much difficulty in selling their pictures for \$300, and who have to wait until the dealer is ready to pay them, if that man had used some of that \$500,000 in the United States buying American pictures by living artists?

Mr. QUINN. I think it would. Of course, that is rather a complex question. There is a good deal of snobbishness in buying those things; men buy names. It does not follow that the man who paid such a price for a picture had any appreciation of the worth of that picture.

Mr. MOORE. I think that is true; some of them will spend large sums of money for foreign art when they know nothing about it.

Mr. QUINN. It is a complex subject. The late John G. Johnson, a well known lawyer of Philadelphia, told me how Mr. Altman, a rich merchant of that city, generally paid more for his pictures than they were worth. Mr. Johnson used to go abroad himself and buy his own pictures; and he bought very closely, and did not pay extravagant prices. When I had to consult him, we would generally talk half an hour about law, and two or three hours about art. And he would tell me the exorbitant prices that Mr. Altman paid for what he bought. Mr. Altman could not go abroad himself, and so he had to buy from the dealers; and he would tell Mr. Johnson what he paid for his pictures, and Mr. Johnson would tell Mr. Altman what he paid for his; and they would find that Mr. Altman was paying entirely too much. And Mr. Altman would wring his hands and say, "But I must have it." He wanted to have his collection complete; he must have that work by that person. Mr. Johnson would say to him, "You are foolish to pay such prices." But Mr. Altman would say, "But I must have it."

Now, I would not call that snobbishness; it is a passion to make a complete collection; for a man to build a monument to himself in

that way, something like a tombstone. He wanted to leave a monument to himself; I would not call it quite as bad as a tombstone, but it was a little like that; he would regard his collection as a monument to himself.

I say that a man who buys old art is a mere consumer. A man who encourages a living artist, as I do in my own modest way, buying from the artist himself, encourages creation himself; he is not buying something that somebody else has passed on, and which is a mere object of purchase. He is a coproducer, a co-creator. If I go in and encourage an artist to paint a picture, and he knows that he will get \$300 from me when he paints it, I am encouraging him; and that is a more beneficent thing than buying the work of an old master just because it is rare and expensive. So you see you have touched a tender point with me, Mr. Moore.

Mr. MOORE. Yes; we are almost on the point of agreement.

Mr. QUINN. Certainly.

Mr. HOLLANDER. Mr. Chairman, may I make a correction with respect to the statement about one-fifth of the gross sales being the work of living American artists? I took the figures from Macbeth; and he gave the figures as being the amount derived from the sales, or the turnover of pictures; and one-fifth of the business would include works by all American artists.

Mr. QUINN. That does not do away with my statement that one-twentieth of the total sales would be an overestimate of the work of living American artists.

Gentlemen, I thank you.

The CHAIRMAN. We will now hear Mr. Thompson.

**STATEMENT OF MR. A. SCOTT THOMPSON, ATTORNEY AT LAW,  
MIAMI, OKLA., REPRESENTING ZINC ORE PRODUCERS OF  
MISSOURI, OKLAHOMA, AND KANSAS.**

Mr. THOMPSON. Mr. Chairman, my name is A. Scott Thompson, and I reside at Miami, Okla. My business is that of a lawyer.

I appear here in behalf of the zinc producers of Missouri, Oklahoma, and Kansas. That district is confined to three counties, one in each of those States. I appear here as a lawyer, not as a technical man, in the sense that I am an engineer or a geologist at all. I am not prepared to discuss market conditions, the why and wherefore, but simply thought it was a good opportunity to present to you, as nearly as possible, the actual conditions existing in that industry.

And I would appreciate it very much if this committee would bear with me briefly, as my statement will be short, and permit me to make the statement without interruption; and then if you have questions to ask, I will be glad to attempt to answer them.

I desire to address this committee briefly in behalf of the zinc-ore producers of Jasper County, Mo., Cherokee County, Kans., and Ottawa County, Okla.; Ottawa County, Okla., being the northeast corner county of the State, Cherokee County, Kans., being the southeast corner county of Kansas, across the State line from Oklahoma, and Jasper County, Mo., being the county adjoining east on the Missouri side. These three counties are producing nearly 50 per cent of all the zinc ore of the United States to day. The great bulk of this production is from my home county, Ottawa County, Okla.



This district, and I speak of the industry of the three counties named, is perhaps peculiar or different from other mining districts in that there are no very large individual operations. This large production of zinc ore is the result of the effort of many small operations of separate and distinct ownership. I am conservative in saying that in the district within Oklahoma known as the "Miami field" there are at least 300 separate and individually owned mining properties, and this all within a small area. It is safe to say that in the other two counties named at least 200 other properties are separately owned. Within the district we are not financially strong as individuals or as producers, but in the aggregate we have become an important factor in the zinc-ore producing industry. We are a community of a great number of small companies.

It is this district, made up of many small mines, that I represent to-day before your committee, a district famous because of the fact that none but American labor is employed, where no foreign labor of any kind is or ever has been known, and oftentimes referred to as one mining field that is 100 per cent American. The laborer, as a rule, is a native of the locality drawn to the mines because of the better wages and the opportunity to provide for his home and family. He is a family man and the camps are surrounded with neat and well-kept comfortable homes, in most instances owned by the wage earner.

I speak of this condition so that this committee may know that my district is made up of men, owners and employees, that are as intensely American as may be found anywhere and we assert, as loyal to their Government as any part of the United States to-day.

I call your attention to this fact or condition also because at this time I expect to show you that conditions are such in this district that no matter what your action be, no matter what the form of tax be, unless it be a tax on capital and we do not expect that, the Government can not and will not derive as much revenue from this industry for the year of 1918 as that collected for the year of 1917. We do not want our patriotism challenged when we suggest mere facts or conditions. We may not be able to present or suggest a remedy whereby more tax may be obtained by the Government. We can only be fair to you by laying the facts before you, trusting to the intelligence and fairness of this committee in working out a plan that will secure the needed revenue and at the same time do a minimum harm to an important American industry producing so largely of one of the important metals.

The greater activity and the bulk of the production of this district is in the Miami field in Oklahoma. The lands are owned in fee in 200-acre tracts by Quapaw Indians with the power to lease for 10 years for mining, but with alienation prohibited by Congress for a period of 21 years. The mining in this field is done by lessees and none by owners of the fee. The Indian leases for a royalty are from 5 to 10 per cent, that is, he receives that percentage of the receipts derived from gross sales of the minerals. The lessee then proceeds to prospect the land by drill and the character of the rock formation in which the ore is located is so changing that a great amount of systematic drilling is necessary calling for an outlay of considerable money of men of small means before the ore run can be sufficiently marked to justify further development by shaft sinking, driving of drifts, and building of mill or concentrating plants. The lessee usu-

ally in the first instance is a "wildcatter," as we term him, the prospector, in many instances associating with himself others with limited means able to prospect and find the ore, but not able to finance the development and the production. He then must sell his lease or find some one able to finance development and willing to pay an additional royalty on a sublease. The majority of our operations are on this plan.

In most operating mines the operator to-day is the second, third, and sometimes the fourth subtenant, each tenant receiving a small consideration in way of a royalty on gross production. This has arisen principally because the fact that the fee can not be bought or owned by the miner or operator. These leases do not permit cessation of work, nor do they permit the milling of the rock by mill on other ground. The result is a large number of small mills on limited tracts, the average mill serving not to exceed 15 or 20 acres. The ore is not found in a blanket formation as in some localities; it is not uniform in its extension over a tract, but is found in runs or veins varying in width, irregular in their course and changing in depth from the surface. I am not a mining man, have no technical knowledge of geological formations, and I use these expressions just as I find them as a lawyer having business with men engaged in mining.

These deposits when found are often rich, but because of irregularity, of course, varying widths and changing depths of these runs the productive life of the average mine is very uncertain and experience has taught us that it is of short duration. I refer here to the table that has been submitted with Mr. Chapman's testimony before the committee, showing that the average life of the 176 mines that have been completed in our district was two and three-fifths years.

I know nothing of mining in other districts, and want to emphasize that I am in no sense appearing for the mining industry as a whole. I speak for the large number of miners in the district named. I do know from observation in my business as an attorney for 15 years in this locality, that zinc mining in this district while profitable in many cases, is highly speculative and hazardous. Mining is admittedly different from any other business. The deposit must be sought and extracted from the earth, and the finding of a commercially productive mine is so rare that hundreds fail where one succeeds. This seeking and finding of ore in a mine requires a large expenditure for prospecting by drill and further development by shaft, drift, and mills, which expenditure is not always carried to capital account.

Nearly every mining venture with us is incorporated and the property exchanged for stock, the owners taking their proportionate share of the stock. The next venture will be separately incorporated for business convenience and in nearly every instance the ownership is different in whole or in part. The successful company is for this reason unable to take into account the losses sustained and expenditures incurred in the losing ventures. The corporation must return a tax on a profit on a venture while in fact this profit has many times been lost in other mines proving unsuccessful and no credit can be taken therefor under the present law. Miners are not accountants; they seek a prospect, expending time and money on it, and if it fails,

either in the prospecting period or later during its life, it is placed behind him and he proceeds to search for another, spurred on by the hope of some day locating a winning mine; and he may spend his lifetime and all his money in such endeavor.

Mr. GREEN. Let me see if I understand you correctly. In computing the tax you say that the Treasury Department figured the tax on the work for a year, and required you to separate the income for each mine, and that it can not take the business of the company as a whole, but must take each separate one, and if there is a profit on any, it will tax that profit?

Mr. THOMPSON. I do not think I said that; at least, I did not intend to say it. That is not the practice of the department. The thought I desired to express here was that our district is made up of small corporations. One venture will be incorporated, and it may be a failure.

Mr. GREEN. Yes, but we do not tax that man on that.

Mr. THOMPSON. I understand. The point I am raising is this: The same group of men might have four or five ventures which were losses, Mr. Green, and then they might incorporate a new venture, a new company, and make a successful project out of it. Now, they can not take into account their losses on the four losing ventures; they can not take that into account in figuring up their taxes upon the successful venture.

Mr. GREEN. That is very true; but the same thing applies to every other business. Do you think we could formulate a rule that would enable a man, if he belongs to a company that is highly successful, on the one hand, and then is interested in another in some other part of the country, that is losing money—do you think we could formulate a rule to have the losses in the losing company deducted in that way, or averaged between the two companies? There could not be any way of reaching that.

Mr. THOMPSON. No; I am not suggesting that. I am just suggesting the conditions. I do not believe there is any business in which men fail repeatedly, and then go ahead and continue in the same line of business, except among miners. The prospectors, as you know, spend a lifetime in prospecting the wildcat territory, with the hope of some day striking a mine. A prospector will spend all of his accumulations in doing that. I do not think that is true of any other business. I am not suggesting that he might take that into account in figuring his profits upon his successful venture. I am suggesting the condition; and it is peculiarly true of our district, because we are made up of small corporations, and we are confined to a small area, because of the fact that the land is in the hands of the Indians and can not be bought, but can only be leased in limited tracts.

Mr. HAWLEY. How do you differentiate between the fortunes of your business and the fortunes of the farmer, who, very many times, loses his crop by reason of the failure to produce on account of drought or unfavorable seasons?

Mr. THOMPSON. I do not think the average amount of failures among farmers is nearly so great as it is among miners. I do not think, if it was possible to obtain data upon the subject, that it would show the failures among farmers to be nearly so great as those among miners. And there are not the investments, there is not the outlay in farming that you have in mining.

Mr. HAWLEY. And farming does not pay as much profit as mining, does it?

Mr. THOMPSON. I am not sure about that. I know that the table we have furnished the committee shows that out of 176 ventures, where there was five million or six million dollars invested, there was an average profits of \$37 on each venture in that district.

Mr. HAWLEY. Suppose a farmer this year makes a large return on his farm, and next year, by reason of an unfavorable season, he sustains a loss. Would you credit him in the following year, in computing his taxes, as you desire to have done for the mining industry of the country?

Mr. THOMPSON. I do not want to be understood as suggesting that I am asking that such a rule be adopted. I stated what I did in response to a question by Mr. Green. I am not asking for that. I am simply stating the fact that that is the condition; I do not think it is possible to take the money expended and lost in the various losing ventures, and deduct them from the tax on the successful ventures, because as a rule they are different concerns; they are different corporate bodies.

Mr. HAWLEY. I thought a moment ago you were asking that if, for example, a miner sunk \$5,000,000 and got one producing mine out of the five that he developed, the total cost, taking the four losing mines and the fifth, the successful one, should all be considered. That could all be considered if it occurred in the same year, could it not?

Mr. THOMPSON. Yes; if it was by the same man, or the same corporation.

Mr. HAWLEY. Yes; of course if it was the same man or the same corporation.

Mr. THOMPSON. But I am offering this as a suggestion, that if a venture were made up of, possibly, half a dozen men and formed into a corporation, they will put their money into a mining venture, and they will fail 100 times where they will succeed once; and every venture is a separate and distinct corporate body, because some of the men will drop out, and they will take in new blood into the new enterprise. Now, as I say, that is one of the hazards of the business.

Mr. STERLING. Well, simply changing the stock of a corporation does not make a new corporate body; they are considered as one legal identity all the time.

Mr. THOMPSON. The mining business is such that after a mining corporation goes broke the stock is of very little, if any value. A new corporation is formed in an entirely new venture.

The point I make is, that the prospector is a man who spends his life in prospecting in virgin fields, spending great sums of money, and he may possibly make one strike in his lifetime. Now, this law would limit him in figuring his taxable profit to that one winning venture, although he has spent his life in discovering that venture.

Mr. STERLING. No; it limits him to the profits made that year, and allows him credit for all losses suffered that year.

Mr. THOMPSON. That is true—in that one venture.

Mr. STERLING. No, it is not that one venture; it is a dozen ventures; you put them all together in that year and take the net profit for all of them and deduct his losses on all of them.

Mr. THOMPSON. I understand that, where the ownership is in one individual or one corporate body. But I speak of the whole condition; that the mining business, from a taxing standpoint, is different from any other business, because of the short life of a mine in our district; because of the low percentage of winning, successful mines; and because of the fact that you can not charge the expenses of losing ventures—I mean of the district as a whole—against the few profitable mines. That is the point.

When a miner strikes a winning venture, under the present law no account can be had, no credit is allowed, for the capital invested and lost in a series of losing ventures extending over a period of years and in many cases a life time. He must account for the profit on the particular property although it has been found after many profitless years of effort. What is there in mining that causes one to endeavor, strive and fail many many times in order that he may succeed once? It is not true of other business. In other lines of endeavor usually one who fails once changes his line of work, but once a miner, always a miner. What is it? It is the hope that some day he may be the hundredth man and be the owner of a mine yielding large profits.

Take from the industry this hope of large returns and the industry will not extend further. The wildcatter or prospector will stop as the incentive to fail for years, many times with the expenditure of large sums of money, is taken from him. As we have seen the average productive life of mines in this district is two and one-half years. There are not to exceed 10 mines being operated now in my county that were operating in 1914. It is an industry highly speculative. About 10 per cent of the mines make under normal conditions big profits quickly, some break even. The rest fail to get their principal back and many are total losses. The only incentive for capital or the prospector is the one chance in ten of large and quick profits. This incentive or hope is removed by the existing tax law. Neither capital nor the prospector will face the odds of at least nine to one in favor of failure with the assurance that if successful the return shall be limited to 9 per cent on the capital invested in the successful mine. Money in our State may be loaned on first-class real estate mortgages for practically this same return and there is not the hazard incident to mining.

It may be that the average normal peace return on capital in this country was from 7 to 9 per cent, but such certainly is not true of the mining district. Because of the lack of uniformity of life in our mines, no average could be stated with any degree of accuracy, but we can agree that 9 per cent deduction as a return on capital as applied to mines in our district is not sufficient. The difficulty in applying tax principles to mines, as in other business, is in the fact that mining is so extremely speculative and hazardous and whereas the ordinary industrial business may have an investment in its business of \$100,000 it may receive a normal return on that investment and yet its capital invested remains intact. But the mining company investing the same amount in improvements, shafts, drifts, etc., sees its capital asset lessened or wasting each day. Its ore bodies become less in value, the shafts and drifts when the mine is exhausted are worthless and really the only asset left is the junk value of mill and machinery, recognized to be 10 per cent of its original cost. Recognizing this

peculiarity it seems impossible that you can draft a law applicable to mines as it is applied to the average industrial business. There should be some way of arriving at a just basis of tax on mines and I fail to see it in my district if capital invested is to be a factor. The capital required in our district is in the case of a successful mine seriously disproportionate to the required and expected returns. The capital bears no fair relation to needed returns.

This is true in case of sales of mining property. As stated our district is made up of a large number of individual properties. At one time I presume every mine was a prospect or wildcat proposition located by some one with small moneyed capital but large stock of courage. He exhausts the small means he has, uncovers a rich deposit, and can go no further. The prospect that actually cost him in dollars \$5,000 is now worth \$100,000. His taxable income or profit is \$95,000 if he sells, although this one successful venture is one among many expensive losing ventures.

Mr. STERLING. On that one point, if that is the value of the mine he would not be taxed upon that at all; he would not be taxed upon \$95,000.

Mr. THOMPSON. He would be if he sold it.

Mr. STERLING. Yes; of course if he sold it. But you say he stops when he discovers the metal; and then you say he is taxed upon the \$95,000 of metal that he has found in that mine.

Mr. THOMPSON. You misunderstood me. I said that when he found the ore, he had gone to the point where he needed financing in order to develop it; he could not go any further himself; and the next step would be for him to sell the mine, and if he did sell it his taxable profit would be \$95,000.

Mr. STERLING. Yes; if he sells.

Mr. THOMPSON. If he sells it; and he has nothing until he realizes on the mine in some way.

He can not afford to sell, as the existing law will take the major part of his earnings realized from this one sale. The result is that sales have practically stopped in our district and I may say wholly stopped where the vendor is advised of the application of this tax. This will eventually stop all prospecting. Transfers by which added capital and new blood are infused into the industry are very necessary.

This not only applies to the prospector, but the innocent purchaser of mining stock on the basis of present earning power and with no regard to capital invested or original cost. As an illustration I will give you a concrete case:

A bought 20 per cent of the stock of B corporation for \$80,000 in November, 1916. This was bought on the theory that the mine was worth \$400,000. The corporation had an investment of \$123,000. Early in 1917 the mine was sold for \$475,000 by the corporation. The profit figured is the difference between the investment and the sale price, to wit: \$352,000. That is the taxable profit. The existing law takes approximately \$200,000 in income and excess-profits taxes. Upon a distribution A will receive \$30,000 or \$50,000 less than he actually paid for his 20 per cent interest. If A had bought all of the stock at the same price, he would, after having paid the corporate tax found by closing the transaction, have suffered a loss of approximately \$250,000.

This example is very illustrative of our condition. Many or most mines are capitalized for actual moneys placed in the ground and improvement and no capital account is taken of ore bodies that subsequently may be uncovered and which gives the real value to the mine and stock and usually bears no fair relation to cost of actual improvements.

I am speaking here of the mines particularly of this district, made up of a great number of small mining companies, but in the aggregate producing 50 per cent, or close to 50 per cent, of the zinc ore of our country.

At the very least it seems that the mine owner should be allowed as earned surplus the discovered ore deposits.

There should be some plan whereby the sale of mining properties may be taxed on a different basis. In my judgment, a greater revenue will be returned to the Government from the increased production occasioned by the additional capital needed.

Briefly, I want to call your attention to the question of present profits in our district. The impression drawn by the press from Mr. Chapman's testimony is erroneous. And I would like very much to have the record show a letter from Mr. Chapman addressed to this committee explaining the wrong impression that was taken of his testimony.

Mr. DICKINSON. Mr. Chapman's testimony was afterwards corrected.

Mr. THOMPSON. It was corrected, but I understood he wanted to get a letter in the record; I do not know whether it was overlooked or not.

Mr. DICKINSON. Well, I just wanted to call your attention to the fact that it was corrected.

The CHAIRMAN. You can insert the letter to which you refer in the record if you so desire, although, as Mr. Dickinson says, that part of Mr. Chapman's testimony was corrected.

Mr. THOMPSON. The error crept into the record, to a certain extent, from the questioning of Mr. Longworth, in which Mr. Longworth, I think, was at all times speaking of the price of spelter or metal, and using the illustration that spelter had been as high as 25 cents per pound. I suppose that is true; but at no time in my experience in that country, and I know not since the war, has our product been over 6½ cents a pound; that is, the zinc ore, the ore from which the metal or spelter is produced; and that is particularly the thing that Mr. Chapman was discussing.

Mr. LONGWORTH. I asked Mr. Chapman specifically the question, at what price for spelter could these zinc mines be profitably run, and he said they made a handsome profit at 7 cents; and if they made a handsome profit at 7 cents a pound, what would they make at 25 cents? Of course, that would not last for a very long time. But for years the price of spelter was never over 5 cents—and that was during some of your very successful years. Now, I see in the newspapers that the price has mounted to 7.95 cents.

Mr. THOMPSON. That is true of spelter. But when spelter was worth 25 cents, the producer of ore got no part of that increase. We never did receive 6½ cents for our product. One hundred and thirty-five dollars per ton was the highest price paid for our product; and

even then that was for the very high-grade ore, which was produced by only a few of the mines.

Mr. LONGWORTH. Do you mean to say that when zinc was selling for 25 cents a pound you did not get any more than when it sold for 5 cents?

Mr. THOMPSON. No; I do not mean that. During the prewar period the average price of our product was \$44 per ton.

Mr. LONGWORTH. That was when zinc was worth 5 cents per pound?

Mr. THOMPSON. Somewhere along there. But in the last four or five years what spelter was quoted at and would bring upon the market has had very little to do with the price of our product. That is the price of the spelter or finished product; it is not the price of the ore that we produce; and I want to make the record plain and clear here, in view of the statement of one of the gentlemen this morning, that our product is like the illustration given of one product to which a considerable added cost is put on after it leaves the original producer and before it gets to the consumer.

Mr. LONGWORTH. Well, is the quality of your product invariable?

Mr. THOMPSON. No; of course, we have different grades of ore.

Mr. LONGWORTH. Of course you do, just as they do in copper, and everything else.

Mr. THOMPSON. Yes.

Mr. LONGWORTH. And you base your selling price on the price of the metal?

Mr. THOMPSON. Yes.

Mr. LONGWORTH. Certainly; that is all I ask, and those are the questions I am asking you now. You say that you get exactly the same price for a ton of your ore?

Mr. THOMPSON. Now, I tell you frankly this, and 100 per cent of our producers will tell you the same, that the producers in our community, in our district, are producing 50 per cent of the zinc in the United States, and they do not have a single word to say as to the fixing of the price for their product. The spelter buyer appears once a week and says he will give you so much, and it is based on 60 per cent ore. For instance, at the present time our ore is bringing \$45 a ton; no higher than it was during the prewar period.

Mr. LONGWORTH. All ore?

Mr. THOMPSON. It is the average ore; yes, sir. Now, I do not want to be misunderstood as to that. There is about 12½ or 15 per cent of the product of our camp, of our district, known as high-grade ore, and by agreement with the—

Mr. LONGWORTH (interposing). What is the zinc content?

Mr. THOMPSON. I do not know, Mr. Longworth. I am not technical enough to know.

Mr. LONGWORTH. What is the zinc content of your average ore?

Mr. THOMPSON. It is nearly 60 per cent.

Mr. LONGWORTH. About 60 per cent?

Mr. THOMPSON. Nearly 60 per cent. Now, I started to say that within the last 30 days the conditions have been so bad in our district that the spelter people, spelter buyers, or ore buyers, and our producers, in conjunction with the War Industries Board, have effected an agreement as to price on that 12½ or 15 per cent product, this high-grade ore, and they have agreed to take a very limited



weekly output, but that does not affect except a very small part of our output.

Mr. LONGWORTH. This price fixing is based upon the price of the metal, not upon the price of the ore. For instance, we have fixed the price of copper; various copper mines have more or less high-grade copper, and you can't say that there is an average price. One man has a higher grade ore than another, and it all depends on the price, and the price all depends on the price of copper in the market.

Mr. THOMPSON. That is true.

Mr. LONGWORTH. And that is the same way with you as with anybody else. Mr. Chapman told me that you made a handsome profit on your spelter by selling it at 7 cents a pound. Do you deny that?

Mr. THOMPSON. Spelter at the present price has no relation whatever to the price of our product.

Mr. LONGWORTH. You might just as well say that the price of copper has no relation to the price of copper ore.

Mr. THOMPSON. I do not know anything about that condition. There is a great surplus of zinc in this country to day.

Mr. GREEN. I think there is some misunderstanding here somewhere, or else your statement is very strange. Do you mean to say that the spelter people, those that make the spelter, do not take into consideration the price of the refined product when they buy your ore?

Mr. THOMPSON. I do not know, Mr. Green, what they take into consideration. I know this to be the situation that once a week they come to our district and they say they will pay \$45 a ton for 60 per cent ore.

Mr. GREEN. Let me put it in another way. Do you say they are not putting a fair price for your ore, for instance, that the smelter people do take a certain per cent of it, and won't make a reasonable allowance?

Mr. THOMPSON. There is no question about that. As a matter of fact I am not arguing against the smelter interests, because the smelter proposition is in a difficult situation at the present time.

Mr. LONGWORTH. Do you sell all of your product to the smelter?

Mr. THOMPSON. Nearly all of it is sold to the smelter people.

Mr. LONGWORTH. Doesn't the price of sulphuric acid have an effect on your product?

Mr. THOMPSON. We get no credit whatever for the sulphuric acid that our ores bear.

Mr. LONGWORTH. What you are saying now is that the price of spelter and the price of sulphuric acid, although those are the two things you sell, have no effect on the price of your product?

Mr. THOMPSON. It does not, unless the requirements—

Mr. LONGWORTH (interposing). You have an extraordinary condition.

Mr. THOMPSON (continuing). Unless the requirements of spelter buyers and the smelting industry need our product; and then they just simply come down and say to us what will be offered for our product. There is no variation between the various interests. We, as spelter producers, must sell for what they pay.

Mr. LONGWORTH. Why? Simply because there is an overproduction to-day?

Mr. THOMPSON. A great deal, to a certain extent.

Mr. LONGWORTH. Was there an overproduction when zinc was 25 cents?

Mr. THOMPSON. The zinc ore never was that price. The metal was.

Mr. LONGWORTH. I mean zinc. Was there an overproduction in the ore when zinc was 25 cents?

Mr. THOMPSON. When we got \$135 a ton we made a nice profit, but it never got to be 25 cents for our product.

Mr. LONGWORTH. Of course, you do not get 25 cents for your product, but your product raises when zinc raises and falls when zinc falls; isn't that true? Isn't the market price of spelter the same determining factor in what you market?

Mr. THOMPSON. It bears some relation to it.

Mr. LONGWORTH. Doesn't it bear all relation?

Mr. THOMPSON. No.

Mr. LONGWORTH. What else does?

Mr. THOMPSON. For instance, our product, spelter, is selling at 2½ cents. That is the very best price we can get for 60 per cent zinc spelter. I do not know what it is worth since the war.

Mr. LONGWORTH. Spelter is the distinct metal, isn't it, and the price of spelter is the same as the price of zinc? What you call zinc is spelter?

Mr. THOMPSON. Yes, sir.

Mr. LONGWORTH. Now, when zinc was selling at 15 cents a pound what was your ore selling for?

Mr. THOMPSON. I can not tell you, Mr. Longworth, what it was selling for at that time. We got \$135.

Mr. LONGWORTH. How high has zinc ore of 60 per cent zinc content sold in the last 2 years?

Mr. THOMPSON. I know of two or three mines that produced a product that brought \$137.50 per ton, but that was only for a very short time.

Mr. LONGWORTH. I am talking about zinc ore, the average of which, you say, has 60 per cent zinc content. You say the average content is 60 per cent?

Mr. THOMPSON. Yes.

Mr. LONGWORTH. How high has that sold in the last two years?

Mr. THOMPSON. I say \$137.50 was the highest price per ton and that was only, I think, not to exceed three months in our district.

Mr. LONGWORTH. You told me it was 60 per cent zinc.

Mr. THOMPSON. That which brought the high price.

Mr. LONGWORTH. What is your average?

Mr. THOMPSON. At this time?

Mr. LONGWORTH. Now.

Mr. THOMPSON. The price per ton?

Mr. LONGWORTH. Your average zinc content, which you told us three or four times was 60 per cent?

Mr. THOMPSON. Sixty per cent is the basis from which we figure. If it runs badly in a certain mine—

Mr. LONGWORTH (interposing). You get less and if it is above that you get more. Ore with 60 per cent zinc content sold at \$137.50?

Mr. THOMPSON. Yes.

Mr. LONGWORTH. What does it bring now?

Mr. THOMPSON. The same product?

Mr. LONGWORTH. Yes; that 60 per cent zinc.

Mr. THOMPSON. That would bring about \$45 per ton.

Mr. LONGWORTH. That is the same ore that sold for \$137.50?

Mr. THOMPSON. Yes, sir.

Mr. LONGWORTH. What did you get before the war—about 1910, or 1912, or 1913?

Mr. THOMPSON. \$44.

Mr. LONGWORTH. So that you made a profit at that?

Mr. THOMPSON. At \$44?

Mr. LONGWORTH. Yes.

Mr. THOMPSON. We did before the war; yes, sir. We are not now.

Mr. LONGWORTH. You mean to say you are selling at a loss?

Mr. THOMPSON. I mean to say that you can not produce at the present time, Mr. Longworth, in our district, from mines that you could produce at a profit before the war.

Mr. LONGWORTH. You say that the average ore in your district is 60 per cent metal—60 per cent zinc?

Mr. THOMPSON. No; I do not want that impression. I say the price is fixed upon 60 per cent ore. That is ore.

Mr. SLOAN. Sixty per cent is purely theoretical?

Mr. THOMPSON. Yes.

Mr. LONGWORTH. But your price is based on an average run of 60 per cent ore?

Mr. THOMPSON. That is based——

Mr. LONGWORTH (interposing). Anything that runs less you get less per ton, and anything more you get more per ton?

Mr. THOMPSON. Yes.

Mr. LONGWORTH. Now, that price is fixed in relation to the market price per ton?

Mr. THOMPSON. Not the market price of spelter.

Mr. LONGWORTH. Do you sell 60 per cent zinc ore at a loss?

Mr. THOMPSON. We do, Mr. Longworth, unless the recovery is extremely high.

Mr. LONGWORTH. What recovery?

Mr. THOMPSON. That is, the recovery of ore from rock. I will explain it to you this way.

Mr. LONGWORTH. You don't recover more from one ton of ore with the 60 per cent zinc content than you do from another ton of 60 per cent ore?

Mr. THOMPSON. I will explain it this way: From 100 tons of rock we may produce 3 tons of zinc ore. That is known as a 3 per cent mine—3 per cent of the rock handled. Where you recover 5 tons of the ore from the same rock, we have a 5 per cent recovery. Where you have a recovery of 7 tons out of 100 tons of rock, you have a 7 per cent recovery. Now, I have the tables to show you the cost.

Mr. LONGWORTH. We are getting away again. You are talking about rock. You sell the ore, not the rock.

Mr. THOMPSON. I understand that.

Mr. LONGWORTH. Now, I ask you the specific question: That 60 per cent zinc ore that you sell at \$45 a ton, does that represent a profit or a loss?

Mr. THOMPSON. At the present time?

Mr. LONGWORTH. Yes.

Mr. THOMPSON. That would depend, Mr. Longworth, on how much rock we had to handle in producing that ton of ore. In other words, the cost is based upon the handling of the rock. The cost of handling the 100 tons of rock is more than double over prewar costs. That becomes a factor.

Mr. LONGWORTH. The cost of handling the rock would depend on the size of the profit; but do you ever actually sell at a loss, zinc ore, 60 per cent zinc ore at a loss?

Mr. THOMPSON. You should not do it; no, sir.

Mr. LONGWORTH. Do they ever, does any sensible man ever sell at a loss?

Mr. THOMPSON. Yes; I know that is being done.

Mr. LONGWORTH. Would he have to pay any tax if he sold at a loss?

Mr. THOMPSON. Not on that particular sale.

Mr. LONGWORTH. Not on that particular business there.

Mr. THOMPSON. I know of a sale down there recently where the price of our product has been gradually going down and down, and we have to maintain our mills, and it has meant a loss; but they had to be continued.

Mr. LONGWORTH. The fact is this, is it not, that when 60 per cent zinc is selling at \$45 a ton there is a pretty good profit in it?

Mr. THOMPSON. At the present time?

Mr. LONGWORTH. Yes.

Mr. THOMPSON. Unless it is a very rich mine, there is loss in it, and I will show you the factors from which I make that statement in a few moments.

Mr. LONGWORTH. Then, you differ from Mr. Chapman, because he said it was a handsome profit.

Mr. THOMPSON. I would like to correct that, because he was speaking of the general industry.

Mr. LONGWORTH. And if there was a handsome profit in it at 7 cents, there would be a beautiful profit at 25 cents.

Mr. THOMPSON. I would be glad to furnish the actual cost, and show you the actual conditions there at the present time, and during the first two years of the war.

During the first two years of the war there was a tremendous shortage of spelter and the zinc mining and smelting industry was called upon to immediately fill the large reservoir of our allies. The demand was so great that the price of spelter advanced to as high as 20 cents per pound, as brought out by Mr. Longworth at the hearing, Mr. Chapman's testimony—that ought to be 25 cents—and in order to meet the demand the zinc business of the United States responded by investing millions of dollars in zinc smelting and mining projects without any surety that the investments would be amortized during the life of the war. Indeed, these investments in the aggregate have not and will not be amortized for many years to come, and the zinc-smelting capacity, because of lack of consumption of the metal, due to the enforced nonusage of galvanized products, is idle 60 per cent. Nearly every investment made during this period by private capital was a war measure with the entire risk assumed by the investor, who expected that the high prices which were absolutely justifiable would continue normally or would be continued by the Government so that the amortization would be possible during the life of the war.

The zinc industry has responded cheerfully to Government demands and the demands of our allies, and has and is producing the necessary zinc products for war purposes and for trade purposes, and has patriotically met every requirement by private initiative with a loss in the aggregate instead of a profit. Steps are being taken now, under advice of the War Industries Board, to prepare the zinc business for after the war trade relations, and active and large work is being carried on to develop many new uses of the metal, and it is necessary that in the framing of the new law that not only the original zinc capacity prior to the war be sustained, but that the tax shall be so arranged that it will not destroy the incentive for development both in mining and smelting of the new capacity which was so quickly and satisfactorily brought into service by the zinc industry in order to meet the demands put upon it by reason of war conditions, and so that this capacity may be available for the expansion of our export business after the war.

Our Government to-day is trying to devise some plan by which mining men may be induced to develop necessary rare minerals for war use. Some suggest a subsidy. The difficulty is in getting capital to incur the large initial cost with no substantial assurance of return of capital and profit.

Zinc in the early years of the war was a necessity for our allies and without any assurance the industry by making large investments and extensions met the demand and the great majority of these extensions so made find themselves ready for production with no profitable market.

Owing to the short life of this district, many producers this year are among the class that the high prices of 1916 and 1917 drew into the district and they have not shared in any war prices. But they have placed expensive improvements on their leases, such improvements that rapidly depreciate in value. They hold leases calling for continuous work and no present prospect for better prices. Such is the situation of the men for whom I speak.

The average sale price of our zinc product during prewar period was \$44 per ton, about the same as we are getting at the present time. The cost of producing that ton to-day is more than double that of prewar costs. This increase is made up of labor, supplies, etc.

I have here a statement which I desire to have inserted, a comparison of expense items in our district, using the prewar cost of daily wages of the different men employed in the mines, showing the price of that, and also the price for the entire year 1917, showing an increase in labor of 56 per cent. Also for the principal supplies that go into the mining business that show an increase, for instance, in powder 120 per cent, gas engines 100 per cent, coal 95 per cent, cast-iron roll shells 100 per cent, screens 250 per cent, and on down through the entire list, up to 250 per cent in some of these items.

(The statement is as follows:)

## Comparison of expense items, Miami district.

	1911-1913	1917	Percent- age of increase.
Superintendent..... per day ..	\$4.80	\$8.33½	
Jigman..... do ..	3.57	6.00	
Helper in jig room..... do ..	2.50	3.75	
Crusher-feeder..... do ..	2.50	3.65	
Screen man..... do ..	2.50	3.50	
Engineer..... do ..	3.00	4.50	
Blacksmith..... do ..	2.75	4.00	
Hoistorman..... do ..	2.50	4.00	
Ground boss..... do ..	3.57	5.00	
Driller..... do ..	2.50	4.00	
Sludge man..... do ..	2.50	4.00	
Fireman..... do ..	2.75	4.25	
Total..... do ..	37.94	59.48	56
Supplies:			
Powder..... per hundred weight..	9.75	21.50	120
Gas for engines..... per thousand cubic feet..	.12½	.25	100
Coal..... per ton ..	2.00	3.90	95
Cast-iron roll sholls..... per pound ..	.02½	.04½	100
Screens..... per square foot ..	.20	.70	250
Hoisting cable..... per foot ..	.08	.20	150
Sheet steel..... per pound ..	.02½	.05	100
Machinery repairs.....			50
Belting.....			20
Drill steel..... per pound ..	.07	.15	111

Mr. THOMPSON. I also have here a table of comparison of profits on ores mined, using the prewar period and we take the mining cost of rock per ton during the prewar period, \$1.20. At the present time, the cost of handling that same rock is \$2.42. The price of the ore—the average price of the ore—during the prewar period was \$44 per ton. At the present time the same ore is worth \$45 per ton. Now, take those figures as a basis, take the following example: Take a mine whose recovery is 3 per cent. That is, for every 100 ton of rock handled 3 tons of ore are produced, and the answer is as follows: The cost of handling 100 tons of rock during the prewar period would be \$120. That same product recovered 3 tons, which would be worth \$132, leaving a profit of \$12 on the 3 tons, or \$4 profit per ton.

Mr. HAWLEY. Let me inquire about the recovery. You mean that in every 100 tons of ore, of rock, that you take out of the mine, a large proportion of that is country rock that contains no ore, and a small proportion contains ore, and figuring your cost it is necessary to take into consideration the cost of removing that useless rock?

Mr. THOMPSON. We take the total cost of extracting that 3 per cent or 3 tons from the 100 tons of rock and placing it upon the market.

Mr. MOORE. Mr. Longworth asked you several times about the zinc content, and you said it was 60 per cent in some cases, averaged 60 per cent, and then you referred to the cutting of the rock, and mentioned 2 or 3 per cent. What do you mean by the 2 or 3 per cent?

Mr. THOMPSON. I do not think we ought to confuse those two matters. The price of the product is fixed upon the basis of 60 per cent of zinc.

Mr. MOORE. You have to get through the rock to get to the ore.

Mr. THOMPSON. The ore, Mr. Moore, is disseminated all through the rock, and has to be crushed in order to remove the rock.

Mr. MOORE. To a layman the impression might have gone out that 60 per cent of the rock ore would be zinc.

Mr. THOMPSON. That should not go out.

Mr. LONGWORTH. I did not understand it that way. Zinc ore is the same no matter how much rock is crushed with it. When you have the zinc ore you have the same thing, some high metal content and others low.

Mr. THOMPSON. The basis is 60 per cent metallic zinc, and, for instance, they will offer a price of \$45 for 60 per cent zinc, for 60 per cent metal. Now, I do not refer, Mr. Moore, to the products in the ground at all. That is the ore that is offered to the smelter. Sixty per cent of it is pure. Now, then, the 3 per cent is this that we get from every 100 tons of rock that is taken from the ground. From that rock 3 tons of ore are taken.

Mr. MOORE. And all the rest is waste.

Mr. THOMPSON. That is waste, absolutely.

Mr. MOORE. Sixty per cent comes out of the 3 per cent residuum?

Mr. THOMPSON. Yes. I have just given you a sample of the mine that produces 3 tons of ore from 100 tons of rock, and using the prewar selling price of the product and the cost of producing it, there was a profit of \$4 per ton to the mine that had produced 3 tons of ore from 100 tons of rock. At the present time in that same mine it would cost \$242 to handle that same rock, and you sell your product for \$135 and you have a net loss of \$107 on 3 tons of ore. In other words, the mined ore in our district which showed a profit of \$4 per ton in the prewar period, last year showed a loss of \$35.66.

Mr. LONGWORTH. You do not have any excess profits.

Mr. THOMPSON. Not at the present prices.

Mr. LONGWORTH. Why are you at all concerned with the excess profits tax on such an unprofitable business?

Mr. THOMPSON. We hope that our product will not stay where it is, and particularly urge it because of the fact that I think there ought to be some different method of taxing the profits of sales of mining property. In other words, as I suggest, the property can go just so far, the mining of certain mines, then it must be sold, and under this present tax, property is not being sold. There is an immense amount of capital that wants to come into our district that can not come in because they will not sell that property and stand the tax.

Mr. MOORE. Do you have any foreign competition?

Mr. THOMPSON. Oh, yes. I do not know what effect it has at the present time under abnormal conditions, but there is quite an importation from Mexico and Canada, and I think from Australia, and some from China.

Mr. DICKINSON. Not now, is there?

Mr. THOMPSON. I do not know what the condition is at the present time, but I understand that the Mexican importation has been shut out through some embargo.

The CHAIRMAN. Is there a practical zinc operator in the room?

Mr. THOMPSON. No, sir.

Mr. LONGWORTH. Let me see if I understand your last statement. You think it would be desirable that large investments of capital should come into the district, but that no one will sell because they can not stand the tax. Do you mean that rather than sell they would prefer to continue to operate at a loss?

Mr. THOMPSON. They are operating only so much as is necessary to preserve their property.

Mr. LONGWORTH. Now they won't sell, because they have to pay an excess-profits tax on the sale?

Mr. THOMPSON. Not the excess profits tax, but the income tax, and that taxes them peculiarly hard; and also the excess profits tax, because of the fact, as I have said all the time, that the man has possibly spent \$5,000 in bringing the piece of property up to the point where it needs to be developed. It is worth, we will say, \$100,000; really worth that in the market. He can not afford to sell that, because that represents his taxable profits of \$75,000. That investment, that venture, may represent 10 or 15 years' effort of his life. He has simply prospected a little and held it, and he is holding it and not producing. In my judgment if the matter could be handled so that sales could be made without taking 60 per cent of the profits of these men, more sales would be made.

Mr. LONGWORTH. You are assuming that he would have to pay an excess-profits tax, then, on an accumulation of 15 years?

Mr. THOMPSON. The prospector has spent years of his life in prospecting and finally will succeed. Now, then, he will not continue the industry, will not continue the expense thereof, will not continue if he is confined to 9 per cent return on a small capital in that one successful venture. As shown here in the testimony, the great per cent of the mines down there that have even reached the production stage wind up as failures.

Take classification B. Here we have a richer mine, one recovering 5 tons of ore from 100 tons of rock on a loss, as I have shown here, of \$3.40 per ton as compared to prewar prices.

Going a step further, let us take an exceptional mine, which produces 7 tons of ore from each 100 tons of rock, and you have a profit to-day of \$10 per ton, whereas prior to the war we had a profit of \$26 a ton; and I want to call your attention to the fact that in the entire Joplin district, if anyone here is familiar with it, there is not a mine that recovers 7 tons of zinc ore from 100 tons of rock. There are some few of those mines in the Miami district that are exceedingly rich, mines that are making practically a profit of \$10 a ton.

Mr. GREEN. You see, that statement does not enlighten us any, because we do not know how much it costs to get out the rock. Do you know how much you receive from the zinc content?

Mr. THOMPSON. I state this, Mr. Green; I have it here in dollars and cents.

Mr. GREEN. If you will file those tables, we can probably figure it out what it is that you would like to have the committee do.

(The statements are as follows:)

*Comparison of profits on ores mined.*

	Prewar period.	Present.
Mining cost of rock ton.....	70c.	\$2.42
Value ore averaged over period.....	44.00	45.00



## Comparison of profits on ores mined—Continued.

## EXAMPLE A.

Take a mine where recovery is 3 per cent—that is, for every 100 tons of rock handled 3 tons of ore are produced, the comparison follows:

	Prewar period.	Present.
Cost per 100 tons rock.....	\$120.00	\$242.00
3 tons ore recovered.....	132.00	135.00
Profit on 3 tons.....	12.00	107.00
Profit per ton.....	4.00	35.66

<sup>1</sup> Loss.

## EXAMPLE B.

A mine with 5 per cent recovery shows:

	Prewar period.	Present.
Cost per 100 tons rock.....	\$120.00	\$242.00
5 tons ore recovered.....	220.00	225.00
Profit.....	100.00	17.00
Profit per ton.....	20.00	3.40

<sup>1</sup> Loss.

## EXAMPLE C.

A mine with 7 per cent recovery shows:

	Prewar period.	Present.
Cost per 100 tons rock.....	\$120.00	\$242.00
7 tons ore recovered.....	308.00	315.00
Profit.....	188.00	73.00
Profit per ton.....	26.00+	10.00+

Mr. THOMPSON. No, I have no recommendation, Mr. Green. I came here simply to state the conditions, and I wanted to correct the impression that this committee got from Mr. Chapman's testimony. Mr. Chapman would have been glad to do it himself.

I would like to put into the record a statement showing that in Jasper County in the Joplin district 80 per cent of the mills to-day are closed down. Now, that is a very strong statement made in the face of the impression you got from Mr. Chapman's testimony. Eighty per cent of the mills operating a year ago are closed down.

Mr. LONGWORTH. In connection with that will you state the number of tons sold last year?

Mr. THOMPSON. In our district?

Mr. LONGWORTH. Yes. You say it is 50 per cent of the total production of the United States.

Mr. THOMPSON. I am told, Mr. Longworth, by the organization of zinc producers of my district that at the present time they are

producing 50 per cent of the zinc ore. I do not know anything about the tonnage.

Mr. LONGWORTH. What is the amount?

Mr. THOMPSON. I do not know what the tonnage is.

Mr. LONGWORTH. You do not know?

Mr. THOMPSON. No, sir.

Mr. LONGWORTH. Well, you just stated that there was being an overproduction, and you say that 80 per cent of the zinc mines are closed down, and the low price is due to overproduction.

Mr. THOMPSON. I want to be quoted correctly. I said that 80 per cent of the mines in Jasper County, Mo. For instance, here is a statement gotten out by—

Mr. SLOAN (interposing). Is that the county that Joplin is in?

Mr. THOMPSON. Yes, sir.

Mr. SLOAN. The large zinc county of Missouri, and the large zinc county of the United States?

Mr. THOMPSON. It is so understood among men who are not familiar with the new fields. The great production is from my county in Oklahoma at the present time.

Mr. DICKINSON. In that connection, I am very much interested in your statement. A great many people have gone from the Joplin district down into the Miami district, have they not, and begun mining down there?

Mr. THOMPSON. Yes, sir.

Mr. DICKINSON. I thought I understood you to use this expression: "According to the short life of this district." Now, if you used that expression and were referring to the Miami district, did you mean to convey the thought that this Miami district was now failing in production and losing in value as to the zinc-producing district, and that the mines were being worked out?

Mr. THOMPSON. I meant this, Mr. Dickinson, that especially in the Miami district where the field is made up of short-lived mines, as I explained earlier in my paper, while the production has greatly increased in the Miami field, it has been from new mines developed yearly. For instance, there are not to exceed 10 mines operating in my country to-day that were operating in 1914. They have all become exhausted.

Mr. DICKINSON. To get the thought, of course, we are all familiar with the Joplin district. Those mines down there were to a large extent long-lived mines comparatively. Are the Miami mines of the same general character, or are they short lived as compared to the mines in the Joplin district?

Mr. THOMPSON. They are entirely different formation. The Joplin district being a very hard formation, it costs a great deal more to mine it, and the formation, or the ore being more uniform over the district, and more disseminated through the rock. In the Miami field the ore is very rich where found, more free from the rock, and it does not require so much money to get down to the ore.

Mr. DICKINSON. Now an immense population has gone down in that Miami district in the last year or more.

Mr. THOMPSON. Yes, sir; there are at least 25,000 people in the Miami district, I mean the camps, that are immediately dependent on that district there.

Mr. DICKINSON. Are they staying there, or are they moving out as these mines fail?

Mr. THOMPSON. The mines in my district, in the Miami district, are not shutting down to the extent that they are in the Joplin district, because they can mine in my district at a lower price for their product than in the Joplin district, because the mining is cheaper. I have given here the prices that are applicable to the Miami district, that is the cost prices and the market prices.

Mr. DICKINSON. Would the quantum of that zinc production down there continue for quite a while yet in your judgment in the Miami section?

Mr. THOMPSON. Well, it will work out quickly, but, of course, the field is being extended on up into the Kansas field. There is a general trend of that ore, and they are developing it in the fields further on, and mines are being worked out. The average life is short.

Mr. DICKINSON. What do you mean by the average life?

Mr. THOMPSON. I mean the productive life. I do not mean that there is not a mine down there with a life of over two and one-half years. I mean the average life of producing mines.

Mr. DICKINSON. That is about two and one-half years?

Mr. THOMPSON. Two and three-fifths it figures.

Mr. WHITE. Do you claim that this 80 per cent cutting down was the result of the provisions of the act of 1917.

Mr. THOMPSON. I think not. It was the result of market conditions.

I have here a statement gotten out by the Southwest Missouri Mine Safety & Sanitation Association. That is an organization to look after the sanitary conditions of the mines, and this statement is made that the production of zinc ore has declined from 55,000 tons for the first 11 weeks in 1916 to 25,000 tons for a like period in 1918; from 58,000 tons in November and December, 1916, to 24,000 tons in November and December, 1917. This statement is with reference to conditions in Jasper County, Mo. The following statement, giving the names of operating companies in that county that were in operation in 1916, and their condition at the present time, when this was made about a month ago, shows that more than 80 per cent of them are shut down and some of them dismantled.

Mr. SLOAN. Are these which were shut down the dismantled operators moving down into the Miami district?

Mr. THOMPSON. I guess many of them; yes, sir.

Mr. SLOAN. Is this a temporary suspension of business with the intention of reopening, or the removal of activities to other fields?

Mr. THOMPSON. It has been the experience in this district that once a mine is abandoned it is not worth reopening because of the damage done by the influx of water.

Mr. SLOAN. Then this 80 per cent are practically dismantled or abandoned.

Mr. THOMPSON. Practically abandoned; yes, sir.

I want to say this, that I believe that anything that I have said here can well be verified by Members of Congress from this district from which I speak.

Mr. MOORE. Who represents that district?

Mr. THOMPSON. Mr. Decker, from Missouri, and Mr. Chandler, from the Oklahoma district, and Mr. Phil Campbell, from the Kansas district. There can be no question about those figures, and it is a condition that I regret very much that has to be presented; but I came here last December and met with about 100 representatives of mining and oil properties, and I know quite well the meeting we had with Senator Simmons, chairman of the Finance Committee, and after explaining our position he rather blamed us for not having appeared when the bill was being drafted, and said very frankly, after hearing from different representatives of the wasting industry, that he thought it possibly was advisable that some sort of treatment be made with reference to the wasting industry.

Mr. MOORE. Have you any practical suggestions?

Mr. THOMPSON. I have none at the present time.

Mr. MOORE. The burden of your argument, as I understand it, is that the industry is not doing as well under this tax system as you would like to have it do, and that it is in danger if the present tax law continues?

Mr. THOMPSON. I do not think there is any question about that.

Mr. MOORE. If we should increase the taxes, the effect, from your point of view, would be still more disastrous to the business.

Mr. THOMPSON. I do not think, Mr. Moore, that the increase will hurt the production of ore this year, because there will be no taxable profits in our district this year—that is, from operations. There may be from sales of property.

Mr. MOORE. Well, you have been here several times, and have been listening to the hearings, and you are in position to know what the situation is with respect to revenue?

Mr. THOMPSON. Yes, sir.

Mr. MOORE. Is there anything that you can say that would help us to relieve your situation and at the same time do what we are instructed to, which is to derive an increased revenue?

Mr. THOMPSON. I am sorry at the present time that I do not know of any practical way to solve the problem. The tax problem for this year in our district is not so important, because we will not have the taxable profits, unless it be from the sales of mining property.

Mr. MOORE. You do not object to the income tax as it stands now?

Mr. THOMPSON. No, sir.

Mr. MOORE. The excess-profits tax you do?

Mr. THOMPSON. Yes, because of the small capital required in our district on the successful mines is so seriously disproportionate to the immediate returns that any excess-profits tax based on the capital invested would not be satisfactory to that district.

Mr. MOORE. Could we meet the situation by imposing a tax on sales?

Mr. THOMPSON. That would only be an added expense which we can not pass on to the consumer.

Mr. MOORE. Then what is the remedy?

Mr. THOMPSON. I haven't any, Mr. Moore.

Mr. MOORE. Would it be—this is not the place to discuss it at this time I assume—but would the tariff meet your situation?

Mr. THOMPSON. Of course, we have thought in our district that our product should be protected, but I do not think that will help the

present situation sufficiently, because conditions are so abnormal. There is a great overproduction of zinc at the present time resulting from the increased demand for zinc. At least not more than a year ago mass meetings were held in our district, at which meetings letters were read from the different Government services requesting us to increase our production of zinc. The result is that we prepared for it, and the market has gone to pieces.

Mr. MOORE. And then, the system of accounting under the present legislation, you contend, is entirely unfavorable to you?

Mr. THOMPSON. Yes, unfavorable to mining.

Mr. MOORE. Is the Government taking your product now?

Mr. THOMPSON. No, I think not. The chief demand for our product is for galvanizing, and that has been taken off almost entirely because of the fact that the Government is taking almost all of the steel, a part of which goes into galvanized products.

Mr. MOORE. Are you familiar with the bill that was introduced by the Mines and Mining Committee some time ago to make an appropriation of \$50,000,000 to encourage prospecting?

Mr. THOMPSON. I have just seen the bill. I am not familiar with it.

Mr. MOORE. Would you be interested in it at all; would it interest your industry?

Mr. THOMPSON. They did not speak of our product; no, sir.

Mr. LONGWORTH. I understood you to say that the price of zinc ore was not covered by the price of spelter. I have a chart of the years 1914, 1915, and 1916, showing that the variations of spelter and of zinc ore were absolutely the same, that it depended only on the price of spelter, and I will show you the chart.

Mr. THOMPSON. I do not think that you and I disagree. You misunderstand me. I say this, that the price of spelter may be 25 cents, and spelter may go up 2 cents, for instance, when the price of our zinc product does not go up proportionately.

Mr. LONGWORTH. This chart was prepared by the Bureau of Spelter in the United States in 1916, Department of the Interior, under the United States Geological Survey, and it shows that the variation is precisely the same, that when spelter is low zinc is low, and when spelter is high zinc is high.

Mr. THOMPSON. I would be glad, with the permission of the chairman, to furnish to you and the committee the prices covering the period of four years for spelter and ore products.

Mr. LONGWORTH. Are these figures approximately correct?

Mr. THOMPSON. I will state that I am a practicing lawyer, and I do not know the market conditions, I do not know the prices for 1913, 1914, and 1915 except those I have submitted, but I will be glad to submit to you and verify them as to the exact prices of our products.

Mr. LONGWORTH. This chart is made up every month from the 1st of January, 1914, to the 31st of December, 1916. It gives the prices per ton of spelter at St. Louis, and the prices of 60 per cent zinc concentrates at Joplin, and the variation is exactly the same in every case. In other words, the price of spelter absolutely determines the price of zinc, and I ask you to examine it and say if you dispute it. There is the line showing the price of 60 per cent concentrates at Joplin, there is the chart showing the price of spelter at St. Louis. The variation lines are practically parallel. Coming to this point [indicating] that is the highest point that ore ever touched, and this

point [indicating] is the lowest point reached. The lines are parallel, showing that the prices of spelter absolutely govern the price of zinc. That is the question I asked you. That is the question I asked Mr. Chapman, and he agreed with me.

Mr. THOMPSON. I might call your attention here to this same chart, in June and July, 1916, the price of spelter has increased much more rapidly, as I understand this chart, than the price of ore. Now, here is an increase, a considerable increase in the price of spelter, and there isn't the same ratio.

Mr. LONGWORTH. Do you notice a place where spelter has gone up and ore has not gone up at the same time, this 60 per cent zinc ore at Joplin? You agree that the price of spelter fixes the price of zinc alone, because if that is true the Government is wrong.

Mr. THOMPSON. I agree to a certain extent to that. I do say this, that spelter may increase a certain number of cents a pound, and that we will not receive and do not receive in the Joplin district the same proportion.

Mr. LONGWORTH. You said you frequently did not get any. That chart is perfectly conclusive. That contains the prices of 60 per cent zinc ore.

Mr. SLOAN. Mr. Thompson, as I understand it, your principal concern is in the matter of excess profits, the fact being in the mining of zinc and the mining of coal or copper, or any of those minerals, that the capital invested is usually small, usually unsuccessful, though now and then it does succeed, it succeeds by chance, and then there is an enormous profit, and the tax as you view it looks like penalizing a special success, but not allowing them anything for the times when they were not successful. I have heard that statement made by miners of other products.

Mr. THOMPSON. That is true. It is true that the mining is so speculative and hazardous that it can not exist and will not be extended where it is limited to a 9 per cent production on the small capital required in the successful venture, and that is the only one that pays a tax.

Mr. SLOAN. Could you not suggest that a classification on these speculative industries be established by the committee to meet this particular situation? I am somewhat in sympathy with your suggestion, and I think this line of industries should receive a special classification by reason of the fact that men who enter into business are usually men of small capital and usually fail but sometimes win; and then in the few winnings if they would be penalized by taking all the winnings from them it would be discouraging to the industry, which is an important consideration right now. In my State, they have discovered now important mines of potash, important to this country, and the capitalization of the mines is usually small, but if rates, such as we have now, be applied to them it would be a distinct discrimination against these small operators, and I rather fancy from reports and discussions of the matter, that you have about the same situation, and are complaining about that, although you do not make that as emphatic as I thought you should have done.

Mr. THOMPSON. We have presented this matter at different times to the Treasury Department in the last six months, and to the advisory board as to the making of regulations, and I have felt that they are very much in sympathy with our position.

Mr. SLOAN. But they are not supposed to make this law, and we are asking you to appear before us, I presume, to give some suggestions so that we who have the power to say what the law shall be, and not the fellow who has the power to interpret it, shall be consulted and suggestions given as to what the law says, and what the law which is to be drafted shall say.

Mr. THOMPSON. I am aware of that fact. It is a very difficult problem I find. I have given it some thought to draft a law.

Mr. SLOAN. It is easier to find a way where you are using new language than to force a construction of the Treasury Department on its language where it is against you, wouldn't it be?

Mr. THOMPSON. We were impressed with this fact. We were asking for an amendment at that time of some kind to protect the wasting industries.

Mr. SLOAN. This is the body that is expected to give the amendment. It can't be expected to be gotten from the Treasury Department.

Mr. THOMPSON. We were told by our friends that we were expected to get a recommendation from the Treasury Department at that time. That was last winter.

Mr. DICKINSON. Don't you think that you and those associated with you should, for such an amendment as you have in your mind, prepare it to present to this committee so that they can have it before them when they write this bill, that part of it that tends to affect your interests down there?

Mr. THOMPSON. They may do it. There have been several attempts to do it.

Mr. FAIRCHILD. Let me suggest there are only a few ways in which this can be done. In the first place I don't think you would ask for an entire exemption from excess-profits tax.

Mr. THOMPSON. No, we don't ask that.

Mr. FAIRCHILD. The second, you might ask that the excess-profits tax be assessed under a different plan, either entirely or as applicable to companies that were in a certain classification in line with the suggestion of Mr. Sloan; that is, companies engaged in highly speculative business but which, nevertheless, are of importance and benefit to the country at large. Now, there is still another method. A larger exemption might be granted companies of your class if the classification was made, or different rates might be proposed with reference to such companies. The difficulty I imagine would come more in phrasing the definition which made the classification. If you can do something of that kind so as to make it clear, a plan that only companies which for the reason you have set aside in your argument, should be included and would present something that would be of assistance to the committee in case the committee thought it advisable to make a change in the present law, it would be appreciated.

Mr. THOMPSON. I am aware of that fact, and I would be glad to attempt to do it with some assistance.

The CHAIRMAN. The Webb City-Carterville Mining Co. includes the Joplin district?

Mr. THOMPSON. That is part of the Joplin district in Missouri.

The CHAIRMAN. Do you know who got up that circular.

Mr. THOMPSON. It was gotten up to the best of my knowledge by that Sanitary Association of Zinc Producers Co.

The CHAIRMAN. It is signed by Zinc Ore Committee, Southwest Missouri Mine Safety and Sanitation Association.

Mr. THOMPSON. It was not gotten up under my direction, but it was sent to me.

The CHAIRMAN. No; I don't think you had anything to do with it. Are any of these gentlemen that had anything to do with getting up this circular going to appear here before this committee?

Mr. THOMPSON. I don't think there will be any appearance here except through me.

The CHAIRMAN. Are any of the gentlemen who got up this circular present in the city.

Mr. THOMPSON. No.

The CHAIRMAN. You don't know whether they will?

Mr. THOMPSON. I don't know just now. I am quite sure no one from that city will come except myself.

The CHAIRMAN. They have sent this out to members of the committee and Members of Congress.

Mr. THOMPSON. I didn't know that it had been sent out.

The CHAIRMAN. I will read some part of it, not with special reference to anything you have said but just to give an illustration of the weight that should be given to such circulars as these by Members of Congress and the public.

Mr. THOMPSON. I will say this that I offer that in support of my statement that 80 per cent—

The CHAIRMAN. Here is what they do say, however:

Importations must be stopped. America can produce all the zinc ore it needs. An urgent appeal must be made to our Representatives from Missouri in the Senate and in Congress. Most of the zinc used in war munitions is made from the high-grade zinc ore of the Webb City-Carterville district. That production has already been lessened 75 per cent. With the cutting off of the production of this zinc and the closing of the mills also comes the cutting off in the production of lead. Surely, as a war measure, Congress should give this district immediate relief by the imposition of a tariff of 2 cents per pound upon the metallic content of ore. Such a bill, if passed, would raise the price of zinc ore \$10 a ton in a week's time. If the smelters knew they couldn't get the ore without paying the tariff, the price would go up immediately.

Every merchant, every banker, every business man, every miner, every property owner, is urged to write our Senators and Congressman what the situation is. We must have relief. There should be mass meetings of citizens in every town in the district and proper resolutions passed.

The measure of relief, a 1 and 2 cent tariff on metallic contents of ore, as you said and as we all know most of the ore we get from foreign countries comes from Mexico, some parts of it come from Canada, but most of it from Mexico. The facts are that Mexico at the time this thing was issued and sent out was importing into this country practically no zinc as compared to what it had been importing in 1916 and 1917 when your zinc was on a boom almost, your zinc ore, and now when there is no zinc coming in at all from Mexico there is an embargo on importation, and as you said zinc is still down—it hasn't gone up any \$10 a ton in the last two or three months.

Mr. THOMPSON. No; as I stated conditions in the zinc business are—

The CHAIRMAN (interposing). For instance, not only is there a falling off from Mexico, but it is everywhere. As I said most of comes from Mexico. In the last nine months—and a larger part of this came in in July, August, September, and October—in the last



nine months ending March) there was imported into this country only 66,000,000 pounds, but the preceding nine months, 1917, there were 157,000,000 pounds, in 1916, 163,000,000, and in March, 1918, there was only imported from Mexico 3,388,000 pounds while the preceding March was 13,000,000. And now practically none. I wanted to bring that out. I just want to go into the record the proper weight to be given to these circulars sent to Members of Congress urging immediate action on this, that, and the other.

Mr. SLOAN. What is the date of that, Mr. Chairman?

The CHAIRMAN. No date. You might say the date is now. I received one about April 9, and they are still being sent out.

Mr. SLOAN. You spoke something about there being an embargo on zinc from Mexico.

The CHAIRMAN. Yes, sir.

Mr. SLOAN. Some is coming in I see, 3,000,000 pounds you spoke of.

The CHAIRMAN. That was in March.

Mr. SLOAN. When was the embargo put on?

The CHAIRMAN. About 30 days ago and it hasn't gone up any \$10 a ton.

Mr. SLOAN. That may be understood by Mr. Thompson as a criticism—

The CHAIRMAN. Mr. Thompson couldn't understand that I am criticising his position. I asked him for what purpose he introduced it, and he said for the purpose of showing that mines were not being operated. We all admit that. I was referring to the measure of relief asked for.

Mr. THOMPSON. I am not here to urge a tariff—have no data. I am not prepared to sustain that statement.

Mr. DICKINSON. You don't contend that any protection under tariff would afford any protection under present conditions.

Mr. THOMPSON. I don't know. The conditions are so abnormal, I don't know what the effect of a tariff would be. It was thought important on the part of the Government officials to shut off importations from Mexico about 30 days ago.

Mr. MOORE. Did you ask to have this circular put in the record?

Mr. THOMPSON. I would like to have that part of it at least—

Mr. MOORE. The circular refers to the closing down of a number of plants and those removed or dismantled, and it is a story of calamities and disaster in the District.

Mr. THOMPSON. Yes, sir; that is true.

Mr. MOORE. Did you intend to put that into the record?

Mr. THOMPSON. That is what I offered it for, to show the true conditions.

Mr. MOORE. That is an appeal, as I understand it, to Congress for immediate action to remedy the situation.

Mr. THOMPSON. Yes, sir.

The circular offered by Mr. Thompson is as follows:

*To the business men, miners, and property owners of the Webb City-Carterville mining district:*

Why conceal the facts? A great misfortune, amounting to disaster, has overtaken the Webb City-Carterville mining district. It is time the entire citizenship was aroused to the situation. The business man, the merchant, the miner, and the property owner are equally concerned.

The Southwest Missouri Mine Safety and Sanitation Association has recently gathered information and facts that every man should know. It is time that we were

awakened to the situation. Out of the 87 mills that were in operation in the Webb City-Carterville district, including Oronogo, Prosperity, and Duenweg, only 18 are now in operation, or partial operation, with the probability that 5 more of them will be closed within the next week. Of these 69 mills, 30 of them have been dismantled and moved away, and others are now being offered for sale.

The production of zinc ore has declined from 75,000,000 pounds for the first 11 weeks in 1916 to 25,000,000 pounds for a like period in 1918: from 58,000,000 pounds in November and December, 1916, to 24,000,000 pounds in November and December, 1917. The bank deposits in Webb City alone have fallen off more than \$500,000.

Some of the business houses have been closed, and the business men of the district are making no money. The situation will become worse, because many of the miners working in the Oklahoma field are now still living in Webb City, because of cheaper rents.

That every citizen may have the information, a list has been prepared, showing the names of the mills that were in operation 12 months ago, which have now either been closed down or dismantled and moved away. The list is as follows:

Name of plant.	Operat- ing.	Closed down.	Mills moved or dismantled.
Oronogo Circle.....		D.	
Oronogo Mutual.....	O.		
Unity.....	O.		
O. & M.....		D.	
D. C. & E. No. 4.....		D.	
D. C. & E. No. 2.....		P.	
D. C. & E. No. 1.....		D.	Dismantled.
Star.....		D.	
Providence.....		P.	
John L.....		D.	
Little Princess.....		D.	
Genesee.....		D.	Moved.
Windsfield.....		D.	Do.
Bertha A.....	O.		
Oceola.....		D.	
Mercantile No. 1.....		P.	
Mercantile No. 4.....		P.	
Imperial.....		D.	
Hurry Up.....	O.		
Ice Plant No. 2.....	O.		
Ice Plant No. 1.....		D.	Do.
Electrical.....		P.	
Medis.....		P.	
Van-Iluso.....		D.	Dismantled.
Meadwells.....		D.	Moved.
Mount B.....		D.	
Chapman Bros.....		D.	Do.
Schoolhouse.....		D.	Dismantled.
Yale.....			
Ben Franklin.....	O.		
Nearby.....	O.		
Caro.....		D.	Moved.
Ramare No. 4.....		D.	Do.
Orange.....	O.		Do.
Concord.....		D.	
Old Virginia.....		D.	
Eine fields M. & M. Co.....		D.	Do.
American Z., L. & S. Co., No. 3.....	O.		
American Z., L. & S. Co., No. 4.....	O.		
Continental.....		D.	
Kirkwood.....	O.		
T. in Cities.....		D.	
Red Bird.....		D.	Do.
Franklin (Prosperity).....		D.	Do.
National No. 1.....		D.	Do.
National No. 2.....		D.	Do.
National No. 3.....		D.	Do.
Queen Esther.....		D.	Do.
Saltley.....		D.	Do.
Town C. No. 4.....		D.	Do.
McDonald Bros.....		D.	Do.
Cobler.....		D.	Do.
Cumberland No. 2.....		D.	Do.
Cumberland No. 1.....		D.	Do.
Dixie.....	O.		
Lucky Budge.....		D.	Dismantled.
Arkansas.....		D.	Moved.
McDonald Mng. Co.....		D.	Do.
Cyrol.....		D.	Do.
Corona.....		D.	

Name of plant.	Operat- ing.	Closed down.	Mills moved or dismantled.
Milan.....		D.	Moved.
Jasper County L. & M. Co.....		D.	
Ele en O'clock.....	O.		
Gibson Mng. Co.....		D.	
Wnat Cheer.....		D.	
Coahuila No. 1.....		D.	
Coahuila No. 3.....			
Vogis.....	O.		
Barnett No. 2.....			
P. rio Rico Mng. Co.....		D.	
Fidelity.....		D.	
Mahatma.....		D.	
Old Fort.....		D.	Do.
Owasa.....		D.	
Athletic.....	O.		
O. F. & L.....		D.	
Gopher.....		D.	Do.
Evans-Hall-Soy.....	O.		
Scott Mng. Co.....		D.	
Onamena No. 4.....		D.	
Onamena No. 3.....		D.	Do.
Onamena No. 2.....		D.	
Crown Point.....		D.	Do.
Birch Mng. Co.....		D.	
St. Regis.....	O.		

Statement showing the falling off in the production of zinc ore in the Webb City, Cartersville District, including Duenweg, Oronogo, and the Alba, Neck City, Purcell Camps, for the first 11 weeks in the years 1916, 1917, and 1918:

1916, production in pounds.....	75,036,983
1917, production in pounds.....	61,916,767
1918, production in pounds.....	25,028,020

Comparative statement showing the production of zinc ore in the Webb City, Cartersville District, including Duenweg, Oronogo, and the Alba, Neck City, Purcell Camps, for the months of November and December, 1916-1917:

1916, November and December—production in pounds.....	57,626,952
1917, November and December—production in pounds.....	24,563,820

#### VAST IMPORTATIONS RESPONSIBLE FOR THE ABOVE CONDITIONS.

There is a reason for the above condition. The disaster which has overtaken the district is directly traceable to the vast importations of zinc ore in the years 1915, 1916, and 1917. In 1915, the importations were 158,852 tons; in 1916, they were 385,964 tons; in 1917, 211,596 tons, or a total of 756,312 tons. Is it any wonder that our own ore remains unsold in the bin? Is it any wonder that with this vast amount of cheap ore coming in from China, Australia, Mexico, Italy, Spain, and a dozen other countries, that the price of zinc ore is now reduced to a point where it can no longer be profitably produced in this district? The Oklahoma field is also beginning to show the effect of this condition. It is coming upon them.

#### CONGRESS MUST REMEDY THE SITUATION.

This vast importation of 756,312 tons has flooded the market with surplus spelter and ore. Importations from all countries save Mexico and Canada are now practically shut off by reason of the fact that ships are used for other purposes, but after the war closes, or these ship bottoms are released, we will once more be overwhelmed.

Importations must be stopped. America can produce all the zinc ore it needs. An urgent appeal must be made to our Representatives from Missouri in the Senate and in Congress. Most of the zinc used in war munitions is made from the high-grade zinc ore of the Webb City-Cartersville district. That production has already been lessened 75 per cent. With the cutting off of the production of this zinc and the closing of the mills also comes the cutting off in the production of lead. Surely, as a war measure, Congress should give this district immediate relief by the imposition of a tariff of 2 cents per pound upon the metallic content of ore. Such a bill, if passed, would raise the price of zinc ore \$10 a ton in a week's time. If the smelters knew they couldn't get the ore without paying the tariff, the price would go up immediately.

Every merchant, every banker, every business man, every miner, every property owner, is urged to write our Senators and Congressmen what the situation is. We must have relief. There should be mass meetings of citizens in every town in the district and proper resolutions passed.

ZINC ORE COMMITTEE,  
SOUTHWEST MISSOURI MINE SAFETY  
AND SANITATION ASSOCIATION.

**STATEMENT OF MR. FRANK A. BLAIR, VICE PRESIDENT  
FOLEY & CO., OF CHICAGO, ILL., MANUFACTURERS OF  
PROPRIETARY MEDICINE, AND ALSO PRESIDENT OF THE  
NATIONAL ORGANIZATION.**

Mr. BLAIR. If the committee will allow me to, I will read my memorandum.

Mr. MOORE. Before you start, we had a Washington attorney before us the other day; did he represent your association?

Mr. BLAIR. Mr. Brokmeyer?

Mr. MOORE. Yes, sir.

Mr. BLAIR. No, sir; he represents the retailers. I represent the manufacturers of proprietary medicines. I would like for you to ask anything you think of, or anything that my remarks may suggest as I go along.

We appreciate the demands of the country for increased revenue. We know that the pending revenue bill will increase the taxes. We appear for the purpose of discussing the subject of inequalities in the present system, with the hope that we may aid the committee in arriving at some method of procuring greater revenue in a just and equitable way.

The President, in his message, pointed out that there are inequalities in the present revenue bill and, necessarily, if the rates shall be increased upon the present basis, such inequalities will be emphasized.

The manufacturers of medicines ask that they be required to bear the exact and identical burdens which are imposed upon other industries.

The principal instances under the present law in which inequalities appear particularly unfair, result from the definition of invested capital. Under this definition concerns engaged in similar businesses having identical amounts of investment, whether such investment represents a purchase or an increased value by reason of successful management and operation, are unequally taxed.

For example, a manufacturer began business many years ago. By reason of the excellence of his product, large investment in advertising, careful and conservative management and faithful attention to his business, he has built up a large and profitable concern.

His competitor, engaged in the same line of business, has acquired his property by direct purchase, paying therefor a sum of money equivalent only to its value and in an amount not in excess of the amount expended by the first individual in the building up of his business. The former is penalized by a tax ranging somewhere from 7 per cent to 9 per cent upon what is really the actual value of the capital invested in his trade-mark, brand, and good will. This is an unjust, unfair, and inequitable system of taxation.

If, therefore, the basis of determining the point at which taxes upon income are to be imposed is made the actual value of the prop-

erty rather than an artificial definition of invested capital, like taxes would be assessed upon all engaged in similar business.

We appreciate that if it be the purpose of the Congress to impose a tax upon unearned increment or upon values which have been developed irrespective of the amount of money actually originally invested in an enterprise, it would probably be within the power of Congress to impose such tax; but, as we are treating the subject of taxes imposed upon incomes, based upon the percentage of income to investment, the tax should be alike in all instances.

To quote from another, who has already appeared before your committee, "if the income is the same and if the credits or property which produces that income is the same, the tax ought to be the same." If, however, a tax is to be imposed upon values which have been developed, then that should be the subject of substantive legislation and all treated alike. But if you are imposing this tax upon incomes, then the tax should be fairly and equitably distributed.

Mr. MOORE. Do you mind at that point giving a concrete illustration showing the inequalities to which you refer? Take an A and B case.

Mr. BLAIR. The proprietary medicine business consists of three assets, tangible, the machinery, good will, etc., and the trade-mark, formula, and brand. We have had sales, a number of them. The ratio has been about 85 to 15 per cent—85 per cent constituting the good will, trade-mark, and brand; 15 per cent constituting what is called tangible assets in this bill. I will take A, who owns a business. I have in mind a definite business. It was sold for \$1,200,000. The actual tangible assets in that particular case were \$200,000. He has a competitor.

Mr. MOORE. The rest was good will.

Mr. BLAIR. It must have been good will; nothing else to exchange. The tangible assets were \$200,000 in cash. The sale was \$1,200,000, all paid cash the day of sale. The next is his competitor, who has been in business almost identically the same period of time, who has under this bill an exemption based upon \$200,000, which is practically his investment. The first one has an exemption of \$1,200,000, 9 per cent—

Mr. MOORE. How would that work out in payment of taxation?

Mr. BLAIR. I wouldn't take time to figure it out, but just the exemption of 9 per cent on a million dollars, one man has an exemption of 9 per cent on \$1,200,000 and the other on \$200,000, so that one man has an exemption on 9 per cent of \$1,200,000, or \$1,000,000 more than the other. In other words A, the man who has purchased his good will, might take his savings on taxes as his profits for the period of the war and conduct his business at an expense equal to B's and B, in order to keep up with him would not make any money.

Mr. MOORE. Your calculation is correct. That is interesting and illustrates.

Mr. BLAIR. That is an actual case. I know both persons very well.

The CHAIRMAN. They both made equally the same amount of profits? How much did your \$200,000 man make, the one only allowed a deduction of \$200,000?

Mr. BLAIR. How much profit did he make?

The CHAIRMAN. Yes.

Mr. BLAIR. I don't know that really, but I imagine that he made——

The CHAIRMAN. If we know that we could see if that injustice that you complain of is in this.

Mr. BLAIR. The face of the illustration shows that it is in it.

The CHAIRMAN. Let's see whether it is in it.

Mr. BLAIR. How can it be otherwise? He gets 9 per cent exemption.

The CHAIRMAN. They have got the same business, they make \$100,000 profit, that is 50 per cent for the man that has \$200,000, isn't it?

Mr. BLAIR. Yes, sir.

The CHAIRMAN. A little over 8½ per cent for the other man, capital invested?

Mr. BLAIR. Our profits are always over 9 per cent. We always went over the 9 per cent in the prewar period.

The CHAIRMAN. Let's get it as it is. The \$200,000 concern makes \$100,000 and the \$1,200,000 man makes \$100. The \$200,000 man has got 50 per cent on his capital invested while the \$1,200,000 man, having the same business, making the same profits, got 8 per cent, 8½ per cent on his investment, can better pay more taxes than the man who has got his money invested and gets only 8½ per cent?

Mr. BLAIR. Yes, but——

The CHAIRMAN. If you will give me or hunt it up and send to me the exact amount of profit each one of these concerns made, in the same competing business, I think I can clear your mind up on that proposition about the unfairness and injustice. Let me call your attention to another business. Your \$200,000 man's business is worth \$1,200,000, but he doesn't put it in as that. He put \$200,000 in it. There is \$1,000,000 clear profit he made, upon which he never paid the Government any tax, and under your contention he never will pay the Government a penny of income tax or excess-profits tax. He started out with the other concern \$1,000,000 profit to the good. He has only been out \$200,000 in money while the other concern is out \$1,200,000.

Mr. BLAIR. That is not the situation at all.

The CHAIRMAN. That is the situation as you gave it.

Mr. BLAIR. No, I said this man has allowed under this bill \$200,000 which were the tangible assets as defined by the bill; but he has the investment there just the same.

The CHAIRMAN. If he has an investment there just the same then, then he is bound to have made a million dollars profit off of his \$200,000 upon which he escapes taxation altogether. If your \$200,000 man is entitled to a deduction on a million two hundred thousand dollars, shouldn't he then give in a million dollars of excess profits, for excess-profits tax and income tax before you allow him a deduction on that million dollars?

Mr. BLAIR. Let's see where that million dollars came from?

Mr. MOORE. Pardon me, you stated two actual cases where payments have been made?

Mr. BLAIR. Yes, sir. Let's see where the million dollars came from. It didn't come out of a hole. Somebody put it there. What stockholder, what man that owns this business? Take my own firm.

The proprietor of our firm worked as a traveling salesman for a wholesale drug house during a long period of years. He put every dollar that he earned and could spare except his actual living into the promotion of his business, charging it to expenses.

Mr. MOORE. And since the income-tax law, he deducted it from his income? He didn't pay a cent tax on it?

Mr. BLAIR. This extended over a period of 53 years. We contend, and we can demonstrate it by our illustration, that out of the money expended for advertising purposes in a proprietary medicine business, about one-third is justly chargeable to expense. In other words, a man could continue his business on a two-thirds, but he doesn't do it. He spends three-thirds, one-third would be chargeable to constructive expense and two-thirds to—

The CHAIRMAN. I don't know how you keep your expenses. But you said—

Mr. BLAIR. We didn't have any income taxes in those days. The medicine business has been a business usually built up by an individual or a family.

The CHAIRMAN. A great many would say it is on account of the personal services of the owner.

Mr. BLAIR. I am coming to that.

The CHAIRMAN. If that be true of a corporation, for the personal services they allow the salary deduction so you get it on the \$1,200,000 on that.

Mr. BLAIR. I just explained in one case a man didn't have any salary at all for a period of nearly 10 years, but kept putting into the business all of the money he could earn outside and his sister and his brother and his wife conducted the business.

The CHAIRMAN. If they put in actual money, his salary gets it and charge it up to him, why wouldn't he be entitled to that as a surplus?

Mr. BLAIR. It has all gone in as expense. It never was paid in as stock. It is charged direct to expenses.

The CHAIRMAN. We are trying to get the facts in all of these matters. That is the reason we ask you to come. In a case like you put we want to see whether there is an injustice. We have got an income-tax law since 1913, that is, it relates back to March 1, 1913, and we have had it 1914, 1915, 1916, and last calendar year 1917. This same kind of expense which you say went to make up the value of this business, did you charge that off as expense?

Mr. BLAIR. We did.

The CHAIRMAN. And had your income tax deduction from that didn't you?

Mr. BLAIR. Yes; that is true.

The CHAIRMAN. So since we had an income tax you pursued the same method as far as charging it all in expense account as you did before we had an income tax?

Mr. BLAIR. Yes; that is true.

The CHAIRMAN. Now, do you know in giving these kind of cases where a concern has got fifty to one hundred thousand dollars of capital invested according to the definition of the act, and will make \$150,000 or \$200,000 or \$300,000?

Mr. BLAIR. No, I don't know that they made quite that much money. There may be some.

The CHAIRMAN. There are cases where it seems most of the income or a large part of it is made on account of the personal service of the owners of the corporation or partnership. Those cases, it strikes me, ought to have some attention by Congress. We don't know the remedy, and perhaps there are cases like you suggest here.

Mr. BLAIR. The cases which, as you suggest, where the entire profit has seem to come from personal service. We have such cases. I will cite a case. Three men—I didn't intent to address myself to this, but Mr. Kitchen has raised this. Three men came together. One had a formula; one was an expert advertising man. He had an advertising business and good credit. The other was a medicine man. Those three men put in \$1,000, equal parts, and started to market A's formula. They were uncertain just what this was going to do. They knew they had a good formula. You will see it in any magazine to-day. It is being advertised in every magazine. They went to one of the largest pharmaceutical houses and contracted with them to make this article. The article is made, shipped to them, reshipped to the customer, billed to the customer, paid for by the customer, and they pay the bill. There never has been but \$1,000 invested in that business. I contend that is a nominal capital, under section 309. Services are the principal thing in that business.

The CHAIRMAN. The important thing is a case of that kind, in which these three men are the stockholders, or if they are incorporated, they are also officers of the stockholding company, would be taken care of by salaries because a large part of that earning is on account of personal service.

Mr. BLAIR. They would have a right to charge salaries, but, as it happens, most of them do not.

The CHAIRMAN. I think even if they had not charged salaries on their books I think the Treasury Department would permit them to get a salary for the purpose of a deduction, if it could convince them, as I am pretty well convinced from what you say about the three gentlemen. I know cases of the kind myself.

Mr. BLAIR. As a matter of fact, confirming that the bills have been issued on that.

Mr. STERLING. How would you value the good will?

The CHAIRMAN. I don't think there is a practical way of valuing good will.

Mr. STERLING. In valuing it according to earning power you would not get any excess profits at all.

The CHAIRMAN. Perhaps in cases of the kind you have given and where the excess profits—if we raise the excess profits tax from 60 to 75 or 80 per cent—would take practically three-fourths or four-fifths of their income. They have such a small deduction.

Mr. BLAIR. Some of our people have taken 53½.

The CHAIRMAN. I know, at present. Suppose you had a provision so far as excess profits are concerned in certain cases, finding them as near as you can, or perhaps in all cases the excess profits tax shall in no case exceed 40 or 50 or 60 per cent, whatever we suggest. That would take care of a good many of the hardships by allowing the Treasury Department—does allow, understand, and of course will allow—a reasonable salary for the personal services of the stockholders or officers.



Mr. BLAIR. Salaries in our business are small, and they have usually been small for the reason I stated at first.

The CHAIRMAN. I understand they are not bound by the salaries fixed by the corporation. It may be that they are too high. It must just form a reasonable proportion to that part of the income that is earned by their services.

Mr. BLAIR. The regulations say they are governed by salaries governing in similar businesses. But salaries in our business are usually small because they are usually family corporations and they are never paid—

The CHAIRMAN. I am inclined to think that those extreme cases which you put and which exist can be taken care of by a salary proposition, and by a limit as I suggest.

Mr. BLAIR. Well, but Mr. Kitchen, we should take care of the stockholders who are not drawing salaries, shouldn't we?

The CHAIRMAN. Well, but that will, so far as the corporation tax is concerned, by the limit. But in the cases of these corporations as the cases you just gave, the three men—

Mr. BLAIR (interposing). Oh, yes.

The CHAIRMAN. Take one of these large sales advertising concerns. I know one that has a considerable income, but about \$100,000 capital. A large part of that income is made up by real activities of the stockholders in this class of corporation.

Mr. BLAIR. Yes.

The CHAIRMAN. While I don't know, I have understood that an advisory board on the excess-profits tax has recommended something of that kind in such cases.

Mr. BLAIR. I will answer your question, Mr. Sterling, now.

Mr. STERLING. Yes; if you please.

Mr. BLAIR. There are two large medicine corporations in the country who have not developed the medicine business, but who have bought businesses that were already built up. They have never bought a business that was not a large, going, prosperous concern. Either one of these two companies will come into my plant, or any other man's plant, and offer a price which will make it pay for itself in five or six years; in some instances five years and in some instances six years. The one of these companies will each time pay cash; the other will occasionally take some time and sometimes will give more. Now, that is the basis on which the large medicine businesses have done their business, and have changed hands in the past six years, on five to six times their earning value. They must first show that they are going concerns; that they are increasing in business; that their business is built up on good, clean advertising, and then that it will pay for itself in five or six years.

Mr. GREEN. There was some confusion, and I didn't hear what you said the business was.

Mr. BLAIR. Its earning capacity, so that it will pay for itself in five or six years.

Mr. GREEN. Pay out?

Mr. BLAIR. Yes; if they are going to pay \$1,000,000 for it, it must make around at least \$200,000, so that it will pay for itself in five years or in six years.

Mr. GREEN. Then this should be 16 to 20 per cent net?

Mr. BLAIR. Sixteen to twenty per cent. That varies a little. If you have been in the business you will find sometimes it is a little easier business.

Mr. GREEN. And you would take that basis?

Mr. BLAIR. I would.

Mr. GREEN. On invested capital?

Mr. BLAIR. In section 210, where the Secretary was authorized to compare like or similar businesses, that was the comparison he had to make, because all of the large businesses that have been sold have been sold on that basis.

Mr. STERLING. And you would allow a man who had not sold out, and a man who had made a profit in another concern and still kept his business—as an illustration, \$8,000—you would allow a deduction not of 9 per cent on \$200,000, but a 9 per cent deduction on a business which would pay for itself in five years?

Mr. BLAIR. I would say yes, Mr. Sterling; that is, if A has earned \$200,000 on \$1,000,000 investment, and he has actually invested \$1,000,000 in that. It is actually invested. B has a similar business going along for some years and he has earned a similar amount; he has a business worth \$1,000,000. But I must not let you make the statement that he has only \$1,000,000 invested. He has invested his time and effort, and he has actually more than that invested. No man has ever sold his business for the amount invested.

Mr. STERLING. Well, the illustration that you gave was that he had only \$200,000 invested.

Mr. BLAIR. \$200,000 invested under the exemptions allowed by this bill, the act of October 3, 1917.

Mr. STERLING. Well, what other money has he got invested?

Mr. BLAIR. He put all of his profits back into the business for a number of years. Perhaps he didn't even draw his living, but earned money outside and used it. It can't be shown that it was invested, because it was charged to expenses. There was nothing drawn out of our business by the family for a long period of years—I think 12 or 14 years before any money was drawn out of the business at all.

Mr. STERLING. Now, that doesn't apply to proprietary medicines alone.

Mr. BLAIR. No; that doesn't apply to proprietary medicines alone.

Mr. STERLING. A business that has \$80,000 in it and made \$52,000 last year, that wouldn't have a very big deduction?

Mr. BLAIR. Newspapers are an example of that. Their franchise is valuable and must involve a large expenditure of money. I know, because I have talked to them about it.

Mr. STERLING. What would you think about a proposition like this, if there was any invested capital in this concern: Give every concern an exemption of a flat bulk sum, say \$5,000, and then put a graduated tax on all over and above that?

Mr. BLAIR. On the increment, regardless of the investment?

Mr. STERLING. Regardless of the investment.

Mr. BLAIR. Yes; certainly.

Mr. STERLING. Do you think that would be fair?

Mr. BLAIR. Yes, sir.

Mr. STERLING. Now, you stated this case as being a man who has actually bought a business at \$1,200,000, to give him a \$5,000 exemption, it wouldn't amount to much in his case, but it would amount to

a great deal with the little concern that had \$50,000 or \$60,000 invested. A corporation that had \$100,000 invested and to give them a \$5,000 exemption would give them a 20 per cent exemption; give each that exemption, and then on the next \$25,000 put a 1 per cent tax, and on the next \$25,000 two per cent, and on the next \$25,000 three per cent, and so on; I don't know what the grade should be, or what the rate should be, but do you think that would be a just tax?

Mr. BLAIR. I don't like to digress; I know your time is limited—

Mr. STERLING. I am talking about income.

Mr. BLAIR. I know you are, but here is an inequality that these taxes always make. We will assume that here are two women, and one owns a cigar store and has in it an investment of \$10,000, and that cigar store made in 1917 \$5,000, and she has an exemption of \$5,000; she doesn't pay any tax. But her neighbor invests \$10,000 in the United Cigar Stores Co.—I haven't seen any statement of the United Cigar Stores Co.; they may go into the 60 per cent, and they may not; I don't know about that. But this last woman has her money in stock of the United Cigar Stores Co., and she will have all her exemption taken from her. I don't know, but I have always thought that the graduate tax or the surtax should be a tax on the enjoyable income, not on the corporation, because you do work a hardship on the small investor in the stock of a corporation because it happens to be a prosperous corporation and the investor bought a piece of that corporation, if you please.

Mr. MOORE. Your comparison would operate in favor of the large concern?

Mr. BLAIR. By that proposition you would encourage a business to make all the money he could, and then tax a man who makes money based on the amount he gets, and the more he got the more his tax would be, and the higher his rate would be.

Mr. MOORE. Mr. Sterling's questions were interesting in that if you had a correct answer for them it would eliminate all the circumlocution in the enforcement of this law, and the collection of this tax; it would bring us to the direct tax, and whether you could correct that by so grading a portion, and burdening the rich and poor alike is the question.

Mr. LONGWORTH. It isn't a graded tax at all, but simply a straight tax.

Mr. BLAIR. Yes; you get away from the excess-profits tax, and the excess-profits tax always brings you back to this business of defining capital.

Mr. SLOAN. Do you recommend the elimination of the excess-profits tax?

Mr. BLAIR. I have a hesitancy about recommending anything to this committee, but as a business man, and a man in charge of and trustee for some estate, I know that it works a great hardship on some stockholders—individual small stockholders in our company who are taxed out of all proportion to the money invested, although they have just the same amount invested.

Mr. HAWLEY. Will you state again that case of the widow who invested \$10,000 in the United Cigar Stores?

Mr. BLAIR. I want to state that I merely stated that as an illustration. Coming to my own business, the drug store—I will take a

drug store. A man invested \$10,000 in a drug store which is on the corner and I trade with him, and that man made last year \$5,000 and there was no tax on that.

Mr. HAWLEY. It wasn't that one I had in mind.

Mr. BLAIR. The next man, who had invested \$10,000 in a large corporation, and bought, if you please, a piece of a corporation, engaged in the same line of business and made a large profit, finds that his tax is 53½ per cent.

Mr. LONGWORTH. No; not the individual stockholder—the corporation.

Mr. BLAIR. Well, in the corporation. He has bought, if you please, a piece of the corporation.

Mr. LONGWORTH. He has got a very much larger return on the original investment than the other man.

Mr. BLAIR. No; I am assuming that the \$10,000 was—no, you are right. It would not be 53 per cent.

Mr. LONGWORTH. He would simply pay the normal income tax.

Mr. BLAIR. No; I beg your pardon, but I am assuming that the business made \$5,000 and there was no excess-profits tax or income tax, and she would pay no tax, but under this law, before she is paid anything, the corporation has to take out the income and excess-profits tax.

Mr. LONGWORTH. Yes; but she is getting a larger return?

Mr. BLAIR. No; she got \$5,000.

Mr. HAWLEY. How much do you figure the other woman, that had the \$10,000 in the corporation, has to be given as her dividend?

Mr. BLAIR. The corporation may be taxed up to 60 per cent, and taking out all the income and excess-profits tax, so that from her stock investment in the large corporation it will bring her 32 per cent.

Mr. LONGWORTH. Sixty-eight per cent.

Mr. BLAIR. She will be taxed 32 per cent.

Mr. LONGWORTH. She is going to get more than \$5,000.

Mr. BLAIR. Let me see how you figure. This business has a capital stock of \$1,000,000, and makes \$500,000 profit. That is on the same basis as a \$10,000 business making \$5,000 profit, isn't it?

Mr. LONGWORTH. You are speaking of the individual stockholder?

Mr. BLAIR. The stockholder, yes; the stockholder invested \$10,000 and made \$5,000.

Mr. LONGWORTH. And had no excess-profits tax?

Mr. HAWLEY. Had a \$5,000 exemption?

Mr. BLAIR. Yes; she had an exemption of \$5,000, and the business paid no taxes. She got the whole \$5,000. The next woman invested \$10,000 in a \$1,000,000 corporation and it made \$500,000, but paid income and excess-profits taxes before it began paying dividends. Had it not paid them it could pay her \$5,000. It had to pay a 32 per cent tax before it paid her anything.

Mr. SLOAN. It necessarily follows that in a business like that everything is taken care of for her; there is no particular responsibility like in this other business; no particular risk of her own. Why shouldn't a larger concern like that be burdened a little more than one which is more hazardous?

Mr. BLAIR. I think there is some virtue in that, but I don't think to that extent; I don't really think to that extent.

Mr. LONGWORTH. How do your companies come out on the war-profits tax? You would be hit worse.

Mr. BLAIR. Oh, no; I couldn't say, because we are not making the profits we did make. Our prewar profits were higher than they are now.

Mr. STERLING. In your illustration, why do you say she would get the full \$5,000?

Mr. BLAIR. There is an exemption.

Mr. STERLING. If she is a single woman she has an exemption of \$1,000.

Mr. BLAIR. I was assuming that she had some children; that she was the head of a family, and that she has an exemption of \$2,000. No; there is an exemption of \$6,000 on that. The man who does a business in a small store has an exemption of \$6,000; the man who conducts a small store and is individually in business has an exemption of \$6,000.

Mr. MOORE. Section 209?

Mr. BLAIR. No; section 209 is nominal capital.

Mr. STERLING. You said she would get it clear of all taxes?

Mr. BLAIR. I mean excess-profits taxes. I was talking about excess profits. No; section 209 is nominal capital.

I will continue with this if there is no objection. The manufacturers of proprietary medicines have expended large sums in advertising to give real value to their property; therefore it can not be said that the value of their property depends on something unearned. This value is not an unearned increment but represents actual money invested, although not within the definition of invested capital found in the present revenue bill.

The value of a proprietary medicine concern is largely represented by its trade-mark and good will.

Now, I know of a case where \$1,000,000 was offered for a business without anything except what could be carried in a grip; that meant the trade-mark, formulas, and good will.

This trade-mark and good will is property which has a real value, which passes by purchase, is transmissible under a general assignment for the benefit of creditors, and may be administered as a part of a decedent's estate. Why should it not be considered as well as any other class of property in determining the amount of invested capital?

Under the present revenue law not only is this value excluded in determining the deduction, but it is in the nature of a penalty imposed upon the manufacturer who is conservatively capitalized and who has built up his business, and places him in an unfair and inequitable position with respect to his competitor, who has purchased the property outright for its value.

We do not ask a decrease in the amount of taxes which have been imposed upon us. All we ask is that in the rewriting of the revenue bill the taxes shall be imposed upon an equal basis. That in determining the amount of excess profits which is to be taken by the Government by way of revenue, that all manufacturers shall be treated alike. Reference to the records of the Bureau of Internal Revenue will give you full and complete information as to the amount of our

earnings. If for the conduct of the war it is necessary to take our earnings, take from us as from others, and we will have no complaint. We ask only that you shall impose a tax upon us that is imposed upon other industries and that the tax imposed upon our industry shall fall with equal burden upon all engaged in the industry.

In this behalf your attention is called to the fact that the Congress, in the revenue law of 1917, realized that the hard and fast rules already laid down were apt to work inequalities and for that reason provided in section 210 a partial means of relief. The advisory committee appointed to assist the Treasury Department in the administration of the income and excess profits titles, so far as they were able, tried to grant relief to the owners of franchises and trademarks. It was pointed out by them, however, that they had gone as far as they could in the matter and they suggested that the only way in which proper relief could be obtained would be through amendments to the titles by Congress.

It has been stated that it would be extremely difficult to determine the actual value of capital invested. We respectfully suggest that to obtain this basis is not at all difficult. On September 8, 1916, an act of the Congress of the United States was approved which contained, among other things, a provision for the assessment of a tax equivalent to the fair value of its capital stock and in estimating the value of its capital stock the surplus and undivided profits should be included. Under the provisions of this act, the Bureau of Internal Revenue have devised a system of imposing taxes whereby the actual value of the property has been as nearly arrived at as can be. Where the capital stock has been of less value than its face the corporation has been billed for the real value.

They have said that the medicine business should be valued on 10 times the investment and have fixed our capital stock on that basis. If we made \$100,000 they said our business was worth \$1,000,000.

Mr. STERLING. I don't understand you.

Mr. BLAIR. Well, the capital stock tax of 50 cents on each \$1,000; it is on that basis.

Mr. STERLING. It should be valued at 10 times what it is earning?

Mr. BLAIR. Suppose I have a capital of \$1,000,000 and make \$100,000, I put in my capital stock tax for \$1,000,000. I will get a bill for that, and I will have to pay on that basis. I have to pay tax on 10 times what I earn.

Mr. STERLING. You will get that much more exemption.

Mr. BLAIR. No, I wish I could; but they have said that this tax is based on a sales value; this tax is based annually on 10 times the amount invested. We will be glad to pay any time the amount we have been assessed for capital stock. That very man whom I gave as an illustration a minute ago who had an investment under this bill of \$200,000 was assessed \$4,000,000 on that for his capital stock—something in the neighborhood of \$4,000,000 for his capital stock.

Mr. STERLING. Let me see; he wasn't assessed at all on his capital stock; there isn't any law in the United States that would assess him on his capital stock. Why don't you say what you mean? He was assessed on his income, if anything.

Mr. BLAIR. I beg your pardon; he was assessed on the capital stock. The Federal capital stock law, I think it is called.

Mr. SLOAN. On the corporation; not the man.

Mr. BLAIR. Well, I used the term "man"; I meant the firm or corporation. Section 401.

Mr. STERLING. Fifty cents on the \$1,000?

Mr. BLAIR. Fifty cents on the \$1,000.

Mr. STERLING. That is so small; we have paid no attention to that. Are you complaining of that?

Mr. BLAIR. Oh, no; but I am saying that the machinery is already in the Treasury Department for determining the value of it. Where the corporation has been conservatively capitalized, the corporation has been billed for the actual value irrespective of the outstanding capital issued and in determining this value they have taken into consideration the value of trade-marks and good will. So that the Treasury Department has already the machinery with which to arrive at the actual value of the capital of a corporation and if the definition of invested capital should be rewritten, we submit that it can be arrived at in the same manner as the actual value of capital stock is determined under the provisions of section 401 of the act of 1916.

But we, the manufacturers of proprietary medicines, are not asking that you shall set aside your present definition but are perfectly willing that you shall proceed upon the basis of capital invested irrespective of the actual value of the property, but we ask that in determining this actual investment you shall give credit to us for the amounts of money which we have expended for constructive purposes. I have made a careful survey of this matter and think I can state to you with a reasonable degree of accuracy that the money which is expended for advertising can be approximately divided into two classes, two-thirds of this money being expended for sales expense and one-third for constructive purposes. That is to say, that one-third of the money which has been expended for advertising goes directly into the value or cost of purchasing the value with as great a degree of certainty as money which would be expended upon a building which would be erected upon a vacant lot and, therefore, we respectfully ask that if the definition of invested capital shall remain there shall be such modifications that the manufacturers of trade-mark goods shall be permitted to include, under such rules and regulations as may be published for the enforcement of the act, that part of the money which has been permanently and constructively invested in trade-marks and to receive the benefit thereof in arriving at the basis for the computation of the amount of taxes to be imposed upon our income.

Mr. GREEN. Right there; does the department hold that the cost of advertising goes entirely into the sales expense and that they will not deduct it?

Mr. BLAIR. Yes; and we have so charged it all our life; we have always so charged it.

Mr. MOORE. That is a large part of your good will? Advertising is a large part of your good will?

Mr. BLAIR. You mean advertising creates good will; you have the formula, and you have the brand and trade-mark, and with your advertising you create the good will. The trade-mark and the formula is useless without the good will. You might have a satisfactory name because it is catchy and means something, but it means almost

nothing until you put the advertising upon it and create the good will.

Of course, the Secretary of the Treasury must be satisfied, just as under the present law the Secretary of the Treasury must be satisfied, by proper evidence of the amount of capital necessarily retained or used in the business for the purpose of determining the point at which 10 per cent will be imposed on undivided profits.

Permit me at this time to show you that the manufacturers of medicines are now paying and, under any system of taxation, will pay a larger revenue than any other group of manufacturers. Alcohol is a necessary and essential ingredient in all medicines, either for the purpose of extraction, solution, or preservation, and we are compelled to pay a direct tax upon alcohol, which at present is approximately ten times the cost of the ingredient itself. In addition to this we pay a gross sales tax.

Permit me to say right here, that it is now and always has been my view that a necessity such as medicine ought not to be made the subject of special taxation. That there exists in my judgment no real excuse for the imposition of a tax of that kind. The suggestion of the President was that luxuries bear the burden—our products are in no respect luxuries.

If it be the judgment of this committee that a tax of this character should be retained, I have to respectfully submit for your consideration the proposition that a larger revenue will be produced if this tax instead of being in the nature of a gross sales tax shall be collected by a tax assessed upon the sale of the products to the consumer, based on the retail price, and paid by the consumer.

If you substitute a 4 per cent tax at the time of the retail sale, the consumer to pay it at the time of the purchase, the revenues which the Government will obtain from the sale of these proprietary articles will be largely increased. The amount which the consumer pays will be only equal to the tax imposed and not a larger amount, which may result from the manufacturer passing it on to the jobber and the jobber to the retailer, and there will be less trade irritation.

We do not suggest a reduction of the excess-profits tax, but that they be laid in a more equitable manner.

While still adhering to my view that excise taxes should not be imposed upon medicines, we have indicated a substitute provision which will produce more revenue if the committee in its wisdom find it necessary to retain such taxes.

Mr. MOORE. There is a real practical suggestion. How would you put your suggestion into effect? By a stamp tax, or by collecting at the drug store?

Mr. BLAIR. Collecting at the drug store. And I call Mr. Longworth's attention to the fact that I have suggested a larger tax on the retailed goods than we have been paying; that is because a unit of sale must have a unit of tax if it is to be paid by the consumer at the time of the sale. Now, we can't collect in that way a 2 per cent tax on a 25-cent sale, but we can collect a 4-cent stamp or sale tax. I believe there are many reasons why it should be done. One of the principal reasons is that it will bring the tax closer to the people, and will be the means of distributing it more.

Mr. MOORE. What is the retail price of your commodity?

Mr. BLAIR. Usually 25 and 50 cents and \$1.



Mr. MOORE. It is pulmonary medicines?

Mr. BLAIR. It is Foley's Honey and Tar. It is not a pulmonary medicine, but a cough medicine; it is one of the oldest cough sirups in the country.

Mr. MOORE. And retails for 25 cents, and 50 cents, and \$1?

Mr. BLAIR. Yes, sir.

Mr. LONGWORTH. You sell direct to the retailer and to the jobber. If you sell to the jobber, you raise the price to the jobber.

Mr. BLAIR. We have not raised our price either to the jobber or to the retailer, as a matter of fact. And I have two chief competitors, and neither one of them have raised their price. The price to the consumer must in almost every instance be raised by the manufacturer, because it is a marked price. If the manufacturer makes it to sell for 25 cents, and 50 cents, and \$1, and marks it 25 cents, and 50 cents, and \$1, the consumer is not going to go into the drug store and pay the retailer 26 cents, or 54 cents, or \$1.20. He sees the price marked on there, and he is not going to pay more than that price, so if the price is to be raised it must in almost every instance be raised by the manufacturer.

Mr. MOORE. Suppose we levied a tax of 2 cents on a 25-cent bottle, and 4 cents on a 50-cent bottle, and 8 cents on a \$1 bottle, using that for illustrating purposes; would you collect that money by putting a stamp of 2 cents, and 4 cents, and 8 cents on the bottle?

Mr. BLAIR. I would sell the stamps to the dealer, the Government sell the stamps to the dealer, and when the dealer sells this article for 25 cents he will sell a 1-cent or 2-cent war-tax stamp, just as to-day the moving-picture man sells his tax, or collects the tax, and the other various taxes are collected.

Mr. MOORE. That would be the same as to say that a 25-cent bottle is 26 cents?

Mr. BLAIR. No; I think it should be said that it is 25 cents and 1 cent war tax, and in that way I think it would bring home the war to some people who do not know it yet.

Mr. MOORE. Like the moving-picture theater?

Mr. BLAIR. Yes; I think, also, it will reach some who have not yet paid any tax.

Mr. MOORE. You are at the head of the national association of proprietary medicine men, are you not?

Mr. BLAIR. Yes, sir.

Mr. MOORE. Have you made any calculations as to the returns that might be expected from levying a tax on the article in the manner indicated?

Mr. BLAIR. The last census we had gave our manufacturers price at \$172,000,000; the retail price if 50 per cent higher; that would be \$258,000,000.

Mr. MOORE. Now, divide that into units—

Mr. BLAIR (interrupting). No; we are imposing 4 per cent on my plant; so all we need to do is to take it in dollars.

Mr. MOORE. I didn't quite get your plan, because we have to double our revenue.

Mr. SLOAN. It is 4 per cent on any bottle?

Mr. BLAIR. It is 4 per cent on any sized bottle. Let me see [figuring]. That is too much money. That is \$10,320,000.

Mr. MOORE. That is the way you figure it out?

Mr. BLAIR. Now, gentlemen, let us not misunderstand each other; that was the last census; the business to-day is not that.

Mr. MOORE. Would the business warrant that?

Mr. BLAIR. Mr. Moore, it will reduce the business. Our business is already reduced and will be further reduced for many reasons; we have much higher costs, and our prices have not advanced.

Mr. MOORE. Have you any figures on what we could get out of the proprietary medicines?

Mr. BLAIR. I have tried to get them at the department, but they tell me that has not yet been segregated.

Mr. MOORE. Would it approach that figure you gave?

Mr. BLAIR. No; it can't be more than \$3,500,000; it is less than that.

Mr. MOORE. Your plan would double it.

Mr. BLAIR. I don't think it can be doubled, Mr. Moore.

Mr. MOORE. I want to ask you just what your position is with the national association of which you speak, and which you represent?

Mr. BLAIR. I am president of the association.

Mr. MOORE. And what is the real title of the association?

Mr. BLAIR. The Proprietary Association.

Mr. MOORE. That is the full title?

Mr. BLAIR. Yes, sir; it is a national association of the manufacturers of proprietary medicines, and we only number about 210 out of about 1,500 who are distributors, I call them, wholesale distributors of proprietary medicines; yet in volume we represent about 85 per cent, and perhaps more.

Mr. MOORE. I wanted the record fairly to show that you represent them.

Mr. BLAIR. Yes, sir.

Mr. MOORE. Have you conferred on this question?

Mr. BLAIR. Yes, sir; we have conferred on it. As I said in my paper and have said here before you, we do not feel that a tax on medicine is just the right thing. If, however, this committee feels that they must tax potatoes and meat and bread, then medicines must be taxed also. If they must tax flour, then I think the exigencies are such that they should tax medicines. But I want you to know that medicines are just as necessary as food. The missionary will go into a foreign country with his medicine sack, but he will depend on the country for the food. The medicine is often very much more necessary than food. When the country was new and the people had to depend on the roots and leaves and herbs, the first man to bring the medicines from one place to another was the man who knew how to make medicines from the roots and herbs, and the food was secured by the people by their own efforts. We feel, therefore, that a tax on medicines is not just the proper thing.

Mr. MOORE. You must not think that it is a matter of desire with us; but it is a matter of necessity.

Mr. BLAIR. I am not objecting to the taxation.

Mr. COLLIER. You suggest that we put a stamp on these medicines and you collect from the retailer and the retailer from the consumer?

Mr. BLAIR. No.

Mr. COLLIER. That is what I want to get.

Mr. BLAIR. The revenue man will sell to the retailer in drugs, and at the time you buy a bottle of Foley's Honey and Tar he puts a 1 cent war-tax stamp and the customer pays for it.

Mr. COLLIER. I understood you to say you would put it on?

Mr. BLAIR. No.

Mr. MOORE. Why put the retailer to that trouble?

Mr. BLAIR. I expect maybe I am getting into trouble with the retailer, but I can't help it; I judge you need the money.

Mr. SLOAN. Would this plan leave you any money?

Mr. BLAIR. I think not. Speaking for myself, we are paying it, but the industry generally is not.

Mr. SLOAN. The plan is to increase the tax, but pass it to the consumer.

Mr. BLAIR. It is going there, anyway. My method is to get the most money with the least irritation, and the consumer will pay a war tax and know he is paying a war tax and paying nothing else. You can't pass a tax without its being passed on, anyway.

Mr. SLOAN. This is a method that facilitates letting George pay it?

Mr. BLAIR. Yes, sir.

Mr. LONGWORTH. It is a consumption tax?

Mr. BLAIR. Yes, sir.

Mr. HAWLEY. During the Spanish-American War there was a stamp tax put on proprietary medicines?

Mr. BLAIR. Yes, sir.

Mr. HAWLEY. In the administration or operation of that law did you find any difficulty arising in the retail trade?

Mr. BLAIR. That was not a tax such as I have suggested. That was a tax that was mostly a manufacturer's tax. We put the stamps on.

Mr. HAWLEY. And it was not added to the price?

Mr. BLAIR. Yes; it was.

Mr. HAWLEY. It practically reached the same result?

Mr. BLAIR. Yes; it reached the same result.

Mr. HAWLEY. In the administration of that, so far as your business was concerned, did it create any difficulty?

Mr. BLAIR. It created this difficulty, it raised the price. I didn't understand your question. I understood you to mean, did the retailer object? At that time he did not object. But now you are wanting so much money that it must become a straight consumption tax. I have nothing more to say, unless some one wants to ask me some more questions.

Mr. RAINEY (presiding). If you want to add anything, just write it out and hand it in for the record.

Mr. BLAIR. Thank you.

**STATEMENT BY MR. JOSEPH J. KLEIN, A MEMBER OF THE FIRM OF KLEIN, HINDS & FINKE, CERTIFIED PUBLIC ACCOUNTANTS, 1182 BROADWAY, NEW YORK CITY.**

Mr. KLEIN. My name is Joseph J. Klein; I am a member of the firm of Klein, Hinds & Finke, certified public accountants. During the last year for a time I had the honor to act for a time as the tax editor of the New York Globe, and about two weeks ago the editor of the Globe did me the honor to ask me to appear before your committee

and say some things which I had in mind generally on the tax question. I accepted that retainer. The day after the Globe made the announcement that I would appear here, some other associations, not my clients, asked me to represent them here; there were many such requests. I took their requests under advisement, and two or three days ago I informed the Globe that I thought it best not to act under a retainer here but to appear as a private citizen, and it is as a private citizen that I appear here before you gentlemen; and I trust that some of my experiences may prove interesting and helpful to you, who are experts in this work.

I meant to speak of a number of things in the existing law, and make some suggestions about that. But as I have been listening here to-day I have discovered that the thing your committee seems to be most interested in is as to where you can raise the money necessary for the financing of this war, and I have a few proposals to make as to sources of revenue.

First of all, you know that telephone messages, when the price is above 50 cents, has a tax of 5 cents. I took the trouble to look up the statistics on telephone calls and I find that there are probably 20,000,000,000 calls sent every year. If you allow—and I am estimating now—but if you allow one-fourth of these calls to represent toll calls and unlimited service, you have 15,000,000,000 at 1 cent per call will raise \$150,000,000 without an undue burden upon the business community or private individual; that is up to the 10 cent calls, because the 15-cent calls are already taxed.

I notice in the law itself that all legal documents; that is a number of legal documents are subject to a tax. I find leases and contracts not enumerated in that list. So I suggest a flat tax of 10 cents on each such document. In the Civil War all legal documents not specifically taxed otherwise were taxed 10 cents. I can't estimate the amount collectible under such an arrangement.

Mr. SLOAN. Would you think to include in that estimate court filings?

Mr. KLEIN. I had in mind all court orders, but I consulted some attorney, and he told me that it would be difficult. I will leave that to the discretion of the attorneys on the committee; I am not an attorney myself.

Mr. SLOAN. I think it would be very difficult to work that out.

Mr. KLEIN. Perhaps so. I leave that to your discretion.

Now, here comes a radical one, if I may. I have estimated that in the City of New York alone there are 500,000 mercantile invoices written per day; that is, in Greater New York. If that is true, on a basis of 1 to 10 proposition—it would probably show 1 to 4, but on the basis of 1 to 10, by stamp taxing each commercial invoice—and I am not talking of the 5 and 10 cent purchases at the grocery store, or the neighborhood store, but invoices as it is commonly understood, I estimate that \$50,000,000 will be raised.

Mr. SLOAN. That means wholesale and jobbing?

Mr. KLEIN. Wholesale, jobbing, manufacturing, and retailing. Any certain lines where invoices are commercially made.

Mr. COLLIER. And that wouldn't mean where you go into the store and make your purchase and take it away?

Mr. KLEIN. I have it in mind that wherever a purchase was made up to a dollar. I think it would have to be limited. These are the

ordinary invoices, because in the neighborhood stores the giving of invoices is exceptional, and only for the purpose of checking up on the clerk, or something of that kind.

Mr. LONGWORTH. What did you say about the telephone calls?

Mr. KLEIN. Fifteen billion. The total number of calls 20,000,000,000. I will give you that estimate if you are interested in it. The statistical abstract for 1912 shows that for 1912 there was an estimate of 13,735,658,245 calls; and for 1907, five years prior thereto, 10,400,000,000, an increase of almost 4,000,000,000 in 5 years. I have assumed that the increase from 1912 to 1918, a period of 6 years, to be at the rate of 1,000,000,000 calls a year, a slightly greater increase than the period of from 1907 to 1912; that would give us 20,000,000,000 message in 1918. Assuming 25 per cent of them to represent messages already taxed, unlimited services messages which are hard to keep track of, I estimate 15,000,000,000 to represent the number of 5 and 10-cent limited calls, at 1 cent each, would give us \$150,000,000 in revenue.

Mr. STERLING. That doesn't mean the calls from one subscriber to another.

Mr. KLEIN. You can't estimate that.

Mr. STERLING. I don't know what you mean by the invoices you speak of.

Mr. KLEIN. When I buy a bill of goods, say at my bookstore, and have a statement sent; it is customary to give me a statement.

Mr. STERLING. A statement of each individual purchase?

Mr. KLEIN. Yes; that is exactly it, I have taken into consideration the time consumed in doing this work. The time consumed in stamping these invoices is negligible in comparison with the time it takes to write it and prepare it.

Mr. COLLIER. Don't you think in ordinary business they would quit using the invoices to avoid paying the tax?

Mr. KLEIN. I have in mind, of course, business requiring invoices, involving the process of charging to the account, and so on, and a daily footing, and so on.

Mr. MOORE. Your estimate of revenue from invoices is \$15,000,000 per annum in New York?

Mr. KLEIN. No; on the basis of the entire country I gave. I took a one to ten ratio, Mr. Moore.

Mr. MOORE. You said there were 500,000 issued in New York alone?

Mr. KLEIN. Five million. Did I say 500,000?

Mr. MOORE. Five hundred thousand.

Mr. KLEIN. Five million in New York per day.

Mr. MOORE. Your estimate for the country was that they would get \$15,000,000?

Mr. KLEIN. Yes, sir. Incidentally I have taken up some of these figures with a statistician in whose knowledge I have great confidence, but inasmuch as some of these estimates would not be fair I think it better not to spread his name on the record, but I will give it if you request it.

Now, I come to another source of taxation. Checks. Of course, even in our own brief period of the Spanish War the check was subject to a stamp tax of 2 cents. Proposal has been made here, if I judge correctly by the press, that checks be taxed on an amount

graduated according to the amount of the check. That would be a nuisance.

Mr. GREEN. That proposal was made on the floor of the House.

Mr. KLEIN. I meant to speak later on of whether the request for \$8,000,000,000 was justified or not. But I am assuming that it is correct and that you will levy that if you can.

Mr. MOORE. That amount has been asked for.

Mr. KLEIN. I know that has been asked for. But I have some figures regarding the expenses of the armies in this war, and I don't see how it is possible that it will be spent. But that is the basis, and we will assume that is the amount.

Mr. STERLING. How much would the checks produce?

Mr. KLEIN. I have the figures in front of me now. Here is first how I determined the number of checks. The 1916 clearings give \$241,400,000,000; of course many of these items will be large transfers and bank balances. Someone to-day in testifying I think quoted \$312,000,000,000 as representing the 1912 clearings. I don't know where he got them; I thought these were the latest.

Mr. SLOAN. That is the business of the entire country?

Mr. KLEIN. No; the clearings only. Every one understands, of course, that a number of checks never reach the clearing houses; the Corn Exchange National Bank, in New York, for instance, has its own branches—some twenty branches in New York, and it clears through its own branches.

Mr. SLOAN. Now, in estimating as to the checks that go through the clearing houses, as to the number and amount; some checks go through the country and never reach the clearing house?

Mr. KLEIN. I should say this, that most checks, except in the smaller communities, reach the clearing houses. Checks that might be called neighborhood checks would never reach the clearing houses. I am basing my estimate only on the checks that would go through the clearing houses. The actual proportion would be greater, but I have assumed an increase of only 10 per cent for 1917, so my figures are probably low, an increase of \$265,000,000,000, so we have in the neighborhood of \$289,000,000,000, at 2 cents per \$100 check. Now, the difficulty there, gentlemen, lies in finding the number of checks that are cleared. I have tried to estimate the number, and so when in the clearing house on my visits I have tried to estimate the number, but it is almost impossible to do. I have called up some banks I have access to and they can't estimate the number of checks they handle; they know that some days they send down 5,000 and some days 2,000 and some days 10,000. I have assumed the average check to be \$100. I believe that might be low, because some of them passing through the clearing houses in the large cities might reach \$1,000,000.

Mr. STERLING. It wouldn't make any difference what the size of the check is?

Mr. KLEIN. It would on the flat tax I am estimating under. I will give you the figures on both 2 cents and 3 cents per check. The estimate is from \$30,000,000 to \$45,000,000 per year for the checks that are cleared only. On a flat basis of 2 cents per \$100 the income I estimate should be \$70,000,000; that is a tax of 2 cents per \$100.

Mr. STERLING. One gentleman gave the clearing house transactions of last year as \$320,000,000,000.

Mr. KLEIN. That is what I had in mind. I estimated the 1917 and 1918 increases. I have the 1916 increases only; these are the latest I could get. I shouldn't be surprised if \$320,000,000,000 is nearer correct than the \$290,000,000,000 I am employing.

Mr. GREEN. Speaking of the tax imposed after the Spanish War; that brought in about \$9,000,000.

Mr. KLEIN. Professor Kenney, of one of the mid-Western universities, I believe of the Missouri University, or somewhere out there, estimated that 98 to 99 per cent of all business transactions are settled by check, and through the medium of checks, so that will give you some idea on the subject.

Mr. GREEN. This business has not only increased, but the checks have increased in size.

Mr. KLEIN. In my town some of the neighborhood banks are featuring in their advertising the opening of accounts for household accounts, and the payment of bills for household expenses by checks, and this has increased the checking business very much.

Mr. SLOAN. Have you thought that a tax on checks would encourage the payment of bills by currency, or otherwise than by check?

Mr. KLEIN. Yes; last night while I was waiting for the train I discussed that with the gentleman I had in mind before, and we couldn't see how in amounts over \$5 it would make any difference at all. In modern business a check returned has come to be regarded as a receipt; you give a man a check, and you want the check indorsed by him. I think you will find it will not play an appreciable part, except in the handling of household accounts, or household funds.

Mr. GREEN. Do you think checks under \$5 should be exempted?

Mr. KLEIN. I don't think it is necessary to exempt them; it will probably amount to an exemption in small amounts. You will find that the business will adjust itself to it, and will not object to stamping the checks.

I promised not to keep you more than 15 minutes. I meant this morning to tell you where the law is all wrong, but since sitting here to-day and listening to these statements and problems of the committee being discussed, I want to tell you how I think you can raise some revenue. I want to help you iron out some of these difficulties and troubles.

Mr. RAINEY. You are the only man who has given us these practical suggestions. We want to hear you.

Mr. KLEIN. Thank you. Now, here is where the constituents at home will kick, but the amount that can be raised in this way is so large, I think, that it will bear serious consideration. The amount involved is at least \$120,000,000. If you were to arrange—these are such small things individually, but they amount to so much. If you would raise the street car fare, and if you were to get a 6-cent car fare instead of 5, but to make sure that the extra cent, the increase, would go to the Government, it would mean \$120,000,000 on that basis.

Mr. COLLIER. We would be willing to pay more than that in this town if we could get a seat. You are from New York, where you don't have the troubles we have.

Mr. KLEIN. I suppose you will pay, too; because it goes to the Government. I have been in Washington here a good deal, as an assistant on the Council of National Defense, as one of the \$1 a year men, and I know the conditions here also.

Now, I have estimated that there will be one member of each family, and I assume here that the census proportion of five members per family is correct; therefore, there are 20,000,000 families in the United States, and I assume that there will be one ride per family per day, or 20,000,000 of rides per day, one way; that is, I mean there will be one ride going and one ride coming back, therefore there will be 40,000,000 rides per day, at 1 cent per ride it would amount to \$400,000 per day; assuming that there will be three days a week of that, and the balance of the time the car system is broken down, or something, and you will have an enormous sum, amounting to approximately \$120,000,000. I see some difficulties about the collection of this, but not so much in the larger towns as in the smaller ones, where the fares are for the 15 and 20 cent distances.

Mr. STERLING. Do you think that two fares per day for every family is a proper estimate?

Mr. KLEIN. Oh, yes; in New York it is more than twice that.

Mr. STERLING. Some families do not ride on a car in a year.

Mr. KLEIN. In New York we figured out that there were six rides a day, seven days a week; I am only taking three days a week for one member of the family.

Mr. STERLING. But so many families don't ride at all.

Mr. KLEIN. Yes, of course; but in the cities there are so many that ride so much. I think it will average up.

Mr. STERLING. In New York you can get the figures.

Mr. KLEIN. Yes; the calculation has been made that if the Interborough Co. in Greater New York were to be permitted to raise its rate 1 cent per fare the increase would be in the neighborhood of \$100,000,000 in revenue.

Mr. STERLING. In New York City?

Mr. KLEIN. In New York City. And it seems to me that a tax on the fare, though a small amount, will raise a large amount of revenue. And mind you, gentlemen, in all these tax impositions I have this thought in mind: Unfortunately when you assess a tax against the manufacturer, the trader, or the jobber he will pass it on to the consumer. The excess-profits tax was surprise legislation; you caught them unprepared for it. You can't avoid the transfer of the tax to the consumer, but I do object to it, and in this I think we sympathize. I object to having you create a partnership between yourself and business, so that on the imposition of the tax when it is paid by the consumer, a part of it goes to the Government and a part to the business; like so many manufacturers, who collect the tax and keep a part of it themselves and pay the balance to the Government. I can illustrate that by the cigarette business. The company collects and pays a part of what it collects to the Government, but it also keeps a large part for itself. The tax ought to all go to the Government.

Mr. GREEN. Do you think any Government ever succeeded in doing that?

Mr. KLEIN. No, sir; but with all due deference to you gentlemen here—I do not mean to be facetious at all—I think you have done very well; you have collected more than you expected to collect. And I think in the future, allowing for some leaks, the people will be with you. They realize that it is necessary.

Mr. MOORE. Mr. Klein, I didn't quite understand how you would impose this trolley car tax.



Mr. KLEIN. In two ways, Mr. Moore—

Mr. MOORE (interrupting). In your city the car fare is 5 cents?

Mr. KLEIN. Yes, sir.

Mr. MOORE. In my city it is 5 cents.

Mr. KLEIN. Yes, sir.

Mr. MOORE. Here it is six tickets for a quarter.

Mr. KLEIN. Yes, sir.

Mr. MOORE. In Cleveland it is 3 cents; most of the cities that have a 5-cent fare are now struggling for a raise for the benefit of the company.

Mr. KLEIN. Yes.

Mr. MOORE. We had a traction man before us the other day and we suggested this to him, and he thought that this was their preserve and the Government ought to keep off. If it was necessary to do that how would you impose the tax?

Mr. KLEIN. It makes it more difficult, the fact that the companies are hard pressed. I realize that the traction people have been up against it very badly. The impost of a cent in favor of the company would not be possible; to add a cent for the benefit of the Government would make it difficult, but in my opinion not impossible. I had in mind in connection with the elevated suburban system in my town an additional ticket would be sold. These penny tickets—as, for example, some of the entertainments around New York—one portion of the ticket is the ordinary ticket, the ordinary box-office receipt, and the detachment thereof represents the war tax. For example, at the race track, which ought not to be mentioned here, that is the procedure followed.

Mr. MOORE. We did impost a tax on railroad fares and Pullman fares; but there is no tax on trolley fares. There are a great number of riders. In Washington they issue these six tickets for a quarter, and it might be very difficult of administration.

Mr. KLEIN. I don't think so. For example, I had this thought, that for every fare collected or ticket sold collect an additional cent per fare, and after a while these tickets will become 6-cent tickets; that is, instead of six for a quarter they will be six for 30 cents, the company turning in to the Government monthly the amount collected, just as the theaters do now, they turn in the amount collected.

Mr. MOORE. Whatever the fare is, your would add 1 cent?

Mr. KLEIN. Yes, sir. Now, I come to the next topic, and here I was surprised at the possibilities involved. The tuition fees for private schools. I would not go to the technical schools or to the universities or colleges; but I would collect from 10 to 25 per cent on the tuition fees for other private schools. If a mother insists upon sending her child to a private school and paying tuition fees, if she insists upon paying \$500 in tuition fees when, in my opinion, she can get a better education in the public schools, the mother ought to pay to the Government from 25 to 50 per cent of the amount of that tuition.

Mr. HAWLEY. Would you place that upon the college and university also?

Mr. KLEIN. No, sir. For the private school you have more than a substitute; for the college and university you have not. I have an estimate here on the number of pupils in these private schools.

Mr. MOORE. What do you figure could be raised?

Mr. KLEIN. I did not venture to predict that, Mr. Moore. I will give you the number of pupils, the 1915 figures, for private schools: High schools and academies, 155,000; kindergartens, 80,000. I would hesitate about levying a tax there. Private business schools, 180,000. I would also hesitate about levying a tax there, because in many communities there is no opportunity to secure a commercial education in the public-school system.

Mr. GREEN. How many dollars?

Mr. KLEIN. I don't know how many dollars. Put it this way: 155,000 pupils in high schools and academies—

Mr. MOORE (interrupting). You would have to make that a head tax.

Mr. KLEIN. Possibly.

Mr. STERLING. I thought you would exempt high schools. You couldn't tax high schools.

Mr. KLEIN. I am speaking of private high schools. The high-school pupils in the public schools is away up in the millions.

I have two other suggestions. I know to the one especially there is a great deal of objection. The lawyers have been trying to expound it on constitutional grounds, and say it could not be done. In my own State we have judges on the supreme court bench, not many of them, but some, with salaries of \$17,500 a year. Why should they be exempt from paying a tax, unless there is some constitutional ground for it?

Mr. GREEN. They can only be taxed, if at all, under the last tax. I think when Mr. Hughes was governor of New York State he objected to the income-tax amendment allowing the taxing of such salaries on the ground that it permitted the Government to tax agents of the State.

Mr. KLEIN. I do not pose as a constitutional lawyer, and yet I have made some little study of it, and I don't think such an objection could apply to the municipal employees. There is no sovereign right of the State involved there, and all that sort of thing.

Mr. GREEN. I think it has been held that we can't tax municipal bonds; that may not be a parallel case.

Mr. KLEIN. May I venture to suggest that if these things can't be taxed in the general bill that they might be taxed as an emergency war tax, an emergency war measure?

Mr. GREEN. I might say that Mr. Crisp, a member of the committee, has a bill before the committee now to impose a tax on State officers, the same as on other officers. His idea was to put it in a separate bill and not endanger the whole law if it should be held unconstitutional.

Mr. KLEIN. May I not suggest that you put a provision in your bill that if one section is held to be unconstitutional, no other section shall be affected by it?

Here I come to a matter which I think is capable of taxation and which would yield large returns to the Government. Some of the largest employers in this country have called me in to consult with them on the filling out of Form 1099, the salaries paid to individuals in excess of \$800. That has caused a great deal of difficulty. Judging from the wage scale, which is a rapidly rising one, that it would earn much money if everyone, John Jones and Tom Smith, were each to contribute something to the war-tax fund. There is no way now of getting hold of that. I felt that by arranging for the

collection at the source of salaries and wages and income, on all incomes of \$20 a week would be a practicable method, and on all over that—that is something I am coming to in a moment—to suggest as a substitute for the excess-profits tax in toto. On a graduated scale of taxation, to avoid the endless complications involved, you would by collecting at the source do two things: First, you would now get the tax from an undoubtedly large number of individual taxpayers who now escape, due in some cases to ignorance and failure to report; and, secondly, you would do what was done by the former controller in my town—arranged to save the town several millions in interest. By arranging this you might avoid the necessity of issuing short-time certificates and the saving of interest; and I believe in taxation, as in other matters, that the saving of a dollar is equivalent to the raising of a dollar.

Mr. MOORE. Do you think these returns as now provided for would help to trace the income taxpayer who would otherwise escape?

Mr. KLEIN. Yes, sir; I do. The employer would be required to report for him.

Mr. MOORE. In other words, a man who ought to pay on an income and who gets away and makes no report can be readily traced by the employer's report?

Mr. KLEIN. But you might find that this would be almost impossible. John Jones owes me \$10, but I can't afford to trace him and collect it.

Mr. MOORE. Your thought is, then, that instead of this involved system of individual wage accounts we should levy a tax on the volume of wages paid?

Mr. KLEIN. That is substantially the thought I had in mind. I have a table here which I will distribute to the committee. I have arranged an alternative scale there, as you will see, on wages paid from \$20 to \$40 per week, and on increments of \$10 per week, in column 1, and on incomes from \$20 per week up on increments of \$20 per week, in column 2. I will leave that scale, with your permission.

Mr. RAINEY (presiding). It may be filed for the record.  
(The schedule referred to is as follows:)

EXHIBIT A.

*Table of weekly salary and wage tax levies.*

[Submitted by Dr. Joseph J. Klein, C. P. A., of Klein, Hinds & Finks, New York City.]

Column 1, on basis of:

- (a) Exemption, \$20 per week.
- (b) 5 per cent on \$21 to \$30 per week, inclusive.
- (c) 10 per cent on \$31 to \$40 per week, inclusive.
- (d) 15 per cent on \$41 to \$50 per week, inclusive.
- (e) 20 per cent on \$51 to \$60 per week, inclusive.
- (f) 33½ per cent on \$61 and upward per week, inclusive.  
(No levies on fractional parts of a dollar.)

Column 2, on basis of:

- (a) Exemption, \$20 per week.
- (b) 5 per cent on \$21 to \$40 per week, inclusive.
- (c) 7 per cent on \$41 to \$60 per week, inclusive.
- (d) 9 per cent on \$61 to \$80 per week, inclusive.
- (e) 11 per cent on \$81 to \$100 per week, inclusive.
- (f) And so on, by increments of 2 per cent on each \$20 group.  
(No levies on fractional parts of a dollar.)

Weekly earnings.	Amount subject to tax.	Column 1.	Column 2.	Weekly earnings.	Amount subject to tax.	Column 1.	Column 2.
		Tax at each level.	Tax at each level.			Tax at each level.	Tax at each level.
\$21.00.....	\$1.00	\$0.05	\$0.05	\$80.00.....	\$40.00	\$5.00	\$2.40
\$22.00.....	2.00	.10	.10	\$81.00.....	41.00	5.33	2.49
\$23.00.....	3.00	.15	.15	\$82.00.....	42.00	5.67	2.58
\$24.00.....	4.00	.20	.20	\$83.00.....	43.00	6.00	2.67
\$25.00.....	5.00	.25	.25	\$84.00.....	44.00	6.33	2.76
\$26.00.....	6.00	.30	.30	\$85.00.....	45.00	6.67	2.85
\$27.00.....	7.00	.35	.35	\$86.00.....	46.00	7.00	2.94
\$28.00.....	8.00	.40	.40	\$87.00.....	47.00	7.33	3.03
\$29.00.....	9.00	.45	.45	\$88.00.....	48.00	7.67	3.12
\$30.00.....	10.00	.50	.50	\$89.00.....	49.00	8.00	3.21
\$31.00.....	11.00	.60	.55	\$70.00.....	50.00	8.33	3.30
\$32.00.....	12.00	.70	.60	\$71.00.....	51.00	8.67	3.39
\$33.00.....	13.00	.80	.65	\$72.00.....	52.00	9.00	3.48
\$34.00.....	14.00	.90	.70	\$73.00.....	53.00	9.33	3.57
\$35.00.....	15.00	1.00	.75	\$74.00.....	54.00	9.67	3.66
\$36.00.....	16.00	1.10	.80	\$75.00.....	55.00	10.00	3.75
\$37.00.....	17.00	1.20	.85	\$76.00.....	56.00	10.33	3.84
\$38.00.....	18.00	1.30	.90	\$77.00.....	57.00	10.67	3.93
\$39.00.....	19.00	1.40	.95	\$78.00.....	58.00	11.00	4.02
\$40.00.....	20.00	1.50	1.00	\$79.00.....	59.00	11.33	4.11
\$41.00.....	21.00	1.65	1.07	\$80.00.....	60.00	11.67	4.20
\$42.00.....	22.00	1.80	1.14	\$81.00.....	61.00	12.00	4.31
\$43.00.....	23.00	1.95	1.21	\$82.00.....	62.00	12.33	4.42
\$44.00.....	24.00	2.10	1.28	\$83.00.....	63.00	12.67	4.53
\$45.00.....	25.00	2.25	1.35	\$84.00.....	64.00	13.00	4.64
\$46.00.....	26.00	2.40	1.42	\$85.00.....	65.00	13.33	4.75
\$47.00.....	27.00	2.55	1.49	\$86.00.....	66.00	13.67	4.86
\$48.00.....	28.00	2.70	1.56	\$87.00.....	67.00	14.00	4.97
\$49.00.....	29.00	2.85	1.63	\$88.00.....	68.00	14.33	5.08
\$50.00.....	30.00	3.00	1.70	\$89.00.....	69.00	14.67	5.19
\$51.00.....	31.00	3.20	1.77	\$90.00.....	70.00	15.00	5.30
\$52.00.....	32.00	3.40	1.84	\$91.00.....	71.00	15.33	5.41
\$53.00.....	33.00	3.60	1.91	\$92.00.....	72.00	15.67	5.52
\$54.00.....	34.00	3.80	1.98	\$93.00.....	73.00	16.00	5.63
\$55.00.....	35.00	4.00	2.05	\$94.00.....	74.00	16.33	5.74
\$56.00.....	36.00	4.20	2.12	\$95.00.....	75.00	16.67	5.85
\$57.00.....	37.00	4.40	2.19	\$100.00.....	80.00	18.33	6.40
\$58.00.....	38.00	4.60	2.26	\$110.00.....	90.00	21.67	7.70
\$59.00.....	39.00	4.80	2.33	\$120.00.....	100.00	24.00	9.00

Mr. HAWLEY. You would collect this from the employer. Wouldn't it be unlawful for the employer to pay this tax?

Mr. KLEIN. I would make it on this ground, that after two or three weeks, the wage earner would insist upon the employer paying this tax. He would insist upon the payment of it by the employer. My claim here is not so much to democratize the tax but to give every man a feeling that directly he is contributing to the financing of the war. It gives the man who is earning \$1,000 a year the privilege of contributing week in and week out.

Mr. STERLING. Don't you think a tax on all business would be better than this?

Mr. KLEIN. In addition to this? This is more than is raised by our allies combined.

Mr. STERLING. A small tax on all business would raise more than that.

Mr. KLEIN. I have the figures on that. I have the figures here, if you will allow me; the figures on the number of wage earners, I find there are about seven and a quarter million salary earners and wage earners estimated in 1917. This is from the statistical abstract: That, on the assumption that one-half of them will be able to pay a tax on account of receiving less than \$20 a week, the amount raised from that source on an average of 50 cents a week, average earnings

of \$30 a week from half of the wage earners, would result in a net revenue of \$275,000,000 to \$300,000,000 a year.

Mr. HAWLEY. Your proposition is to tax these salaries and exempt each man \$1,000 each year?

Mr. KLEIN. It would amount to that. I had in mind one of the very important problems in connection with this small tax. One of the important problems is the accounting problem. I had in mind the issuing of stamps in accordance with the table, so that Tom Smith, who earns \$25, would receive \$24.75 in money and 25 cents in stamps. That is his receipt, and the employer turns in that amount to the Government and it is taken by Tom Smith at its face value.

I have made a study, or have tried to, at least, of the relationship between the excess-profits tax paid, among others, and the total volume of business. I am going to approach that problem, with your permission, from two angles. This excess-profits tax has caused more trouble, and incidentally more feeling among business men, and work among the accountants who engage in the work of accounting—it has caused more trouble to the business men than any other piece of legislation I have ever heard of. One would imagine, to judge from the remarks of those who have appeared before you, that aside from its unequal properties in spots and parts, that in general the levy was a heavy one. Now, I wager the prediction, and I base this on the study I made while with the Globe, that in the great majority of cases the excess-profits tax and the income tax is less than 1 per cent. In very few cases has it approached 2 per cent, and what statisticians call technically sports, when it is in excess of 2 per cent. It was a remarkable finding. Case after case shows it. This table which I submit is the ratio of the excess-profits tax to the corresponding gross income. For example, the gross income of \$390,000, tax eight-tenths of 1 per cent. And here in a number of cases you have zero. Five-tenths of 1 per cent, and many zeros.

Mr. MOORE. Where did you get these sample figures?

Mr. KLEIN. I should say half of them from our own files of our own clients, and the others were submitted to me by Globe readers, 99 per cent of them being kickers.

With your permission I will leave this table for the record.

(The table referred to is as follows:)

EXHIBIT B.

Table showing relationship between 1917 taxes and 1917 gross sales, etc., for organizations with invested capital.

SCHEDULE I.—A LIST OF 20 CORPORATIONS HAVING INVESTED CAPITAL, ARRANGED SO AS TO SHOW THE RELATIONSHIP OF 1917 TAXES TO 1917 GROSS INCOME—INITIAL CAPITAL.

Capital.	1917 net income.	1917 taxes.			1917 gross income from sales, etc.	Approximate ratio to gross income of—		
		Excess profits.	Income.	Total.		Excess-profits tax.	Income tax.	Total tax.
\$190,000	\$31,000	\$3,200	\$1,660	\$4,860	\$390,000	Per cent. 0.8	Per cent. 0.4	Per cent. 1.2
47,000	2,500		150	150	237,000			
12,000	3,900	196	200	396	140,000			
1,500,000	203,000	16,000	11,200	27,200	3,000,000	.5	.4	.9
10,000	2,500		150	150	80,000			
520,000	120,000	16,700	6,100	22,800	1,280,000	1.3	.5	1.8
10,000	525		31	31	32,000		.1	.1
179,000	14,000		860	860	530,000		.1	.1
7,200	8,400	1,700	290	1,980	90,000	1.9	.3	2.2
101,000	27,500	4,600	1,370	5,970	1,020,000	.4	.1	.5
39,000	5,800	28	350	378	88,000		.4	.4
440,000	130,000	26,800	6,200	33,000	1,130,000	2.3	.5	2.9
241,000	41,000	3,470	2,240	5,710	600,000	.5	.3	.9
396,000	9,800		540	540	700,000			
394,000	150,000	53,500	5,800	59,300	1,600,000	3.3	.3	3.7
2,800,000	478,000	57,200	24,600	81,800	7,260,000	.8	.3	1.1
175,000	46,000	8,700	2,250	10,950	640,000	1.4	.4	1.7
239,000	31,000	2,400	1,700	4,100	518,000	.5	.3	.8
* 10,000	40,800	7,030	2,900	9,930	360,000	1.9	.8	2.7
* 5,000	* 1,260		325	325	172,000		.2	.2

\* Inclusive of dividends.

\* \$500,000 bonds payable (\$14,400 of interest not deductible).

\* \$300,000 bonds payable (\$6,700 of interest not deductible).

\* Net loss.

SCHEDULE II.—A LIST OF 10 PARTNERSHIPS HAVING INVESTED CAPITAL, ARRANGED SO AS TO SHOW THE RELATIONSHIP OF 1917 TAXES TO 1917 GROSS INCOME—INITIAL CAPITAL.

[The "net income" is inclusive of salary allowances to firm members, and the "excess-profits tax" is inclusive of such tax on firm salaries.]

Capital.	1917 net income.	Excess profits.	Income.	Total.	1917 gross income from sales, etc.	Per cent.	Per cent.	Per cent.
\$245,000	\$35,000	\$2,900	\$5,200	\$8,100	\$280,000	1.0	1.9	2.9
125,000	34,000	1,670	1,700	3,370	260,000	.6	.7	1.3
62,000	21,000	30	460	490	165,000		.3	.3
800,000	390,000	159,300	33,900	193,200	2,900,000	5.5	1.2	6.7
880,000	302,000	9,500	17,200	26,700	1,800,000	.5	1.0	1.5
50,000	20,000	1,350	550	1,900	420,000	.3	.1	.5
316,000	39,800	490	2,320	2,800	256,000	.2	.9	1.1
730,000	235,000	28,200	27,500	55,700	2,650,000	1.0	1.0	2.1
22,500	28,000	13,340	420	13,760	160,000	8.3	.3	8.6
680,000	167,000	11,610	11,875	23,485	2,410,000	.5	.5	1.0

SCHEDULE III.—A LIST OF 5 SOLE PROPRIETORSHIPS HAVING INVESTED CAPITAL, ARRANGED SO AS TO SHOW THE RELATIONSHIP OF 1917 TAXES TO 1917 GROSS INCOME—AVERAGE 1917 CAPITAL.

[The "net income" is inclusive of salary allowance, and the "excess-profits tax" is inclusive of such tax on salary allowance.]

Capital.	1917 net income.	Excess profits.	Income.	Total.	1917 gross income from sales, etc.	Per cent.	Per cent.	Per cent.
2,000,000	\$64,800		\$7,780	\$7,780	\$240,000		3.3	.3
11,300	5,600		76	76	110,000			
370,000	136,100	\$16,620	22,200	38,820	1,240,000	1.3	1.8	3.1
1,100,000	92,300	1,520	13,820	15,340	1,870,000	.0	.7	.8
82,000	101,600	37,640	7,650	45,290	415,000	9.6	1.8	10.9

Mr. GREEN. I am not surprised at these figures.

Mr. KLEIN. I was. Then, the suggestion was made time after time before this committee on a matter which I thought was original with me, to propose a gross tax on sales in lieu of excess profits.

Mr. GREEN. That has been proposed many times here.

Mr. KLEIN. Yes. I say I thought it was original with me, but that simply shows that there is no monopoly on thought.

Mr. MOORE. I want to ask you what your conclusions are on the gross sales tax.

Mr. KLEIN. If on the average you are to assess a 2 per cent tax on gross sales, you would more than double the present excess profits tax.

Mr. STERLING. On all sales?

Mr. KLEIN. Yes, sir

Mr. STERLING. That would be many times as much.

Mr. KLEIN. Making due allowance for the curtailment which will come on account of people curtailing on luxuries and on the non-essential lines.

Mr. SLOAN. At the time of the Civil War they had a gross sales tax.

Mr. KLEIN. Yes. This excess profits tax is ingenious. There is nothing else like it.

May I submit just one additional table? I will not burden you with it. It shows the relationship between the net income and the total tax, and the ratio of the total tax to the net income, for 35 organizations; of them 20 are corporations, 10 are partnerships, and 5 are sole proprietorships. The object of this analysis was to determine to what extent the assertion made in individual cases that the excess profits tax was such a burden was correct, and the assertion that sole proprietorships suffered dreadfully in comparison. This is my table, and if I may I will submit it for the record.

(The table referred to is as follows:)

EXHIBIT C.

Ratio of total 1917 Federal tax to 1917 net income.

	Net income.	Total tax.	Ratio of total tax to net income.		Net income.	Total tax.	Ratio of total tax to net income.
<b>I. Corporations:</b>					<b>II. Partnerships:</b>		
1.....	\$31,000	\$4,860	<i>P. ct.</i> 15	1.....	\$35,000	\$8,100	<i>P. ct.</i> 23
2.....	2,500	150	6	2.....	34,000	3,370	9
3.....	3,900	396	10	3.....	21,000	490	2
4.....	203,000	27,200	13	4.....	380,000	183,200	50
5.....	2,500	150	6	5.....	202,000	26,700	13
6.....	120,000	22,800	19	6.....	29,000	1,900	7
7.....	528	31	6	7.....	39,800	2,800	7
8.....	14,000	860	6	8.....	235,000	55,700	24
9.....	6,400	1,980	31	9.....	28,600	13,860	48
10.....	27,500	5,970	22	10.....	167,000	23,485	14
11.....	5,800	378	7	Totals and averages.			
12.....	130,000	33,000	25	1,181,400	329,605	28	
13.....	41,000	5,710	14	<b>III. Sole proprietorships:</b>			
14.....	9,800	540	6	1.....	64,800	7,780	12
15.....	150,000	59,300	40	2.....	5,600	78	1
16.....	476,000	81,800	17	3.....	136,100	38,880	29
17.....	46,000	10,950	24	4.....	92,300	15,340	17
18.....	31,000	4,100	13	5.....	101,600	45,290	45
19.....	40,800	9,930	24	Totals and averages.			
20.....	1,250	325		400,400	107,366	27	
Totals and averages.				1,340,476	270,430	20	

<sup>1</sup> Net loss.

Mr. GREEN. I am very much interested in that; that has been stated here time and again.

Mr. KLEIN. I find of the 20 corporations, two real estate corporations where the net income subject to tax was larger than the book net income, due to the prohibition against the deduction of all interest paid on bonded indebtedness, and so on.

Mr. MOORE. I would say the value of these tables would depend a great deal on the nature of the business of the organizations.

Mr. KLEIN. There is no question about that, but the reason I couldn't give you that—

Mr. MOORE (interrupting). I am not asking for the names. But take the excess-profits table, that is very interesting; if that included munitions plants the results would be entirely different.

Mr. KLEIN. It does not include a single munitions plant. And the reason I did not include a description of the kind or organization is this: In my own town I am well known in a measure as associated with certain organizations, and corporations, and so on, and if I indicated the nature of the business, it would be the same as revealing the business of a client.

Mr. MOORE. I don't ask you for them. I say the value of the table would depend on the character of the business.

Mr. KLEIN. Yes; that is true. You have one of the country's ablest analysts here in the tax department, Dr. Adams, of Wisconsin. I discussed one of the problems with him recently, and I have no doubt, of his own volition, and I am certain if it came as a request from this committee that a compilation of tables made by him would be available.

Mr. MOORE. Let me ask you, were the firms selected firms that were doing a normal business during the war?

Mr. KLEIN. Not all of them. Some were doing a trade line with large stocks of goods on hand which they were holding for higher prices, which higher prices actually prevailed later, and in the language of the street they "cashed in," of course.

Mr. MOORE. Before you close, I would like to ask you what the connection was you had here in Washington?

Mr. KLEIN. I represented on a number of occasions clients in connection with the consolidation of interests—

Mr. MOORE (interrupting). That had to do with your own business?

Mr. KLEIN. Yes, sir.

Mr. MOORE. I understood that you had been doing some Government work here?

Mr. KLEIN. Yes; for six months, precisely, from the first week in August until the middle of February, I was acting as an expert on the Council of National Defense. Mr. Julius Rosenwald was the man who selected me and under whom I worked.

Mr. MOORE. You came in through the Council of National Defense, under the management of Mr. Rosenwald?

Mr. KLEIN. Yes; advising principally on wool conservation. I spent two days a week here.

Mr. MOORE. You were here two days a week?

Mr. KLEIN. Yes; mostly on the conservation of wool. I have never collected, and never expect to collect, the amount of expenses involved.

Mr. MOORE. You have made a very interesting statement.

Mr. KLEIN. Thank you. I have been fortunate in this, that I have had opportunity to study these situations and come in contact



with the other side, so to speak, the people who are affected by your legislation, and if there is ever any service I can render in the way of working up some of these things for you, or in any other way than advising a reduction of the taxes, I will be glad.

Mr. RAINEY (presiding). We thank you. We have been advised of the value of your work. If there is anything further you want to submit you may write to the chairman.

Mr. KLEIN. I do not think there is anything further, except these tables which I have left here.

Mr. Chairman and gentlemen, I know that this has been a long and trying day for you and that you can not remain in session any longer. I did intend to point out certain inequalities in the 1917 act and to suggest certain remedies, especially relative to avoiding the unequal tax burden often pointed out with respect to corporations and partnerships, and the unfair distribution of the tax incident in a number of cases. I also meant to offer certain suggestions regarding needed publicity and expert advice before voting on any final draft of a revised tax law. Time, however, will not permit me to develop these topics for duties demand my attention to New York, so that I can not remain here until Friday. I shall try to send you further suggestions in writing, but I wish you to feel free to command my services in a volunteer capacity. I thank you for your patient and courteous hearing.

Mr. RAINEY (presiding). Miss Rankin has submitted a statement here; without objection we will put it in the record.

(The statement of Miss Rankin referred to is as follows:)

I am opposed to the zone system of postage for newspapers and magazines for the following reasons:

First. Because it strikes at the very roots of democracy—free speech. In these days of long distances and quick transportation speech means very largely the written word. Its wide dissemination depends on cheap printing and cheap postage. To increase the cost of postage at the proposed rate will mean death to many publications and the suspended subscription of others by thousands of individuals remote from the center of publication, New York—and a large part of the United States is far from New York. It will stop the free circulation of ideas just at a time when the freest possible circulation is most important.

Second. Because it will cut off the main source of education for people in remote towns and country districts, who depend on magazines and newspapers not only for general information but for special instruction on such subjects as farming, poultry raising, care of children, and a multitude of other matters vital to individual and community welfare. No small part of this education material is carried in the advertisements of the magazines.

Third. Such discrimination in matters as fundamentally American as free speech and education tends toward sectional feeling at a time when unity of thought and purpose is vital to the Nation. It is important for people to be able to read all sides of every question; for a feeling of national unity does not come from one-sided or inadequate information, but from a sense of freedom impartially secured and of opportunity equalized by a just Government.

Fourth. The principle involved in the repeal of this measure is more important than the specific injustice its operation would cause. It will be hard to convince people that their welfare is safe in the hands of a Federal Government when they feel themselves the victims of unjust sectional discrimination.

And so I am speaking not only for the people of my own State, who are among the most remote from the centers of publication, but for the democratic principle involved. Its violation in a matter so directly felt by all the people bears a menace of national disaster.

JEANNETTE RANKIN.

And thereupon the committee adjourned until Friday, June 21, 1918, at 10 o'clock a. m.)

# REVENUE BILL

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No. 13

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HEARINGS

BEFORE THE

COMMITTEE ON WAYS AND MEANS

HOUSE OF REPRESENTATIVES

WITH REFERENCE TO

THE NEW REVENUE BILL

[THIS PRINT OF THE HEARINGS IS SUBJECT TO REVISION  
BEFORE THE FINAL PRINT]

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JUNE 21, 1918



COMMITTEE ON WAYS AND MEANS.

HOUSE OF REPRESENTATIVES.

SIXTY-FIFTH CONGRESS, SECOND SESSION.

CLAUDE KITCHIN, North Carolina, *Chairman*.

HENRY T. RAINEY, Illinois.

LINCOLN DIXON, Indiana.

CORDELL HULL, Tennessee.

JOHN N. GARNER, Texas.

JAMES W. COLLIER, Mississippi.

CLEMENT C. DICKINSON, Missouri.

WILLIAM A. OLDFIELD, Arkansas.

CHARLES R. CRISP, Georgia.

GUY T. HELVERING, Kansas.

GEORGE F. O'SHAUNESSY, Rhode Island.

JOHN F. CAREW, New York.

GEORGE WHITE, Ohio.

JOSEPH W. FORDNEY, Michigan.

J. HAMPTON MOORE, Pennsylvania.

WILLIAM R. GREEN, Iowa.

CHARLES H. SLOAN, Nebraska.

NICHOLAS LONGWORTH, Ohio.

GEORGE W. FAIRCHILD, New York.

JOHN A. STERLING, Illinois.

WHITMELL P. MARTIN, Louisiana.

WILLIS C. HAWLEY, Oregon.

ALLEN T. TREADWAY, Massachusetts.

JOHN E. WALKER, *Clerk*.

## REVENUE BILL.

COMMITTEE ON WAYS AND MEANS,  
HOUSE OF REPRESENTATIVES,  
*Friday, June 21, 1918.*

The committee met at 10 o'clock a. m., Hon. Claude Kitchin (chairman), presiding.

There were also present Representatives Rainey, Dixon, Hull, Garner, Collier, Dickinson, Oldfield, Crisp, Helvering, O'Shaunessy, White, Moore, Green, Sloan, Longworth, Sterling, Martin, and Hawley.

### STATEMENT OF MR. OLANDUS WEST, VICE PRESIDENT OIL AND GAS PRODUCERS' ASSOCIATION OF WEST VIRGINIA, CLARKSBURG, W. VA.

The CHAIRMAN. Mr. West, will you give your name and address and the business in which you are engaged and whom you represent?

Mr. WEST. Olandus West, Clarksburg, W. Va., representing the Oil and Gas Producers' Association of West Virginia.

Mr. Chairman and gentlemen of the committee, we desire to thank you for extending the courtesy to our organization for this privilege. We assure you that we do not desire to ask any special privileges on behalf of our business other than in keeping with the hazards of the industry. While the business of producing oil and natural gas is one of the most important industries in connection with the winning of the war, yet we do not wish to hold that up as a plea for special profits. However, we do believe that the producers should be allowed adequate or normal profits in keeping with the hazard of the business, and that the business should be encouraged rather than discouraged, as it now is, to some extent at least, under the present excess-profits tax law.

I took the privilege the first of the week of addressing a letter to each member of this committee, and I would like to have the privilege of introducing a copy of that letter to appear upon the record.

(The letter referred to follows:)

CLARKSBURG, W. VA., *June 15, 1918.*

The honorable WAYS AND MEANS COMMITTEE,  
*House of Representatives, Washington, D. C.*

GENTLEMEN: In view of a hearing to be had before your honorable committee next Wednesday, this association has asked me to call your attention to the excess-profits tax law, which we feel imposes an unjust amount of tax upon the producer of oil and natural gas. Especially is this true with regard to the smaller and average corporations that are operating upon a legitimate capitalization basis.

*War profits.*—The term war profits is so loosely used in connection with taxation that we wish to suggest that the producers of crude oil and natural gas do not share in such profits, except in rare instances. This fact is readily recognized when we observe that the advance in price of crude oil (Pennsylvania grade) has only been 60 per cent above normal, while the advance in price of materials entering into its production has been from 100 per cent to 200 per cent with a shortage of material and labor as an additional handicap. The producer is also compelled to pay out large sums as delay

rentals on leaseholds which he is unable to drill on account of war conditions. Thus his war profits are turned into war losses. In other words he would be making more money if we were not at war.

*Nine per cent not a paying profit.*—An oil or gas property is of short life and irregular returns. It is said that on an average a gas well will produce 80 per cent of its entire output during its first year. We should say that oil wells will produce the first year, an average of at least 50 per cent of their entire life yield. Thus it is not unusual for a producer to have an abnormal profit one year, and a loss another year, and the short life of wells makes it ridiculous to consider from 7 per cent to 9 per cent as normal profits for the oil and gas producer. To pay excess-profits tax on returns above 9 per cent means paying tax on the return of capital, except in rare instances of large holdings where development may extend over a long period. An oil or gas company would not pay back investment on a 9 per cent earning. If an operator should desire to sell a producing property he would have to sell on about a 33 per cent earning basis, on an average.

*Twenty per cent normal.*—Certainly a business so hazardous and irregular should be allowed an earning of at least 20 per cent before paying an excess-profits tax. The Treasury Department gives an oil company 15 per cent before rating the stock at par, and this is not safe unless such company has extensive holdings capable of maintaining production for several years.

Who would think of drilling an oil property expecting only 9 per cent a year return. Yet that is what the excess-profits tax law considers adequate.

*Four thousand per cent of former income tax.*—To illustrate the effect of this law upon producers, we will cite an example of the workings of such law. A corporation with which we are familiar, in the year 1914, had a valuation of \$278,000 and paid an income tax on its earnings for that year of \$1,346. Had the present law been in force at that time the company would have been asked to pay on the same earnings an income tax of \$52,219.86 or approximately 4,000 per cent increase. When we consider the fact that the company had owned the oil rights for several years and was merely selling its property, you will realize that the tax is unreasonable, and could not be defended upon any basis of equity. The earnings of this corporation for the pre-war period was over 20 per cent which was not more than a safe rate, considering the hazard; yet it must pay excess profits tax on more than half its normal pre-war income. It is needless to add, however, that had such law been in force at that date and continued, said company would be producing very little oil to help meet the present needs. And it certainly seems to us poor business to allow such a law to remain in force to handicap the production of oil and natural gas, when the production of both is so vitally important to the prosecution of the war, and to meet the demands of business in general.

*Maximum production needed.*—At the present time with a threatened shortage of oil and a known shortage of coal, a maximum production of both oil and gas should be assured; and the Oil Administrator is urging it upon the producers, who are anxious to do their part. However, the business must be allowed an equitable or normal profit in keeping with its hazard and irregular returns, due to flush production and rapid decline of wells.

Yours, very truly,

OLANDUS WEST,  
Vice President Oil and Gas Producers'  
Association of West Virginia.

In regard to the excess-profits tax we feel in our section, which is a part of the Appalachian division as it is known in the oil divisions, that the producers of crude oil and natural gas are not receiving war profits except in rare instances, which are mainly from old production. The enormous advance in materials entering into the drilling of wells and the producing of oil and gas has been so great as to absorb all of the advance in the price of crude oil, leaving us less profit than we would have had had the conditions remained normal. In other words, in drilling new wells we are compelled to pay more than 100 per cent more than we formerly had to pay, while the advance in crude oil has only been 60 per cent, speaking of Pennsylvania grade crude.

In this connection we desire to emphasize the importance of increasing the production, and especially to point out the value of a

greater output of natural gas. You gentlemen fully realize the importance of maintaining a sufficient supply of oil to meet the needs of the country, and what a handicap a shortage would be; yet perhaps you do not realize so clearly what an important factor natural gas is under present conditions. A shortage of fuel and transportation facilities exists and threatens to become acute next winter to a greater extent, possibly, than it did last winter, and therefore the country needs the maximum output of both oil and gas. The natural gas produced in West Virginia in the year 1917 was equivalent to 11,000,000 tons of Pittsburgh coal or 238,000 carloads of 45 tons each. When you consider that this gas is delivered into the furnaces and under the boilers and into the homes without any railroad transportation, and with scarcely any labor in handling after it leaves the well, you will realize what a tremendous factor it is in solving the war problem. Every 28,000 cubic feet of natural gas is equivalent to a ton of Pittsburgh coal. The fuel supply of the Pittsburgh district, upon which the Government so much depends for war materials, can be protected easier and quicker, with less labor, by increasing the supply of gas, and thereby releasing coal for other districts. The same effect would result in other gas-producing districts.

Mr. DIXON. What is the extent of the territory you supply with natural gas from your fields?

Mr. WEST. I do not know that I catch your question.

Mr. DIXON. How far do you carry the gas? What cities get the benefit of your natural gas?

Mr. WEST. Pittsburgh, Cleveland, Toledo, and Columbus, I believe, and the various cities in that section.

Mr. GARNER. But you do not come here representing a specific territory. You come here representing the oil producers and the gas producers of the whole country and you are speaking for them?

Mr. WEST. Well, more especially for the Appalachian division, in West Virginia.

Mr. GARNER. I understand that; but the principle you are advocating would apply to the industries throughout the country?

Mr. WEST. Yes; to a certain extent, especially.

Therefore the gas producers should be encouraged, we think, to produce the maximum amount of gas and not be handicapped by laws which prevent them from getting fair returns for the risk which they must inevitably take, and which prevents adequate or further development to secure the maximum amount of production.

Mr. DIXON. Do those cities regulate the price of natural gas or do you fix the price yourselves?

Mr. WEST. The price of natural gas as a rule is controlled by public service commissions. However, I could not speak for all of those cities as to whether or not the franchises in some of them do not regulate the matter, but before the companies can advance the price of gas, in nearly all instances they have to submit the proposed increase to a public service body. However, I am speaking for the producers rather than the marketers either of oil or gas. I am only interested in a small way in one company that is marketing its gas to the consumers. As a rule, all the independent producers of both oil and gas in our section sell their product to the pipe lines which distribute it to the consumers.

Mr. GREEN. It is sold to the pipe lines, you say?

Mr. WEST. To the companies who own the pipe lines, yes; that is, with respect to natural gas. The oil is sold through a purchasing agency after it is delivered into the pipe lines of the companies, which are the carrying corporation.

Mr. GREEN. Now you are speaking with reference to oil or gas, or both?

Mr. WEST. Both.

Mr. GREEN. The oil that is carried through the pipe lines is generally sold to the owners of the pipe lines, you say?

Mr. WEST. Well, there is a distinction. In our section the Seep Purchasing Agency purchases all oil which is run into the Standard Co.'s lines. For instance, the Eureka Pipe Line Co. owns and operates the pipe lines which come to our wells and receive the oil, and they carry the oil until we sell it to the South Penn Oil Co. through the Seep Purchasing Agency.

Mr. WHITE. Mr. West, what does the average individual owner of a gas well get per thousand cubic feet of gas when they sell to the so-called big gas companies?

Mr. WEST. That would be rather difficult to answer as an average. I have sold gas as low as 3½ cents and am still selling a small amount at that figure under contract made several years ago.

Mr. WHITE. And that same gas is delivered in Cleveland at 25 or 28 cents?

Mr. WEST. Yes; that is about the price, I understand. However, I am selling gas under contracts recently made at 9 cents in the same field.

Mr. WHITE. At 9 cents as against 3½?

Mr. WEST. Yes.

Mr. WHITE. So there has been a rise in the price of gas to the producer?

Mr. WEST. Yes; there has been an increase in the price of gas.

We desire especially to call your attention to the hazard of the oil and gas operator. He is compelled to stake his money on a chance, knowing if he gets dry holes it is all lost. Naturally it follows he should have a greater margin of profit than those engaged in the average business where the hazard is not great. In view of this situation and the short period of profitable life of the wells, we would suggest:

First, that losses incurred in drilling dry holes may be deducted from future profits in subsequent years, if necessary.

Second, that a profit of 20 per cent be allowed as normal profit on a fair valuation before the excess profits tax is charged; this rate to obtain until the valuation or investment is returned, and thereafter not less than 10 per cent be allowed.

Mr. GARNER. If I get the gist of the argument of you gentlemen who represent the oil industry and the gas industry—and is the mining industry similar in nature, or have you any expert knowledge on the question of mining?

Mr. WEST. I have no direct, practical knowledge on mining other than on coal mining.

Mr. GARNER. Well, we have had a great many witnesses here, and their arguments all tend in the same direction with reference to gas and oil and the mining industries; that is to say, in view of the hazard of the enterprise and the quickness with which the discovery is

exhausted in oil, we will say, and certain minerals, the same principles of taxation should not apply to them that apply to an established business that goes on for a period of years. That kind of argument appeals to me and seems to me to have some basis; but the question is arriving at the proper method of treating each kind of business. For instance, you will find one kind of mineral business which runs on for 50 or 100 years, and then there is another mineral business that is exhausted in three or four years. How are we going to differentiate between the two and give each man a fair deal?

Mr. WEST. That is the argument we make, that each business or each class of business should be allowed a normal profit consistent with the hazards of that business.

Mr. GARNER. I want you to tell us how we can do that.

Mr. GREEN. Mr. Garner called your attention to the fact that in the same business of mining there was sometimes a great deal of risk and sometimes not. There are certain quartz mines working on a very low grade of ore, but they have very large deposits, and they run along with almost the same certainty—more so than the ordinary mercantile business—whereas there are other kinds of mines in which they may make a big profit one day and the next day the ore may be exhausted, or there may be other things which cause very high fluctuations in the business. Mr. Garner wanted to get at—at least I would like to get at, because I am really not authorized to speak for Mr. Garner—how you would arrange it in the same class of business.

Mr. WEST. The suggestion I have made here, I think, would be fair to the oil and gas business and to the Government as well, and the same suggestion might apply to some other mining enterprises; that is, I say we should be allowed—or I simply suggest—a 20 per cent return until the investment has been returned. I say 20 per cent because that is not too much, considering the average life of the wells, the profitable period of the wells—in fact, I think it is too low. I have made the statement in my letter that we believe at least 50 per cent of the oil that will be produced from an oil well on an average will be produced in the first year of that well's life, and one of the best-known gas authorities has stated that 80 per cent, if I remember correctly, of the gas that will be produced by a gas well, on an average, will be produced the first year of that well's life. You can readily see that if we undertake to operate on a 9 per cent basis, with a very high excess-profits tax, that when the well or the wells are producing their flush production the Government will take back a tax on a great deal more income than it is entitled to as proper income; in other words, it will be receiving a tax on the return of capital, or taxing the investment. On this basis of 20 per cent we have given five years as the average; I am satisfied that three years is more than an average for the life of wells, placing them on the same producing basis as of the first year. We may have an oil well that will produce oil for 5 years, 10 years, or 20 years, and in some rare instances longer than that, but they are the exception, and the production is so low after the first few years that it would be impossible, except in rare instances, to charge back the proper depreciation as an exemption from taxation in order to cover the first few years of flush production.



Mr. O'SHAUNESSY. Do you couple these two things together—this 20 per cent and the allowance for the expense of dry holes—or is that an alternative proposition?

Mr. WEST. No; that is separate. Here is the reason for the suggestion that the cost of dry holes should be permitted to be deducted from future profits, because under the present rulings of the tax department if an operator should lose \$25,000 in drilling dry holes in the calendar year 1917, in which he did not have sufficient profit against which to charge the cost of these dry holes, and he should have a profit of \$25,000 in the year 1918, he would have to pay a tax on the profit of 1918, without considering his loss of \$25,000 in the previous year.

Mr. O'SHAUNESSY. You desire, by the taxation method, to remove the speculative feature and to safeguard the investment?

Mr. WEST. Not completely so.

Mr. O'SHAUNESSY. But partially so?

Mr. WEST. Partially so; yes. In other words, when you start to drill a well, you must take capital to make an investment. If you secure a well you will have an investment, but if you secure a dry hole you have a loss. However, it costs you just as much to drill that dry hole as it would have cost you to drill a producing well, except that you can recover some of the materials.

Mr. O'SHAUNESSY. Do you not think it would be a very difficult thing to administer such a thing? How would you do it—by taking the affidavits of the owners?

Mr. WEST. Well, all corporations and individuals are required to make their reports. They are required to show their losses and their expenses and practically every item that enters into the conduct of the business.

Mr. O'SHAUNESSY. Let us presume that the ownership of a corporation changes. Would you apply the method you have suggested where the ownership of the corporation had changed and where the loss of the previous year was while the corporation was in the hands of some other people? It would be the same corporation in name, but it would possibly be a different ownership, and that being so would you look for the same reduction?

Mr. WEST. In keeping our books for depreciation we always keep each well separate, in order to keep a proper account against the drilling of each well, and each company should have such a record as would show just what has been charged against that well. When all the depreciation has been charged off against the cost of drilling that well, then the books should show that that well is clear and the balance of the income goes in as profit, with no further charges of depreciation deducted from it. I do not think it difficult to make a report covering these items. The only thing that would be necessary would be to carry all of the charges against the drilling of dry holes in such a way as to properly report them, and in order to get credit for them against future profits.

Mr. O'SHAUNESSY. How many dry holes are drilled, on an average, before you strike the real thing?

Mr. WEST. Well, I could not answer that. I heard the assistant to the oil administrator state a short time ago that 90 per cent, I believe, of the wildcat wells were dry. I think these are his figures. The percentage of dry holes in most any field will run from, I should say, 10 to 30.

Mr. GREEN. I do not believe I fully understand just what you desire. Do you ask that a larger allowance be made for depletion and depreciation, or do you want some allowance on account of previous expenditures? You mentioned the matter of dry holes that have been drilled. Do you want some allowance in that direction that is not now made, or just what is it you wish to be done?

Mr. WEST. We think that the expense of drilling dry holes should be deducted as a loss against profits, whether those dry holes are drilled in one calendar year or in another.

Mr. GREEN. Then you want the Treasury Department to go back of the calendar year in which the taxes are levied to the previous years and take out the expense of drilling dry holes, or at least make some allowance for it in the way of capital invested?

Mr. WEST. I would put it this way: Allow the drilling of wells to be carried in the investment account, the same as drilling producing wells.

Mr. GREEN. Then there we have it. You want the drilling of these dry holes carried in the investment account and included as a part of the capital invested?

Mr. WEST. That is the difficulty in using that term. It should be charged off along the same lines as charging off the cost of drilling a producing well. For instance, the department allows us six years' time in which to charge off the cost of drilling a well.

Mr. GREEN. How many years?

Mr. WEST. Six years; in the case of my corporation that is the ruling.

Mr. GREEN. I think that is proper. Do you object to that?

Mr. WEST. Well, it is all right so long as you have sufficient territory to maintain that ratio, but it is too long a period if you have your property drilled up, because you are liable not to have income sufficient to charge that off over that long a period. We accepted it in the case of our corporation because we thought we had enough wells and enough territory that we could go through on that basis, but it would be hard on individuals or corporations who had their property all drilled up.

Mr. GREEN. I do not know what the rest of the committee may think about it, but to me that would seem about as fair an arrangement, to apply generally, as they could make. Do you think that in its general application it does not work out well?

Mr. WEST. There would naturally be many cases where it would work a hardship. My rule would be, and one that I started to follow, to charge off depreciation on the cost of drilling a well in proportion to the size of that well and its declining ratio or rate. For instance, when we drill a good well we can very readily estimate whether that well is going to keep up its production over a reasonably fair length of time, or whether it will have to be abandoned at the end of, say, one year, two years, or three years. We have drilled several wells that we realized we would have to abandon within one or two years. Now, if you charge off depreciation on a six-year basis you are bound to lose on such abandoned well; in other words, you lose on every well that you abandon before the six-year period, and unless you have enough new wells coming in with flush production to cover those losses you will be the loser. As I say, that will be fair to those who have sufficient territory to maintain their production over a long period of years.

Mr. GREEN. The matter you are speaking of now is one of Treasury regulation and not of the statute itself. In making these Treasury regulations they must, to a certain extent, proceed the same way we do on the committee; we have to make some general regulations; we can not make one for every individual case; we must try to make a general regulation which will, as nearly as possible, fit all of the cases. It will probably not work out equitably in every case, but, in fact, there is no tax that works out with absolute equity, so far as that is concerned. Now, do you think there ought to be a shorter period?

Mr. WEST. I believe that the Revenue Department would be inclined to be fair in any special cases, and regulate the depreciation in drilling wells on a fair basis. I understand they have it within their power to do so.

Mr. GREEN. Yes; I think so. I think an allowance could be made to cover that particular matter.

Mr. WEST. I do not understand that that should be covered in the law.

Mr. GREEN. It is not a matter of statutory regulation, except in a very general way.

Mr. WEST. I think the department would concede any reasonable rules governing that depreciation. However, they have never, so far as I know, permitted more than 10 per cent depreciation on casing and pipe.

Mr. GREEN. That is a matter which would have to be taken up by some one more expert in matters relating to oil wells than I am, and one who would know what percentage ought to be allowed in such a case as that; some one on the committee who has more experience with wells than I have could tell better about that. Perhaps you can enlighten us somewhat on that point.

Mr. MOORE. Mr. West, you speak for the West Virginia oil and gas region particularly?

Mr. WEST. Well, our association is more especially in West Virginia, but we have in our membership men from Ohio and Pennsylvania.

Mr. MOORE. Could you confine your district within such limits as to say about what proportion of the wells go dry?

Mr. WEST. They all go dry finally.

Mr. MOORE. I mean, go dry to be affected in the manner that you have indicated, applying it solely to the revenue proposition.

Mr. WHITE. What proportion of the wells are dry wells—dry when you drill them?

Mr. WEST. You mean what proportion are nonproducing and what proportion are producing?

Mr. WHITE. Yes.

Mr. WEST. I think in West Virginia the proportion would be about 10 per cent—10 to 15 per cent—of the wells in producing fields are dry. This would not refer to wildcat wells.

Mr. MOORE. You are suggesting an allowance, as I understand it, for dry wells?

Mr. WEST. Yes, sir.

Mr. MOORE. By that I understand you to mean wells from which you honestly attempted to produce oil but which you found to be dry?

Mr. WEST. Yes, sir.

Mr. MOORE. Not wells that have produced and gone dry, but those that have been driven only to find nothing at the end of the well. That is what I understand you to mean.

Mr. WEST. That covers the case.

Mr. MOORE. What percentage of those do you find in a given district? What percentage of dry holes do you find in a given district?

Mr. WEST. I do not believe that we have statistics covering all of the districts. I believe that the reports would indicate that from 10 to 15 per cent of the wells being drilled now in our State are dry. In some districts over the country, I notice from the reports it is as high as 30 per cent, and possibly higher, but to give you the percentage of dry holes, including wildcat wells, which are drilled away in advance of production, I could not do.

Mr. GREEN. You do get an allowance now for the dry holes drilled during the taxable year, do you not?

Mr. WEST. Yes, sir.

Mr. GREEN. But you want to go beyond that.

Mr. MOORE. How far do you go ordinarily before you abandon a well as dry, or how deep do you go?

Mr. WEST. We usually drill through all the known producing sands in that field and sometimes below.

Mr. MOORE. Could you give us any idea of how much expense there would be on an average before you give up and abandon a well as a dry hole?

Mr. WEST. To drill a dry hole at this time would cost from \$5,000 to \$9,000, I should say. I mean that would be the loss, after recovering the material.

Mr. MOORE. Do you call that operation which turns out to be a fluke after drilling a dry hole?

Mr. WEST. Yes.

Mr. MOORE. Do you call it a dry well?

Mr. WEST. Yes.

Mr. MOORE. It is simply a fluke, and there never was any oil there?

Mr. WEST. Yes, sir.

Mr. MOORE. It is for that sum that you think an allowance should be made?

Mr. WEST. Yes, sir.

Mr. MOORE. It is for that cost or expense of a fluke for which you think allowance should be made?

Mr. WEST. Yes, sir.

Mr. MOORE. Is there not an allowance now made for that?

Mr. WEST. An allowance is made for it during that calendar year, but the hardship lies in the fact that if the producer has not sufficient income during that year to offset his loss, he gets no credit for the loss against his taxes.

Mr. WHITE. In other words, if the producer had an income of \$1,000 from some well, and in some other place drilled a dry hole that cost \$6,000, that would be a cost for which he should get an allowance?

Mr. WEST. Yes, sir.

Mr. GREEN. You would want him to carry over this loss to the next taxable year and get an allowance for it, or how do you propose to arrange that?

Mr. WEST. I should have it carried over into the next year as a charge or credit against his profit in the next year, or in the future years, until the profits of his business covered this loss.

Mr. MOORE. Has the oil business in West Virginia been fairly profitable during the last year? I mean both the oil and gas business?

Mr. WEST. From the independent producer's standpoint, I would say that it has not been as profitable as it should have been. In other words, the cost of material has been so high that it has handicapped our development.

Mr. MOORE. There has been quite a large demand, has there not?

Mr. WEST. There has been a very large demand for both oil and gas.

Mr. MOORE. And you have been supplying that, or you have been meeting that demand, have you not?

Mr. WEST. No, sir; we have not been meeting the full demand. There was an extensive shortage of gas during the last winter throughout the entire district supplied by gas from West Virginia.

Mr. WHITE. Was there more production during the three months from January 1 to April 1, 1918, than during the three months from January 1 to April 1, 1917? In other words, the production was greater in 1918, was it not?

Mr. WEST. The production was less in 1918, as I recall it, for those months. In other words, the production is dropping off. In regard to our own production, our production dropped about 30 per cent last year, and I figure that it will drop more than that this year unless we can bring in new wells. It does not look encouraging for drilling new wells under the present circumstances, and the present price of oil as compared with the price of material.

Mr. MOORE. Is there any hesitation to start new oil wells?

Mr. WEST. There is considerable hesitation.

Mr. MOORE. Are any new ones being started?

Mr. WEST. Oh, yes; there are new wells being started all the time, but, of course, they are in what we would call good locations. In oil fields at all times there are other locations that are not so good. They shade all the way down to a mere chance. Now, an operator can afford to drill in exceptionally good locations under most conditions, but he can not take chances where they are greater, or where the location is not good. In other words, an operator may have 20 locations that he would be afraid to drill on account of the enormous cost at the present time because his chances of getting good wells would be only small.

Mr. WHITE. What is the average production per well in West Virginia now?

Mr. WEST. The average production in the year 1916, I believe, was about 1.6 barrels. That is the latest average that I have in mind. I have seen the average for 1917, but I do not recall it.

Mr. CRISP. In answer to a question by Mr. Moore, you stated that the business of the independent oil producers in West Virginia was not as profitable as it should be. I would like to know what percentage of profit they do make, and what, in your opinion, is the percentage of profit that they ought to make? In other words, your answer that it was not as profitable as it ought to be left the committee entirely in the dark as to what profit they do make.

Mr. WEST. That is a question that can not be answered by myself, because some operators will be making, perhaps, a large percentage, while others may be losing. It is a game of chance. If you get a good well, you will make money even if your taxes are high, but if you get dry holes or poor wells, you will be losing money. The point I wish to make especially, is the fact that operators were not in condition to go ahead and do as much development work as they would have liked to do. In other words, they are compelled to carry their leaseholds at high rentals rather than test them out on account of the high cost of materials as compared with the price of crude oil.

Mr. MOORE. You sent a letter to the committee a few days ago, did you not?

Mr. WEST. Yes, sir.

Mr. MOORE. It was quite a comprehensive treatise on this question.

Mr. WEST. I have asked that a copy of it be filed in the record.

Mr. MOORE. I read that letter yesterday. Now, may I say this: You have been here for several days and are fairly familiar with the routine of the committee's work; you have heard some of the gentlemen who have appeared before us, and you are unquestionably familiar with the fact that our job is to raise money.

Mr. WEST. I appreciate that.

Mr. MOORE. For that reason we have got to inquire a little bit into the business relations of those who come before the committee with a view to being relieved from taxation. If the oil business is prosperous and can bear more taxation, I presume that is a question that concerns us more than any question of reducing taxation. Now, can you make any suggestions as to how we can get more money out of the business you represent without unduly interfering with its profits or operations? I know that that is a pretty hard question to put to a business man, but the President of the United States has declared that we must have \$24,000,000,000 next year to carry on the war, and the Secretary of the Treasury tells us that we must raise \$8,000,000,000 of it by taxation, and a large percentage of that certainly must come out of business. Now, how will we get it? I know it is a hard question and I hope you will think it over.

Mr. WEST. I realize your position, and if I may be excused on the side for suggesting it, I will say that I am afraid that if you raised more money than you are now raising out of the oil and gas producers you would handicap the producers very much. Personally, I should like to see more money raised by bond issues than by direct taxation upon business under these conditions. However, in that I am not speaking for the oil people.

Mr. MOORE. The President says he wants \$8,000,000 from bonds this year, and in all probability we will have to raise another \$8,000,000,000 that way early next year.

Mr. WEST. I realize that.

Mr. MOORE. And the public has been pretty well pressed already on the bond question, or on the liberty bond question. That being true, you will not blame the committee for asking this question.

Mr. WEST. I certainly do not.

Mr. MOORE. Especially the minority of the committee, although we are all working to do the best we can to help the President get this money.

Mr. WEST. I would say that the oil people are willing to pay their share of taxes for this war if it takes their last dollar, and we will try to meet any higher rate of taxation that you may impose, but what we do desire is that it be properly distributed, and not be in such a way as to take an excessive amount from individuals who are not in a position to stand it.

Mr. MOORE. We surely should not discourage business nor break it down if we can avoid it. Now, what policy would you suggest, or what recourse would you suggest, in view of the fact that we must raise \$2 to every \$1 now being raised by taxation? Would you place it on the user of the oil? You have heard a good deal of testimony here about the development of automobiles and the increasing number of automobiles. Would you pass it on in the per gallon price to the user of the oil or to the user of the gas?

Mr. WEST. I do not like to go on record on such short notice. I did not realize until yesterday evening that such questions were likely to be asked. I would not like to go on record as suggesting any specific method. You realize the position in which the producer is placed. He is unable to pass any part of this tax on to the ultimate consumer. He is obliged to sell his product at a price fixed by some one else, and to pay for the materials at a price fixed by some one else.

Mr. MOORE. Could you not help us a little bit by telling us who that somebody else is, so that we might possibly raise a little more revenue from that source? You sell your oil to whom?

Mr. WEST. We sell oil to the Seep Purchasing Agency which purchases it for one of the subsidiaries of the Standard Oil Co.

Mr. MOORE. The profit is fixed by those who buy the product from you?

Mr. WEST. Yes, sir; that is true.

Mr. MOORE. They refine it, pipe it, and sell it to the consumer?

Mr. WEST. Yes, sir.

Mr. MOORE. It might be that we could go along the line a little bit to those to whom you sell, and then follow it up by going after those to whom they sell. Have you any suggestions to make along that line?

Mr. WEST. As a rule, the purchasing agencies regulate the prices they pay for crude oil by the amount they get for it, and if you place it at the other end on the consumer, they may feel that they would be asking the consumer too much and that they must buy crude oil for a less price. That has been the argument heretofore made to us when we have suggested that we should have more money for our product. Now, how that plan would work out in effect, I do not know.

Mr. MOORE. Have you sought to get more money for your product recently? Your labor costs have been rising all the time. Have you sought to meet that by obtaining a higher price for your product?

Mr. WEST. Only indirectly. I filed a statement with the Federal Trade Commission about a year ago, when they asked us for a report on the cost of producing oil, in which I took the position that Pennsylvania crude oil should be selling for \$5 per barrel to be in keeping with the prices of other materials at that time. I have been informed that the oil administrator looks with disfavor upon any advance in the price of crude oil at this time.

Mr. WHITE. As a matter of fact, what price are you getting?

Mr. WEST. We are getting \$4 per barrel for Pennsylvania crude.

Mr. MOORE. If the Government should levy an additional tax, which it might be compelled to do owing to the requirements of the war bureaus, is it not very likely that that tax would express itself eventually in an increase in the price all along the line, and would you not be covered in that way?

Mr. WEST. I would frankly state that if this will increase the price of oil so we can stand it, we will make no objection to any higher rate of taxation, but we would suggest that the inequalities be ironed out of the law so that it will not bear too heavily in some instances.

Mr. MOORE. If you could get a higher rate for your crude oil, you would not object to a higher tax?

Mr. WEST. Certainly not.

Mr. MOORE. Then, probably the fires ought to be set burning under somebody else in order that the tax might be justified as against the producer.

Mr. GREEN. It is difficult for us to reduce taxes, as you know. If we cut them down at one place, in all probability we will have to increase them at another. Now, as Mr. Moore has intimated, when we make these reductions somewhere, we try to look elsewhere to get the same amount or more. Now, in your own business, what can we do that will iron out those inequalities that you speak of? Can you tell us?

Mr. WEST. I do not like to undertake to say what another man can do or should do, because I do not know enough about the other fellow's business to justify me in saying what he should do.

Mr. GREEN. Have you prepared any plan either with reference to the statutory provisions or the Treasury regulations which would iron out these inequalities that you refer to, that you can give us in writing or submit along with your brief?

Mr. WEST. I have three or four, and believe I have read two.

Mr. GREEN. You have expressed yourself so far in a very general way; more general than we could express the rule by statute and more general than the Treasury Department could express it by regulation. What we would like to have, if we can, would be the statutory provision or the Treasury regulation which you think ought to be adopted. Have you anything of that kind?

Mr. WEST. I think the suggestions I am reading off under 1, 2, 3, and 4 would properly come under that head:

3. Inasmuch as producers must carry leases on undeveloped territory on which they must pay rental and the expense of testing for development, we believe that provision should be made for the valuation of undeveloped leaseholds or productive lands after oil or gas has been discovered thereon. Such valuation to be reasonable, of course.

4. The valuation of oil and gas properties should be made without discrimination between leasehold ownership and ownership in fee, other than in proportion of interest represented, and the valuation of the property should be maintained by adequate depreciation and investment of income, so as to preserve the valuation of the property on as equitable a basis as a manufacturing enterprise, a railroad, or any other important business enterprise, so far as consistent considering the hazards of the business.

Mr. HAWLEY. What is your suggestion, Mr. West, that provision be made in the new bill to take care of cases like yours, or that the Treasury Department be given increased discretion for those purposes?

Mr. WEST. Either would be satisfactory.



**STATEMENT OF MR. GEORGE W. POUND, GENERAL COUNSEL,  
MUSIC INDUSTRIES, CHAMBER OF COMMERCE, 105 WEST  
FORTIETH STREET, NEW YORK CITY.**

The CHAIRMAN. Mr. Pound, give your full name, your business and whom you represent.

Mr. POUND. George W. Pound, general counsel, Music Industries Chamber of Commerce, 105 West Fortieth Street, New York City.

Mr. Chairman and gentlemen of the committee, I believe I will have to disappoint you in coming here and making no appeal whatsoever for any reduction in our tax under this bill. We have a full realization of your difficulties. We are anxious to do our part. We are not an industry which has profited by the war. We have been very seriously depressed by the war. Our whole thought and our whole endeavor at the present time is to preserve our factory organization, and our business relations to that time after the war when we believe we can go ahead to a larger business.

Prior to the war Germany had 90 per cent of the entire export business of the world in musical instruments. In chemicals and in musical instruments she has probably met her greatest industrial loss. We are offered to-day, if labor and material conditions do not prevent us, substantially 80 per cent of the export business of the world in musical instruments. That business, we believe, we can have after the war if we can save the skeleton of it now. The merchants of Australia and other countries, for instance, have entered into contracts that they will buy no musical instruments from Germany for a period of 10 years after the war.

Germany has now organized in our industry, with Government sanction and assistance, a corporation capitalized at \$13,000,000 for the purpose of regaining the export business in musical instruments after the war. England has a similar organization organized and at a similar capitalization. Even little Sweden has one of \$1,300,000. It is the desire of all these countries—and there are several industries in our line—to go after this export business the moment the war is over, feeling that they have lost their supremacy in that industry by war conditions.

We are making in this country, gentlemen, musical instruments which we never dreamed of making prior to the war. We believed we could not make them, most particularly in reference to band instruments. We are now making, for instance, more band instruments than the entire world put together, although that is not an element of the industry for which I speak, and they are better than has ever been produced in the world elsewhere.

With the saving of our factory organization we can get this business after the war without any question. Our business has been very seriously curtailed. We are running under a curtailment now of probably 45 per cent. Our great difficulty is labor. We can not compete with the prices paid by the war-product people. Our industry is a rather specialized industry. Our men are largely over the draft age. It is a trade that descends with pride from father to son. We are employing many women and many children. It is an interesting fact to say that it is estimated that 80 per cent of our tuners are blind men. There are two schools that educate blind men for our work. Piano tuning is peculiarly adapted to the man who

has been so unfortunate as to have been deprived of his sight. We are planning now to put into our factories so far as possible, in conjunction with the Government boards and bureaus, men who are crippled. Our is a work which they can easily do. It is not a work involving hard labor of any kind, but rather slow and painstaking labor.

The scale of wages abroad, of course, is very much less than the scale of wages that we have to pay even in peace times, and under ordinary conditions we have not been able to get largely into the market of the world; in fact, America never had over perhaps 10 per cent of any export business in musical instruments.

We are not competitive with the production of war products. In our entire industry this year we would not use, for instance, over 670 tons of steel or over 20,000 gross tons of iron, the waste which would lay around an ordinary steel mill. We do not use woods which are competitive with airplane and other Government war products.

Therefore the point I wish to emphasize, gentlemen, is that we desire merely to preserve our factory organization, to preserve our business existence to that day when the war is over, when we believe we can make America the greatest musical-instrument producing country in the world. The war has given us this opportunity. As I have said, we are doing things to-day that we never dreamed we could do, and if our industry can be preserved we can go out into the world's markets after the war and we believe we can conquer those markets.

As a whole the industry—I am speaking now very largely from the piano end of it, and for this purpose I will confine myself to that element of the industry—is not what is known as a profitable industry. The difficulty in our industry has been, unlike the automobile industry, for instance, which has had its existence and its expansion upon cash, our business has been upon credit. The curse of the musical instrument business in this country has always been its extensive and prolonged credits, running on an average 22 months. The business as a whole, therefore, has not been profitable, and we confidently look forward, perhaps, that this condition of stress and difficulty which we are now going through within this war will perhaps after all redound to the benefit of our industry after the war is over, if we can survive with the war.

It seems to me, gentlemen, if I may be pardoned the suggestion, that one of the great difficulties here is that certain elements of our Government do not cooperate with this committee in what really should be the final analysis of revenue. Conservation is a beautiful theory, but there can not be conservation without production. It seems to me that there should be here every effort to permit the industries of the country to produce. Production will make revenue, not conservation. Conservation is all well enough along certain lines, but conservation, carried as it is now being carried against business, is going to result not in conservation but in the silence of destruction, because business can not exist. It is only by production that your committee can get that which it seeks, and it is only by production that liberty bonds, thrift stamps, and such things, can be purchased. It does seem to me that the first thought of every element of this Government should be to encourage in every sense

production. There is no such thing as an essential or a nonessential. There are, to my mind, food products and war products, and then everything else. We must win this war and we must do everything to win it, but it is not necessary in order to win the war to entirely ruin and to unnecessarily cripple industry.

Now, gentlemen, my suggestion is, and I will anticipate the questions which I imagine will come, that we do not feel we have a right to come to you and ask for a reduction of this tax, and we do not. It has had careful thought along that line. We have organized our industry to meet the condition as it now is under this act. The present act taxes the automatic—if I might use this expression—or the mechanical mechanism of the piano instrument. No nation in the world as yet has taxed what is known as the straight piano, the ordinary upright piano. That has always been regarded as the music of the home; perhaps as the poor man's music and as something which should not be taxed. The present tax by an agreement between the industry and the Internal Revenue Department has been so adjusted that it is paid at the source by the actual makers. It has not in all cases been passed along in our industry. That is one of the elements of ethics which seems to have been entirely individual. Some of our factories have passed it and some have not, and at least in one instance it has been divided. We have organized our industry to meet this interpretation of the present law. We can get along in that way, although we expect a very serious depression this coming year. The condition of iron and steel and labor will make it a problem for us to exist. Upon whatever business we can do we are entirely and perfectly willing to pay the tax. Our principal worry and our principal problem, as I say, is to conserve our industry and preserve our factory organization to those days that will come after the war.

Mr. HULL. Mr. Pound, you spoke about impairing the productive capacity of the country. Do you refer simply to your industry or do you have some others in mind?

Mr. POUND. I have many industries in mind.

Mr. HULL. The productive powers of which are being impaired?

Mr. POUND. Yes, sir.

Mr. HULL. You think every kind of industry should run at full tilt, even though the labor and materials are needed in the munition and other war-producing factories?

Mr. POUND. No, sir; not at all.

Mr. HULL. To what extent, then, should they be curtailed?

Mr. POUND. For instance, take an industry like ours, which is not competitive with war production; there is no necessity for the curtailment of such an industry. Of course, every industry can not exist in its fullness, and I do not expect that. As I have said, our men are practically all over the draft age and those we have had that were not have gone. We use so little material, only 670 tons of steel in the entire industry for the entire year of 1918; that is such an infinitesimal element and so small that it can not enter into the problem. As one of the large steel manufacturers said to me the other day in discussing that matter, "Sir, that does not represent the waste that is laying around our mill properties."

Mr. HULL. You do not use any labor that could be used in the shipbuilding industries?

Mr. POUND. Not that I know of. Not to any extent that would be appreciable.

Mr. HULL. And is that the situation of all these other industries you think are being impaired?

Mr. POUND. No, sir; I can not speak for the others. I have not made a study of the others but I have made a study of our industry.

Mr. HULL. You do realize, though, do you not, that there is a scarcity of labor and material; at least, in a number of the vital war industries?

Mr. POUND. I think that is so, but I think very largely it is a question of failure of proper distribution, proper allocation. I know the steel industry feels that is true, and I know many of the other industries feel that way.

Mr. HULL. You do not think, then, that their proper development to meet the war necessities would be interfered with by every industry in the country, no matter what it produces, running along normally and making reasonable developments and expansions in its business?

Mr. POUND. No; I would not believe in any expansion of ordinary business at this time; and if you will pardon me right there, you take our factories, the moment this war opened I came here to Washington and tendered every factory, every piano factory in America, to the Government, all or any portion of them, every man, every foot of floor space, and the Government tells me that they have dozens more factories than they can use. The Signal Corps told me only the other day that they had four times the factory space they could possibly use. We were doing work for these airplane factories prior to the war and doing it satisfactorily and efficiently and far better, I will say, than it is being done now, and the moment this war came on these contracts were given, for instance, to these airplane men. Instead of continuing the work in our factories, solving and satisfying a labor problem, a feeding problem, a housing problem, and a transportation problem, and keeping labor at home and contented, they went to work and built great, immense factories, new ones, covering miles of territory, creating a housing problem, a feeding problem, a transportation problem, and a labor problem, and a great congestion. I say those things were wrong, gentlemen. We could have done every bit of this work, and in our industries alone to-day, gentlemen, we can do every bit of the airplane and wood product construction that you want in this country for your war purposes, and we will do it, and I beg the privilege of doing it.

Mr. HULL. Then your industry could transform itself?

Mr. POUND. Gladly.

Mr. HULL (continuing). Into the production of most vital and valuable war products?

Mr. POUND. We are making now in our factories airplane parts, army wagons, fuse cases, ammunition and powder cases, and such things, but they will only give us an insignificant amount of work to do. They tell us frankly that they have a hundred times as much factory space as they need.

Mr. HULL. You want to develop your regular business, though, rather than be encroached upon so much, do you not?

Mr. POUND. If we can be permitted to add enough to our regular business to preserve our industry to a date after the war we will do all of the Government work you will give us and very gladly.

Mr. HULL. I was not quite clear whether your factory was being impaired by a failure to get some of this war business or whether it was being impaired by some kind of a restriction on its normal and regular production.

Mr. POUND. I would say that we are impaired very seriously by labor conditions. Able-bodied and expert men do not stay in our factories at all; we have the older men, we have the women, we have the blind men, and we are going to have the cripples as soon as we can get them. Our impairment comes very largely from labor conditions.

Mr. GREEN. You say you have endeavored to get this work from the Government.

Mr. POUND. Yes, sir.

Mr. GREEN. And that it would have helped you to keep your factory organization together if you could have obtained it.

Mr. POUND. Yes, sir.

Mr. GREEN. What reason did they give you for not accepting your proposition?

Mr. POUND. They said they had more factory space than they needed.

Mr. GREEN. I thought you came down here to-day prepared to say that you had sufficient factory space for them.

Mr. POUND. I did.

Mr. GREEN. But they went ahead and built additional factory space.

Mr. POUND. Yes; they built new factories instead of giving the work to the factories already existing.

Mr. GREEN. Which department had that in charge?

Mr. POUND. The Signal Corps and various other departments, but the Signal Corps very especially, sir. I have had this matter up with Mr. Peek, who is very kindly disposed toward us, and such men as the Hon. P. P. Noyes, and he thoroughly appreciates our suggestion and believes in it, but the powers that be have permitted these great factories to be built, miles in length, and entirely disrupting all labor and business conditions wherever they exist, when right alongside we had factories already equipped with the most magnificent machinery in the world. Surely if we are able to build a Steinway piano can we not build a rough box to carry ammunition and fuses?

Mr. GREEN. You say you can build those things cheaper than these factories?

Mr. POUND. Yes, sir; and do it better, because we have better equipment.

Mr. GREEN. You can do it better and do it cheaper?

Mr. POUND. Yes, sir.

Mr. GREEN. And are ready to do it?

Mr. POUND. Yes, sir.

Mr. GREEN. I do not doubt it in the least. We have found that there has been a tendency on the part of some of these departments to see if they could not expand larger than another department, get more men in their employment, get a larger organization and get promotions. We would like, if we could, to stop this in some way, but we have not just seen the way to get at it. Perhaps one reason

is—and which I think is the reason—that Congress has abdicated too many of its powers.

Mr. O'SHAUNESSY. You said that you wanted to conserve your factory organization. What specific recommendation have you to make to the committee on that point?

Mr. POUND. If you will leave the language of this law as it is—

Mr. O'SHAUNESSY (interposing). You did not say that.

Mr. POUND. I beg your pardon, I though I did. We have organized our business along that line and that will the least disturb us, and we are going to have very much disturbance otherwise.

Mr. MOORE. Mr. Chairman, at this point may I insert in the record a letter from Congressman Small suggesting a tax on meal tickets? (Said letter follows:)

HOUSE OF REPRESENTATIVES,  
Washington, D. C., June 21, 1918.

HON. J. HAMPTON MOORE, *House of Representatives.*

DEAR MR. MOORE: I am addressing you as a member of the Committee on Ways and Means suggesting another source of revenue which may not have received consideration. I suggest a reasonable tax on meal tickets issued by hotels and restaurants above a certain minimum charge. I suggest exempting all checks for meals below, say, \$1 and placing a graduated tax on meal checks above that amount. For instance, a tax of 5 cents on checks above \$1 and less than \$1.25; 10 cents on checks above \$1.25 and less than \$1.50; a tax of 20 cents on checks more than \$1.50 and less than \$1.75; 30 cents on checks more than \$1.75 and less than \$2, and gradually increasing as the amount of meal check increases. This tax to be applied to each individual person and requiring meal checks to be made out separately for each individual. Such a tax would have at least two merits: It would raise revenue and would also discourage extravagance. This tax should be collected by the hotel or restaurant under regulations to be prescribed by the Treasury Department.

While the majority of hotels now serve meals on the European plan, a similar graduated tax might be placed upon rates for meals by the week and by the month above a certain sum, this sum to be fixed in accordance with the standard medium price for reasonable board.

Very sincerely,

JNO. H. SMALL.

#### STATEMENT OF MR. A. E. KENNEY, PARKERSBURG, W. Va.

Mr. KENNEY. Mr. Chairman and gentlemen of the committee, I was appointed at a meeting of the Oil and Gas Men's Association to present a few remarks to your committee. The Oil and Gas Men's Association is an organization composed mostly of independent producers in Pennsylvania, Ohio, and West Virginia, but more largely in West Virginia, with headquarters at Parkersburg, W. Va.

Mr. West covered the territory very completely as to our grievance; we do not like the term grievance, but we deem it our duty to appear here and make a statement in reference to our production and a possibility of the production being decreased by legislation that will transgress upon capital, upon investments, and call it profits.

The question asked by Mr. Moore was a very legitimate one and a very proper one, in my opinion. I do not hesitate to say that the oil men of this country desire to cooperate with the law-making department and with the executive department of the Government in raising more money. It is necessary to raise money; it is necessary to raise \$8,000,000,000 by taxation, and it must be raised from the country. But we do not desire you to do anything that will hamper a business that is as essential to the winning of the war as is the oil

business. The production of oil is almost as essential as men. The most important man to-day is the soldier and the next most important man is the producer.

Mr. West was asked whether he was producing as much oil as he had produced heretofore. He said that in his case he was producing 30 per cent less, but the average is 29 per cent less. We are producing 29 per cent less oil than we were a year ago. The business can not afford that and the country can not afford it. While Mr. West was modest in saying what we were receiving for our oil, I do not hesitate to say that in proportion to the expense of wildcatting, operating, and carrying leases, we ought to have \$8 a barrel for petroleum oil.

Four States, New York, Pennsylvania, Ohio, and West Virginia, are the only places in the known world where white-sand oil is produced, except, perhaps, a small part in California. The finest lubricating oil in the world and the finest quality of oil in the world is produced in those States. It is gradually, however, going down the toboggan, and some inducement must be offered to the operator to produce more, because the country demands and must have more. While we are getting \$4 a barrel for our oil the materials we use have greatly increased in price. I have some data which I received yesterday, but I believe the proportion is a great deal greater now. Boilers cost 248 per cent more than they did a year ago, while we are receiving 60 per cent more for our oil.

On last Saturday I had a gentleman from your city, I believe, Philadelphia, in Ritchie County, W. Va., and he put up the money to drill a well. We offered five contractors \$6,800 to give us a dry-hole proposition, so that we could pay them, put on our hats and walk away, they to furnish the material, and use the material for whatever they could get out of it. Within a mile of that place I paid \$2,800 a few years ago for a dry-hole proposition, within a mile of that territory. You can see what that is. If I told you it cost four times as much to-day to do hauling down there, you would think it was a ridiculous statement, but I tell it to you in this way: Teams charge \$8 a day that you could hire for \$4 a day a few years ago, and they tell you that they will only haul 5 joints of casing instead of 10. They say, "If you do not like it you will not get the hauling done." In going to Kings Knob they now take two days, where formerly they went in one day. The percentage there is 500 per cent, that being the increase. As I say, the increase in the cost of boilers is 248 per cent; rigs 30 per cent. That applies to steel rigs and there would not be that much of a change in regard to wood rigs. The increase in wire is 133 per cent; steel tanks, 173 per cent; casing, 127 per cent—but that is not iron casing; iron casing is the kind that should be used, because its life is longer, and the increase in iron casing is over 200 per cent—tubing and pipe, 125 per cent; bull rope, 118 per cent; the Reed gas engine, 118 per cent, and so on.

Mr. MOORE. Those are materials that you have to buy?

Mr. KENNEY. Yes; those are materials essential to the drilling of a well. While we have had an increase of 60 per cent, all of the materials which are necessary in the driving of a well have increased from 100 per cent up to 300 per cent. Then there is the question of labor. We are now paying drillers \$8 a day. We are compelled to take men from the farms who will go in as tool dressers and work as

tool dressers on one or two wells and then they call themselves drillers and we pay \$8 a day for that kind of labor.

Mr. HAWLEY. Taking into consideration the quantities you use of those materials and the prices you pay for such quantities, what is the average increase in the cost of the materials you use?

Mr. KENNEY. Well, I should say 150 per cent. I believe Mr. West said the increase was from 100 to 200 per cent and I believe he was very conservative in that estimate. Including in that the increased labor cost and the increased teaming cost, and so on, I estimate that the average increase is over 300 per cent. In making our estimate on that well for the gentleman from Philadelphia we estimated the hauling at \$600, while the hauling on the \$2,800 well was \$150.

Now, these are concrete illustrations and they apply throughout the whole State. I believe Mr. West was asked as to the percentage of dry holes, and his reply was about 30 per cent in the fields, but in our county we drill 23 wells before we find the first well. Before we can call it a field we drill 23 wells. So by taking all of the wildcat wells, and all wells in counties where there is no oil at all, dusters, as we call them, they will average 20 wells to one profitable well. Of course, when a field is discovered then the percentage is very much the other way.

You can not find an oil man anywhere who will say that he is going to cease producing oil. That would seem like a threat, or that he would attempt to delay the production of oil. The oil men will go on as far as they can and if they do cease it will be a matter of necessity.

This well that we wanted drilled, and for which we offered to pay \$6,800, was offered to five contractors, and but one out of the five said he could touch it, but he said, "I have agreed to drill two wells for the American Development Co. first," and that would put us into next winter. The country needs this oil, and we should be in a position to say, "We will give you a bonus of \$500 if you will start that well," but we can not do that. We can not raise the money. I have gone East many times to try to finance a proposition back home, and one of the first things they ask you is, "How soon can you drill a well?"

That is always the first question, and just now we are forced to say that we can not get any drilling done. You asked Mr. West whether some new wells were not being drilled now. There are some new wells being drilled and for this reason: If I have a lease of a few hundred acres and have some oil on it and some one comes along and offsets that well, the farmer and the law requires that I must also go ahead and offset that well, because I must not only find oil for myself but for the royalty owner, or else my neighbor will get it. So what we call protecting the lines must be done whether it is profitable or not; we must either protect the lines or surrender the lease. If we do not do that, the farmer will bring a suit for his property and the law would properly require us to drill it. So for that reason there is more or less drilling being done, and that must always be done or the production of oil will decrease.

Now, I know that people can not afford to wildcat at the present prices of oil.

Mr. MOORE. Is any assistance ever obtained from the Standard Oil Co., or any of its subsidiaries, in a case of that kind, or does the prospector always take the risk on his own account?



Mr. KENNEY. Absolutely on his own account. As men down in our country say when a partnership is entered into, "You must go ahead and do the drilling, and if the well is a good one I will share in the profits; but if there is a loss, you must stand that yourself."

Mr. MOORE. You can not protect your product beyond the price which the Standard Oil or any other purchasing company fixes?

Mr. KENNEY. That is true. Oil is the only product in the world that the man who owns it has nothing to say in reference to the price. Then, you must bear in mind the ultimate price after it has been manufactured—after it has been refined, and so on—the price then being from \$12 upward. You take Nujol, and a dozen different other kinds of oil which are made absolutely from petroleum oil, and those preparations sell for as much as \$300 a barrel, 75 cents a pint, or something like that.

Mr. MOORE. If the Government fixes the price, we can understand why you can not go beyond a certain limit, but sometimes the price fixing is done in the ordinary course of business.

Mr. KENNEY. Yes, sir. In that connection, Mr. Moore, I would like to submit a letter, which I will mail to the committee, that has reference to that. We are told that we must sell all of the oil we produce. Oil is not like other things, which can be held for a little time to see whether you can get what they fairly cost to produce. We must sell all of our oil, and we are told that we must not ask for a greater price, and that if we do the Oil Administrator will look on it with disfavor. We are told that by a letter from that department which is equivalent to saying, "If you are not good the Government will take over your proposition." As far as I am concerned, I would be glad if the Government would take it over, because if we can show that we are not receiving our proportionate part of the retail price of these products, then we ought not to be limited to a price which is not commensurate with the cost of producing them. But the fundamental thing is that the Government—this country and the world need more oil, and more of the white sand oil; they need more of the oil produced in this section of the country.

Mr. MOORE. Are not the people using more oil than ever before?

Mr. KENNEY. A great deal more. You see, oil was only discovered during our last war, the Civil War.

Mr. MOORE. I asked you that because you said there was a decrease in production.

Mr. KENNEY. The increased demand is more than 29 per cent. A year ago there were 2,194,000 barrels, or something like that, on hand, and the year previous to that there were three million and some odd thousand barrels on hand, and undoubtedly they carry 5,000,000 barrels on hand.

Mr. MOORE. But usually the producer does not stock up in that way?

Mr. KENNEY. No. The buyer or the purchaser does.

Mr. MOORE. The large controlling companies?

Mr. KENNEY. Yes, sir; the pipe line companies and subsidiaries of the Standard Oil Co.

Mr. MOORE. To what extent has the Government stepped in to control the volume of stored oil?

Mr. KENNEY. I do not know that the Government has done anything along that line. There should be some surplus, of course. I

do not know the exact figures, but the pipe lines take up a good many million barrels.

Mr. MOORE. As a matter of fact, the purchasing corporations do control the situation so far as production and distribution are concerned. Is not that about the fact?

Mr. KENNEY. Yes, sir; that is true.

Mr. MOORE. I am not finding fault with you or with anybody else in particular, and I would like for you to make money, but under the present conditions—

Mr. KENNEY (interposing). The main thing I want to impress upon you is that we are making less money than we were making two or three years ago.

Mr. MOORE. What suggestions have you to make as to increasing the revenue from oil?

Mr. KENNEY. I do not hesitate to go on record as saying that the people who use this product ought to pay for it, and if it goes on as a percentage on the product, a part of it would be paying a percentage on \$300 a barrel. You would raise more money and it would be borne by 100,000,000 people instead of by a few thousand people. It is not compulsory, because they buy it if they need it, but nobody is obliged to pay it. I realize that it is the duty of this committee to raise money, and you should do it. I am only trying to impress upon the committee that that is the quick and certain way. There are certain commodities that do not pay enough taxes, and I think oil is one of them. I think that it would be a pretty difficult thing to obtain legislation that would put a tax on oil in the hands of the consumer. Of course, a mother wants some other mother's child whipped besides her own, but I do not taken the position that the oil business ought not to be further called upon because we are in that business, but because the business will not stand it and produce oil. We would have to quit—not because we want to, but because we could not carry it on.

Mr. O'SHAUNESSY. You would be willing to stand additional taxes if you could pass them on?

Mr. KENNEY. Yes, sir.

Mr. O'SHAUNESSY. So you are throttled by a monopoly absolutely. That is about the size of it, is it not? They have got you.

Mr. KENNEY. Those are my sentiments.

I thank you kindly for your attention, and ask permission to file this statement for the record.

(The statement referred to is as follows:)

*To the Honorable Claude Kitchin, Chairman, and the Honorable Members of the Ways and Means Committee:*

The Oil and Gas Producers' Association of West Virginia is an organization composed of independent producers of oil and gas in Ohio, Pennsylvania, and West Virginia, its membership being made up largely of small producers.

The oil and gas producers do not ask any special exemptions or immunities. As a class their generosity is proverbial. Their liberality in responding to the Liberty Loan and various war funds induced most favorable comment. In the proposed tax legislation they only ask that due account be taken of the hazards and special conditions prevailing in the business which differentiate it from other lines. They fully recognize the fact that the principal business in which this country is engaged in the winning of the war and that everything else is subordinate and incidental. The business is of American birth and in this country continues 100 per cent American in its conduct. Nearly 100 per cent of those engaged in it as producers and employees are of native American birth. The best of feeling has always prevailed between employer

and employee, whose relations have been those of friendly business associates, the employee being given every encouragement to make a start in the business on his own account, the producer of to-day being the employee of yesterday, and labor troubles have been practically unknown until those arising recently in certain sections through malicious influence, and due largely to the necessity of replacing the usual loyal employees called to war with those of a different character. The business has contributed liberally to the war in men and money. The producers believe that patriotism should be exercised in proper proportion. They expect to pay their full share of taxes and taxes at a much greater rate, and only ask that the method of their imposition be equitable.

If the time shall unfortunately come when the people are called upon to give their all, the oil and gas producers will be ready with the last dollar as soon or sooner than the average, only asking that within a reasonable time after they have contributed all others shall have done likewise, and the nature of their business, with its hazards and reverses to be met and dealt with, has filled them with the spirit, energy, and enterprise which will make them among the strongest factors in rehabilitating the country. But it does not look as though our extremity will ever be so great that it will be necessary to kill the sheep, on the contrary there is every reason to believe that we will be able to subsist and "carry on," through utilizing the wool and that we will also succeed in increasing the flock. Maximum production is important, and petroleum and gas are among the most important products, and their production should be encouraged.

There have been no war profits in the oil and gas business. In 1913 Pennsylvania grade oil brought \$2.50 per barrel, and is now bringing \$4 per barrel, an advance of 60 per cent, while the cost of items entering into production have increased from 100 to 300 per cent. The prices of gas are fixed by franchises at the places of sale, and regulated by public-service commissions. Oil wells are being operated in the Eastern fields for as low as 8 or 10 gallons of oil per day. These wells in the aggregate are capable of producing a considerable quantity of oil, and their abandonment would result in a great economic loss, as there is no chance that there would ever be such a price as would justify redrilling such territory. With the scarcity and demand for material, such wells represent more value for their equipment than as producers, and there would naturally be a temptation to pull them out and abandon them, to which, by the way, the operators have shown no signs of succumbing.

The charges of profiteering in the oil-producing business would seem absurd to those who know the business. The oil producer has no control over the price of his product, and there has been no disposition on his part to unduly influence it. It is necessary for the producer to protect the lines of his leases by drilling wells to offset those on adjoining property, and produce all the oil that he can. If he don't get it, his neighbor will. Lately a report circulated that eastern producers were holding their oil in the pipe lines, without selling, to influence an advance in price, yet the last published report for the end of the month preceding the report as to the holding of oil showed that there were 2,924,671 barrels of Pennsylvania grade oil in storage, a large part of which would go to fill the tank bottoms and the pipe lines of the pipe-line companies, and thus not be available for immediate use, while on the same date last year there were 3,194,381 barrels of this oil in storage, indicating that more than all the oil produced during the year had been sold by the producers. It will be recognized that the quantity of oil on hand is not abnormal, when it is stated that at times during the past five years over 5,000,000 barrels of Pennsylvania grade oil has been held by the pipe lines. Very few, if any, producers are carrying any quantity of oil beyond recent production, and a large part of the oil held by the pipe-line companies may stand to the credit of the refining companies awaiting delivery. The eastern producers have no more storage on their leases than is required to gather the oil for the pipe lines. Reserve stocks are being drawn on throughout the country, and a shortage is threatening.

The business of hunting for oil, as a whole, has not been a profitable one, and no one has ever sought a monopoly of this branch of the business. Successes arising from the drilling of "wildcat" wells have been comparatively few, conspicuous and long remembered, and failures many, obscure, and soon forgotten by the general public. There is said to be a game known as roulette (I speak only from hearsay), wherein the chances are largely against the player and the rewards proportionately large. While it is not so respectable, I imagine it would be more profitable for the "wildcatter" to utilize his capital in playing this game rather than in hunting for oil or gas, and as to the latter I speak from experience and not from hearsay. There are failures in other lines of business, but in most there is much greater salvage. The principal item in a "wildcat" well is the hole, and I know of nothing so valueless as a hole drilled for oil or gas which fails to produce. The incentive which actuates the

"wildcatter" and upon which the world depends for the maintenance of its supply of oil and gas, is the hope of capturing a capital prize, the development of a gusher well.

The theory that 9 per cent is a sufficient return on capital and that all above that is abnormal may apply to the majority of stable and permanent businesses, and is supported by the fact that in normal times certain securities yielding 4 to 5 per cent have found a ready market, but it can not fit the oil and gas producing business with its hazards and instability. Capital which is well satisfied in normal times with investment in stable and permanent lines which yield 5 per cent will, not even in such times, be invested in oil and gas properties, with their hazards and uncertainties as to the continuance of production, unless they promise to pay out in three or four years, depending upon what may be left at that time for the profit, and the cases are many where the promise is not realized. No sane man would cheerfully contemplate the investment of his money in the oil and gas producing business knowing that the larger part of his yield above 9 per cent, with assets converted into cash treated as profits, would be taken in taxation. The present law which takes little account of the value of properties developed since March 1, 1913, as of January 1, 1917, above the value of equipment, has the effect of compelling the return of assets held at that time, now being converted into cash, as profits, promises to sap many producers financially dry in a few years, and thus the sheep which produces the wool is killed and we live on the mutton for a time and then starve.

The most important man to-day is the soldire and next to him comes the producer and he should be kept financially alive as long as possible, and if it shall become necessary for all to reach the end of their financial existence in the great struggle for things more important than money, the oil and gas producer will be found awaiting the final summons with resignation.

The manufacturing plant can go through the war taking its toll of profit on products finished from the raw material, maintaining its plant in good condition with proper charges therefor, benefiting perhaps by extra profits due to present conditions, yielding up a large share of actual profits, and at the end of the war be more prosperous and have far greater assets than at the beginning. The oil and gas producers, in many cases under the present theory of taxation, face the prospect of giving up not only actual profits, but a large share of assets from rapidly depleting and depreciating investments and at the end of the war gazing upon a scene on their properties as cheerless as that in "No Man's Land" on the battle front, with no value in sight beyond what the junk will bring, and in normal times it is usually of such comparatively little value and there is such loss in pulling wells it is a question whether it should not be considered as an item of expense originally rather than of investment.

The price of producing-oil properties is based on the average daily production. I have been informed of the case of an oil producer who spent his life in the business and capably managed his property, who on December 31, 1916, had a property producing 70 barrels of oil per day, which he could have sold at \$3,000 per barrel, getting \$210,000. He sold oil in 1917 amounting to about \$70,000 (I use round numbers) and he spent on the property in producing oil and drilling and equipping new wells, \$40,000, and on December 31, 1917, the property was producing 56 barrels per day, which he would have difficulty in selling, under taxation conditions, at the same rate per barrel, \$3,000, which would bring \$168,000, a decline in value of \$42,000 against which he would have to apply the \$30,000 derived, above expenses, from the sale of oil, and he would end the year poorer than he started it. Of the \$40,000 expended on the property during 1917, \$15,000 was for equipment of new wells, which would probably have to be treated as investment although it did not add a penny to the value of the property, which depended almost entirely on the production. I understand that the property was in possession on March 1, 1913, under which circumstances he could value the oil and gas leasehold rights as well as the equipment as of that date, and have the benefit of depletion and depreciation charges. But if an individual had accepted the hazards and developed this property subsequent to March 1, 1913, procuring the lease for the consideration that he develop it, and had charged off to January 1, 1917, as is customary, his drilling as expense, leaving the value of his equipment, about \$45,000 on January 1, 1917, with the addition of \$15,000 during the year, standing on his books as the only capital invested, he would be allowed a comparatively small deduction for depreciation of equipment, and a reasonable salary charge, and would have to pay a heavy tax on a so-called profit, when within the year he actually should have suffered a heavy loss. Without doubt there are many cases where the effect is even more inequitable.

The business has a reputation for enormous profits which is largely false. The most important items and the ones which receive the least consideration from the average individual engaged in the business are depletion and depreciation. Wells rapidly decline until they are exhausted. The accounting end has not heretofore had much

attention from a large number of producers. The pipe line companies take the oil from the tanks when they are full, compute, and give the producers credit with the amount. When he needs money he goes to the selling agency and gets a check for the oil with which he has been credited. Business running into thousands of dollars has been transacted with no records other than a check book. Many producers have looked upon all they have received above what they have paid out as income, not taking into account the value of their properties when they have reached their height and not having provided for preserving this value intact in some form. For a few years they flourish, but their financial extinction is practically coincident with the exhaustion of their properties, and no one wonders any more than they how it all happened. The application of a law which compels the return of liquidated assets as profits, strengthens the impression of great profits in the business, and subjects the producer to being miscalled a profiteer. A man could have started in 1917 with \$100,000, and have spent \$90,000 in that year in unproductive drilling, and with the \$10,000 remaining develop a production that might promise to make him whole, but as each year's loss now stands to itself he could not use his last year's loss in the computation of this year's taxes, and the larger part of his yield might be taken in taxation.

The oil and gas producers yield to none in patriotism and are trying to conduct their business so that it will be the greatest possible help to the country. But it is only human nature that they are likely to become discouraged and not hazard their money under present conditions. They might prefer to invest it in Government loans and contribute liberally to the war funds and thus win the plaudits of their fellowmen. These things are important, and they should do their share as heretofore, but of even greater importance is the increase of production.

In conclusion I would say that we have come to you with reluctance. We realize the magnitude of your task and that time is precious to you. We have heard of your willingness to hear various interests in the desire to be fair to all, and have decided to trespass on your courtesy. The oil and gas business is confined to particular localities and knowledge of it is not general and thorough. We know we will be fairly treated when you understand our difficulties. We ask that you carefully consider the special conditions prevailing in the business, that it requires an adequate return for its encouragement, taking due account of the facts that the business is one in which depletion is heavy, that it is full of hazards, and that assets which existed January 1, 1917, in the ground, could not be marketed until produced, and are now being converted into cash.

Respectfully submitted,

A. E. KENNEY,  
Member of the Committee of the Oil and Gas  
Producers' Association of West Virginia.

**STATEMENT OF MR. GEORGE McANENY, VICE PRESIDENT OF THE AMERICAN NEWSPAPER PUBLISHERS' ASSOCIATION, AND CHAIRMAN OF ITS COMMITTEE ON SECOND-CLASS POSTAL RATES.**

The CHAIRMAN. State whom you represent.

Mr. McANENY. I appear as the vice president of the American Newspaper Publishers' Association and as chairman of its committee on second-class postal rates. There are present many of the members of the association's committee.

The CHAIRMAN. What business are you engaged in?

Mr. McANENY. I am the executive manager of a New York newspaper, the New York Times. I appear, of course, as in my official capacity as vice president of the association. I will read the list of those who are present. Taking them geographically, there are present Mr. Charles H. Taylor, jr., manager of the Boston Globe; Mr. L. B. Palmer, manager of the American Newspaper Publishers' Association—

The CHAIRMAN. What paper is he interested in?

Mr. McANENY. He is the executive officer of the association itself.

Mr. GARNER. He is not connected with any paper?

Mr. McANENY. No, sir. There are also present Mr. Thomas R. Williams, of the Pittsburgh Press, who, incidentally, is the president of the Pittsburgh Publishers' Association; Mr. Fleming Newbold, of the Washington Star; Mr. John Stewart Bryan, of the Richmond News Leader; Mr. W. S. Jones, of the Minneapolis Journal; Mr. Gardner Cowles, of the Des Moines Register-Leader; Mr. C. P. Mooney, of the Memphis Commercial-Appeal; Mr. Frank P. MacLennan, of the Topeka State Journal; Mr. Hopewell Rogers, of the Chicago Daily News; Mr. W. E. McFarland, of the Chicago Tribune; Mr. Urey Woodson, of the Owensboro (Ky.) Messenger; Mr. E. Lansing Ray, of the St. Louis Globe-Democrat; and Mr. L. T. Wortham, of the Fort Worth Star-Telegram. There has been no effort made to bring an extended delegation of publishers to meet you here, but these are the members of the committee only. There are several other members of the committee who because of the distance were not able to be here.

The CHAIRMAN. What is the committee?

Mr. McANENY. It is the committee of the association on second-class postage.

The CHAIRMAN. With respect to legislation regarding second-class postage.

Mr. McANENY. Yes, sir.

Mr. STERLING. You represent the American Newspaper Publishers' Association?

Mr. McANENY. Yes, sir. That association, Mr. Chairman, is comprised of the publishers who publish the daily newspapers of the country, numbering some 500, all told. They represent those newspapers which will be affected by the present legislation—that is, the legislation about to take effect with reference to second-class postage. I think that outside of their membership the publishers who would be affected materially by the law are very few. That is to say, the small publishers whose newspaper business is carried on chiefly within the counties of publication and who will enjoy a continuation of the free county plan of distribution, and those that would extend only slightly outside of their counties, and then chiefly into the immediate adjoining zones, would not be much affected. The association had its annual meeting in New York in April and adopted these resolutions, which I will read because they express succinctly the object of our appeal:

Whereas the postal provisions of section 1101 of the act of Congress approved October 3, 1917, and which is to take effect July 1, 1918, will be unworkable in practice and will be most unfair and oppressive to the newspapers of the country, and to the reading public; Be it

*Resolved* by the American Newspaper Publishers' Association that Congress, if insistent upon legislation of this character, be urgently requested to modify said law in so far as it applies to newspapers along the general lines as proposed by the McKellar amendment, or, if the time be considered by Congress too short to do this, that Congress be urgently requested to suspend the provisions of said law, in so far as it applies to newspapers, until a complete and intelligent investigation can be made of the subject of newspaper postage.

That resolution was indorsed and made the action, also, of the Southern Newspaper Publishers' Association and of the Inland Publishers' Press Association at separate meetings of those respective bodies.

Now, it is late in the day to urge the suspension of the operation of this law, but we submit that through the accident of circumstances that is not our fault. We came to Washington, or our committee did, immediately following this meeting, and, in fact, a short time before that we were advised that because of the then existing parliamentary situation in the House it would be better and more direct to appeal to the Senate, where the Post Office bill was then in committee, and where it was urged that an amendment might be added to suspend the operation of the provision if the Senate saw fit. That advice we received from the chairman of the House Postal Committee, Judge Moon. We did go to the Senate, and hearings were held before the Post Office Committee on April 30 and May 1. It was clearly the sense of the committee that at least there should be a postponement until we were out of the present troubled waters and until it was possible to ascertain more clearly and definitely what the nature and effect of this legislation would be. It appeared, however, that for parliamentary reasons, inasmuch as even an amendment to the postal bill extending its operations would be judged an amendment to a revenue-producing measure, it was ruled by those whom the Senate committee consulted—the Vice President, I believe—that the Senate could not consider a suspension resolution unless it had originated in the House. There was a good deal of open debate in the Senate and that was explained.

Senator Watson added that he violated no secret of the Postal Committee in declaring that a majority of the committee favored a suspension, and that it was prepared to act except for this conflict of authority between the two Houses. We then returned to the House and asked the Postal Committee for hearings, upon the theory that this legislation had been incorporated in the war revenue act of last October, not as a war-revenue producing measure but as permanent postal legislation, and that, naturally, what might happen thereafter would be within the province of the Postal Committee. The Postal Committee, a week after our request, advised us by wire that they thought it unwise to hold another hearing; that this was a matter concerning the war revenues, and they recommended that we make our application to you. It is for that reason, sir, that we are here to-day. We are asking that the operation of this law be suspended and that it do not take effect, as designed, on the 1st of July, nor for a year or more, according to your wisdom. We appreciate the fact that the time is short between this and the 1st of July, but we understand that it is amply sufficient for the passage of a resolution of suspension, if your honorable committee and Congress follow the views of those who favor this matter in the Senate.

I have said that we do not understand that the act of last October, in so far as it applies to second-class postage rates, was a war measure, and that is the declaration of the Postmaster General contained in his annual report. I assume that, in as much as it has been established permanently as a part of the system of the Post Office Department, it will not necessarily reappear in the bill you are now considering for the raising of further revenue. It is fixed; it is established; it will be a law, and it will take effect on July 1, unless our plea for further consideration is received favorably. We are advised by the Post Office Department that the increased revenue that would be received through the operation of these rates—and I do not rehearse the pro-

visions of the law itself, because you gentlemen are entirely familiar with them—as I say, it is the judgment of the Post Office Department that the increased revenue during the first year of the operation from newspapers will be a little less than \$2,000,000. In the midst of measures that deal with several billion dollars as the amount required from taxation, I do not suppose that it is considered seriously that that item is a bit of war revenue is seriously required. Offsetting even that sum, there is the fact that in order to make this system work, complicated as it is and requiring as it will further clerical and further mechanical service and expense, it will cost the Post Office Department a great deal more than the present system does, and added to that there is the fact that there will be reductions of circulations, and serious reductions of circulations, throughout the country as a result of this measure that will reduce the revenue still further, so that there will not remain one cent of additional revenue to be received from this source.

Therefore, gentlemen, we come before you asking for a suspension, not because it is a matter of revenue, not because the newspapers of the country object for a moment to the payment of their full share of those taxes that are laid commonly upon every industry, but for the reason that it is not a war revenue measure, and for the reason that it will operate to compress and reduce the efficiency for service of the newspaper press of the country at a time of great need, and, finally, because we have been asked by the postal committee to appear to you. I stand upon the technical fact that this original legislation was incorporated in your revenue act of last October.

Now, gentlemen, the demand for an increased return from second-class postage has been heard in the Post Office Department and in Congress for a long time, and we do not argue that there is not justice in some degree in that demand. We do maintain, however, that if measures are adopted to increase the revenues from this source they should be considered with more care than it has been possible to consider this scheme, and that those whose industry will be affected and those who are trustees for the reading public in this matter shall have an ample opportunity to be heard and to be consulted at the fabrication of the plan proceeds. Just what the rates shall be in an affair entirely between Congress and the people themselves. The people pay this postage, whether it be great or small, and of course they will continue to pay it. The newspapers are charging to the people, I am sure, with a very few insignificant exceptions, the rate that the Government charges for postage itself. It was the custom until not a great while ago for the Government to collect directly from the subscriber his postage on this matter, and the subscriber got in his mail box periodically his bill for postage from the department.

But as a matter of convenience that was transferred to the direct subscription and incorporated there. The newspapers, therefore, are in a sense collecting this postage rate for the Government. They receive practically none of it for their own benefit. In fact, I am speaking very directly for one of them that receives less from its mailed newspapers than it does from those that are sold through other means—that is, it gets less from those newspapers that go into the mails under individual wrappers. The bill that has been passed, the operation of which was suspended until the 1st of July, provides for numerous things. It has several independent elements. It is



not a flat provision for increased postage, but it increases the flat rate upon the news section of publications, which are to be measured and taped up, each edition for each day in the year, for the purpose of that assessment, and it then applies a separate rate upon the advertising section, gradually increasing according to the zones of distance from the place of publication. Finally, in the case of newspapers, it does establish a pretty well fixed zone system, the outer rate of which will be absolutely prohibitive, and the only consequence of which will be a serious reduction in the newspaper's circulation. It is not a matter of dollars and cents to any one concerned, so far as I see it. It surely is not a matter of dollars and cents to the Government, and I have cited the figures of the department to show that. It is not a matter of dollars and cents to the publisher, because the publisher must increase his rate to his subscribers. He is already notifying his subscribers to that effect. It is a matter only of reducing the volume of second-class mail that should be carried by the Post Office Department, on the one hand, and of reducing the number of individual publications that reach the subscriber, upon the other.

And now, gentlemen, without regard to the merit of the general plea for an increase in these rates, may we not urge upon you that this is a most inopportune time to derange absolutely the publishing industry of the country; to take from these subscribers who can not afford to pay the increased rates their present supply of news and information, of opinion and of advertising? Is there anything of an important nature to be gained by pressing this matter at the present time? We submit that there can not be, and for that reason we urge that even within the time left there shall be this suspension.

Mr. GREEN. Mr. McAneny, before you go any further let me ask whether you object to the zone part of the law, or both to the increase in the flat rate and the increases provided for by the zone system?

Mr. McANENY. There are individual publishers the country over whose views differ upon that question according, I assume, to their natural interests. That is not unnatural.

Mr. GREEN. Well, I am now speaking of the general plan.

Mr. McANENY. I am speaking for the association and for a program upon which the association has unanimously agreed. And, as I read it, sir, it presents, first of all, by implication, our general plea, that there is no need for these increases at the present time. It adds that if Congress insists that there is, then rather than this involved, complicated system, this measuring of news and advertisement, that there should be a flat zone system modeled upon that which Senator McKellar introduced in the Senate, which I think was passed in the Committee of the Whole there but not by the Senate, which sent nothing on this subject to the conference last fall. The Publishers' Association would greatly prefer to have the flat zone system. Senator McKellar's plan exempted the first two zones. It continued the present rate of 1 cent for the first two zones and then graduated upward to something approximating these figures in the outer zones.

The CHAIRMAN. The first three zones.

Mr. McANENY. Yes; you are correct.

Mr. GREEN. The rate in the first two zones is the same under the present law, is it not?

Mr. McANENY. In the first two zones it is the same, yes; although at an increased figure.

Mr. GREEN. So it is really a flat rate in the first two zones under the proposed law?

Mr. McANENY. Yes; that is, the first 150 miles.

Mr. GREEN. What proportion of the newspaper circulation outside of the big cities circulates 150 miles from the place of publication?

Mr. McANENY. The Post Office Department has not furnished figures on that subject. They have said that of the individual newspapers a large percentage or a majority are circulated within those zones; but if you take newspaper circulation; that is, the volume of individual copies that go to individual subscribers, it is pretty generally distributed throughout the country. Of course, the heavier part would be within those first zones.

Mr. GREEN. Take it in Iowa and Illinois, the States with which I am most familiar, outside of the Chicago papers would there be much circulation beyond the second zone?

Mr. McANENY. A very considerable circulation.

Mr. GREEN. Outside of the Chicago papers?

Mr. McANENY. You mean in Illinois?

Mr. GREEN. Yes; or Iowa, either one.

Mr. McANENY. I do not know that that would be true of the State of Illinois, but it would be of many other cities throughout the country.

Mr. GREEN. Oh, yes.

Mr. McANENY. For instance, Minneapolis and St. Paul.

Mr. GREEN. Of course, and also New York and San Francisco; but in those two States, of the papers published there, there would not be much circulation beyond the second zone outside of the papers published in Chicago?

Mr. McANENY. In the other cities of the State I should say that is the case; yes. Of course, the effect of this would graduate as the distance and the prices graduate; and those that would suffer the most in their losses of circulation would be those that are best able to carry the Associated Press dispatches, their own special correspondence, individual papers, reports, addresses, articles that bear on the war, the pictured illustration of the war; in short, the greater part of the Government's own propaganda. It is that class of newspapers naturally that would feel this thing in the most severe way.

Mr. O'SHAUNESSY. Mr. McAneny, if the estimated revenue by the Post Office Department from newspapers was twenty or thirty or forty million dollars, would the association's attitude be the same?

Mr. McANENY. If the revenue reached that figure, without any more damage than this plan does, of course that would affect the association's attitude, but that is—

Mr. O'SHAUNESSY (interposing). Would you be objecting to it then?

Mr. McANENY (continuing). But that is very much of a hypothesis.

Mr. O'SHAUNESSY. Would you be objecting just the same?

Mr. McANENY. We would object the same to any plan that changes the system itself in this doubtful way at the present moment.

Mr. O'SHAUNESSY. Of course, I was taking it that you were looking upon this as a trifling addition to the Government's revenues for war purposes.

Mr. McANENY. I cited the fact that it is a trifling addition because it appears that that is all that stands in the way of our request for a suspension until it can be ascertained what these rates ought to be and what the effect of the increases will be. I meant it only in that way.

As to the system itself, in the first place, gentlemen, the Post Office Department is not in possession of facts and figures upon which an accurate schedule of charges for this class of postage can be made. The last figures that were collated and brought together for the information of the department were those of the Hughes Commission in the year 1908, and at the hearings before the Senate committee it was to those figures that Mr. Koons, who appeared for the department, referred. He added that in some cases they had been brought down to 1912, but there is not anything later than 1912; that is, within the past six years.

Now, the revenues of the Post Office Department have doubled within that time. There must of necessity have been an entire redistribution of costs between the several classes of mail, and nobody can tell to-day what it is really costing to carry second-class mail. We ask and urge with all vehemence, as a matter of justice to the newspapers and to the reading public, that those things shall be ascertained and a scientifically constructed bill passed before anything is made final.

Mr. GARNER. Mr. McAneny, may I ask you a question for my information?

Mr. McANENY. Yes, Mr. Garner.

Mr. GARNER. When the Hughes Commission made its report, did your association urge the adoption of the policy recommended by the Hughes Commission?

Mr. McANENY. I do not recall. I was not a member of the association at that time. Possibly some other gentlemen here can answer that.

Mr. GARNER. I was just wondering why it was your association, with the powerful influence it had, did not take up that report and urge Congress to adopt that policy if you are in good faith now in objecting to the present plan, and I know you are. I was wondering why you have not come forward and assisted Congress in ascertaining a just rate for second-class matter and based that upon the figures furnished by the Hughes Commission.

Mr. McANENY. Gentlemen, in the first place, the findings of the Hughes Commission were very incomplete. They consisted chiefly in the end, of explaining and protesting that they could not get the data at that time upon which to make a report.

Mr. GARNER. Well, you do admit—

Mr. McANENY. If I may just finish my answer—

Mr. GARNER. Do you know whether second-class matter as applied to newspapers pays anything like the cost of handling it through the mails?

Mr. McANENY. We think that the cost of handling the newspapers is far less, sir, than the figures that are stated usually by the Post Office Department.

Mr. GARNER. But that is not the question. Is it as much as the Post Office Department now has to pay for the handling of second-class mail matter as applied to newspapers?

Mr. McANENY. It is not as much, nor could it possibly be.

Mr. GARNER. Do you believe that the newspapers, as a matter of public policy, should pay the necessary cost of transacting this business through the Post Office?

Mr. McANENY. The newspapers are paying the necessary cost that falls upon them, and I assume your question really is, Do I believe the people who receive the papers should pay the cost that the Government incurs in carrying such second-class matter?

Mr. GARNER. Just as you like; if you want to put it in that way.

Mr. McANENY. Of course, that is the fact. That is undeniable.

Mr. GARNER. Do you believe that?

Mr. McANENY. That the people should pay that increased cost?

Mr. GARNER. Yes.

Mr. McANENY. I do not, gentlemen. I believe that a thorough inquiry into this whole matter would disclose innumerable instances in which the second-class cost may be cut down through the prevention of waste, a reduction in its use, or otherwise, but I do not believe that there should be any attempt to assess that increased cost, so-called, upon the people of the United States, and for the reason that the people are already paying that cost. The Post Office Department is one organization, but it has four divisions. Its four sections of mail are interdependable and work together. The second-class mail is the greatest single producer of revenue for the first-class mail; so is the third for the second and the third for the fourth. You can not separate any one and say it must stand by itself. On the contrary, the people who pay the first-class revenues—and which, according to the figures of the department yield a profit of \$60,000,000 a year—are identically the same people who get the second-class mail. There is hardly a man, woman, or business concern in the United States that mails letters that does not also get some form of second-class printed mail. The Post Office Department as a whole serves the people in this way, collecting their money for their own purposes and redistributing it, and the Post Office Department last year turned into the Treasury of the United States a profit of over \$9,000,000.

Mr. GARNER. But you said a while ago that you wanted us to postpone this matter in order that a thorough investigation might be made to determine the rate that should be applied to second-class matter, but according to the argument you are now making it is wholly unnecessary to do anything except to repeal the law and let it stand as it is.

Mr. McANENY. I did not mean that. What I said was that while we recognize that it may be shown—we do not recognize that it has been shown—that there would be justice in a further increase we do think that, first, there should be an effort made to get at an exact and dependable cost, and, in the second place, that whatever figures are reached should be properly and accurately assessed upon those who use the second-class mail. In the Hughes Commission's report, or, at least, in figures that the Post Office Department has compiled from that report, they give the total average cost of the department in carrying second-class mail as \$8.34, and in the same column they say that the daily newspapers, as a part of that total, are costing \$6.91, but when you come to legislation, the same price is laid on all of them. In the first place, we can not recognize

that figures which were compiled 10 years ago are applicable to this situation, and, in the second place we can not recognize—

Mr. GREEN (interposing). You would not say it was any less to-day, would you?

Mr. McANENY. With the volume of business doubled I should say that in particular items it may be considerably less. There has been a redistribution—

Mr. GREEN (interposing). When you are conducting a business at a loss and the business doubles, that reduces the loss; is that your contention?

Mr. McANENY. No; I did not mean that, but I think it is quite conceivable that when some of the mail years ago cost more and some less, and when you have had a doubling in the business and a redistribution, that all of those figures might change, that thus the ratio might change and some of the things cost less than at that time. What we do know is that the whole department is run at a considerable and material profit and that the department has been able to do that very largely upon the receipts from second-class mail.

Mr. GREEN. That is what some people complain about, that they are paying a little more than the cost and they ask that some of the other classes of mail matter pay their cost.

Mr. McANENY. I do not believe that is a complaint from the people of the country who read the newspapers, although they are the people who will pay these bills in either event. But we have not heard a complaint from them; they appear to be fairly well satisfied to have the postal revenues that they pay into the Treasury applied for their benefit in the way in which they are being applied to-day.

Mr. SLOAN. Is there any objection on your part, if these other people are not complaining?

Mr. McANENY. I did not quite catch your question.

Mr. SLOAN. I thought the objection was on the part of the publishers instead of the people whom you say are the readers and who are paying the bills.

Mr. McANENY. The publishers are naturally the spokesmen for the people who read the newspapers upon a matter of legislation of this kind, and they are bound to be heard. Their interest, as I have said, is not immediately financial; it is in maintaining their circulation and in continuing to serve the reading public and to represent their subscribers in asking that these additional burdens shall not be laid upon them.

Mr. SLOAN. One of the principal arguments submitted is that it would cause the suspension of a great many of these publications. A good many letters that come to my desk give that as one objection, and the sole objection in some cases.

Mr. McANENY. In the nature of things there would be two alternatives from which to choose. Either a newspaper would have to assume the cost of this additional postage—and it is possibly from that class of publishers that you hear about suspension—or do what the papers of the country are preparing to do, of necessity, namely, to add it to the subscription list. That has been definitely determined on in every large city of the country as the only thing to do. After the year the publishers have been through in the matter of the increased cost of white paper, the increased cost of ink and every thing that goes into the composition of a paper, the increase in cable

tolls, and every other sort of service they have it would be impossible for the publishers to carry this additional burden.

The CHAIRMAN. I did not want to interrupt you at this time, but at this point let us ascertain whether this increased cost has been such a great burden to your newspapers. What was the net income return of the New York Times in 1914?

Mr. McANENY. I am not here prepared with statement of that kind as to the New York Times.

The CHAIRMAN. I am going to tell you something about it. I think your net increase during this war has been more than 100 per cent. I am only guessing at that, but that is my guess.

Mr. McANENY. The New York Times—

The CHAIRMAN (interposing). I am going to make the guess that even with all of this increased cost that you refer to, the increased cost of print paper, the increased cost of machinery, the increased cost of labor, cable tolls, telegrams, and everything, that the net income of the New York Times has increased as much as 100 per cent. Now, you can find that out by wire or by going up to the revenue department, because they will let you know and show you the return, because you are the business manager and you made out the income-tax return, did you not?

Mr. McANENY. No; I did not.

The CHAIRMAN. You looked over it, did you not? You swore to it, did you not?

Mr. McANENY. No; I did not; that does not come within my department's activities.

The CHAIRMAN. You said you were the business manager, did you not?

Mr. McANENY. I am the executive manager, but not the business manager.

The CHAIRMAN. Do you know what the net income of the New York Times was in the year 1915?

Mr. McANENY. Frankly, I can not tell you just what the income of the New York Times was.

The CHAIRMAN. I am going to guess that it had an increased income of 50 per cent in 1915.

Mr. McANENY. But let me tell you that its increased earnings have not been from the war, but from its own natural growth, but I do not know that that would be true as to all newspapers.

The CHAIRMAN. You pointed out in your answer that the materials which newspaper men use have gone up so much—ink, print paper, apparatus, telegrams, and labor—that they are hard pushed and can not stand an increase in anything else, especially a tax.

I was going to illustrate it by the papers. You ought to know something about that, and I want to find out in your case whether that is true. Now, then, you say that it has considerably increased its net income, while these other articles that have been mentioned have also greatly increased in cost. In the case of your paper, does the increase in material and in labor in any way prevent you from still increasing your income, or has it done so?

Mr. McANENY. Notwithstanding this increase during the war period, there has not been an increase this year as against last year. In this year there has been a substantial decrease, but during the war period there has been a material increase.

The CHAIRMAN. Will you be kind enough to incorporate in your remarks the net income returned by the New York Times Publishing Co., or whatever the company's name is, for 1914, 1915, 1916, or 1917? Then we can get a concrete example of this relation between the rising cost of material and labor and the real net income.

Mr. McANENY. I beg your pardon; you could not get a concrete example from the experience of the New York Times, as you suggested a moment ago, that would illustrate my point. It would not illustrate my point, because the situation of the New York Times—

The CHAIRMAN (interposing). I think that instead of illustrating your point, it would frustrate your point.

Mr. McANENY. No, sir; I do not think so. The case of the New York Times is not before you. It has been exceptional, and it is fortunately able to assure you that that is true. But it has decreased since one year ago. The discussion of this question concerns the entire press of the country.

The CHAIRMAN. Then, we will let these other gentlemen make further illustrations in the case of their business. I suggested that because you represent all of the press of the country. I suppose these gentlemen here are as much interested in the press as you are, and, of course, that is natural, and I am making no criticism of that, but I thought it was perfectly proper for you to accompany your statement with a statement of the net income of your paper, inasmuch as you make the assertion that the material and labor cost has gone up. Will you kindly incorporate in your remarks a statement of the net returns of your company?

Mr. McANENY. I would mind it very much, if it is the intention of this committee, or if it is your purpose, to use those figures as having any bearing upon the point I make.

The CHAIRMAN. Don't you think it would be perfectly right to use them in that connection?

Mr. McANENY. No, sir.

The CHAIRMAN. You represent the New York Times?

Mr. McANENY. No, sir.

The CHAIRMAN. You represent the New York Times and other newspapers that are protesting against the provisions in this law. You are protesting that those papers will lose money, and that they are hard hit now, intimating that they are now losing money.

Mr. McANENY. I am not here to represent—

The CHAIRMAN (interposing). Is not the New York Times a member of the organization, and so much so that the committee has appointed you to represent Mr. Glass?

Mr. McANENY. May I correct you there?

The CHAIRMAN. Certainly.

Mr. McANENY. The committee has not appointed me to represent Mr. Glass. Mr. Glass is the president of this association; I am the vice president of the association and, incidentally, I am the chairman of this committee.

The CHAIRMAN. Let us see if you know anything about the other papers. How about the New York World? Do you know anything about its increase of net income or increase of subscribers?

Mr. McANENY. I do not. I know something about the decreased number of subscribers, because those figures are furnished by the

Post Office Department semiannually. They show that the New York World has decreased in subscriptions.

The CHAIRMAN. Has its income increased?

Mr. McANENY. I presume it has, but I know nothing about their affairs.

The CHAIRMAN. Let us take the Chicago Tribune. Do you know anything about that?

Mr. McANENY. I could get those figures from the Post Office Department, if you so desire.

The CHAIRMAN. You were saying that the newspapers all over the country could not stand this high cost of material and labor, which has affected all of them, and I want to ascertain how you know that to be the fact. It seems that you do not know about your own company.

Mr. McANENY. They have not come to me with a statement, but I know that is their own report.

The CHAIRMAN. Do you know anything about the Springfield Republican, of Springfield, Mass.?

Mr. McANENY. I do not.

The CHAIRMAN. Do you know anything about the Cleveland Leader? All of these papers are members of your association.

Mr. McANENY. There are 500 members of the association. That comprises practically all of them.

The CHAIRMAN. Do you know anything about the Cleveland Leader?

Mr. McANENY. I do not.

The CHAIRMAN. Do you know anything about the Times-Dispatch, of Richmond?

Mr. McANENY. I can shorten your effort by saying that I do not know about any of them.

The CHAIRMAN. You do not know anything especially about any of these papers?

Mr. McANENY. I have not seen their books.

The CHAIRMAN. Have any of these publishers told you that they are now losing money, and that their income is less than it was in 1914, or that they are losing subscribers?

Mr. McANENY. Yes, sir. In the first place, that is prospective. They have said in many instances that it would be impossible for them to carry the added charges that this bill would entail. That is as near as I can make it.

The CHAIRMAN. As you know, everybody is taxed.

Mr. McANENY. Those who are taxed twice and thrice might say it more often.

The CHAIRMAN. Some are taxed three, four, or five times by that method of taxation of which you speak.

Mr. McANENY. I would like to attempt, if I may, to answer the personal question—

The CHAIRMAN (interposing). I want to go further with this proposition. Take the case of the New York Times, for instance, I think you said awhile ago that the Times received more from its circulation that did not go through the mails than from the circulation going through the mails?

Mr. McANENY. Yes, sir.

The CHAIRMAN. Do you know what proportion it receives on matter going through the mails?



Mr. McANENY. I am speaking, of course, of the circulation of the Times outside of the metropolitan district. It has a fixed rate. It nets, for instance, from the news service \$9.63, because that is the price that outside dealers pay to it for those packages that are received by express or by mail. Those persons who secure the paper directly in individual wrappers pay \$10 a year. Now, starting with that, the cost of getting the express material to the subscriber is \$1.52, bringing down the net for the paper to something like \$8.04. The cost of getting the paper to the subscriber who receives his paper in packages upon which we pay \$1.85 to the Government, and the cost of handling it is something like \$7.40. I mean by that net to the paper. Starting with that, it was \$8.30, I think, I said, did I not?

The CHAIRMAN. I think you said \$10.

Mr. McANENY. I am speaking of the net return to the newspaper from its sales of papers outside of the city. I say that the net return on those that are handled by express is \$8.04 a year to the paper, while the net return upon those that are handled by mail in packages is \$7.26 to the paper, and the net return on those that go out in individual wrappers, for which \$10 a year is paid, is \$7.12 to the paper. In other words, the return to the paper grades downward in the degree that it uses the mail.

The CHAIRMAN. The net return?

Mr. McANENY. The net return in money.

The CHAIRMAN. Now, what do you get for the paper deliverable within New York City?

Mr. McANENY. Within New York City the price of the paper is 2 cents, outside of the city it is 3 cents. Upon the 2-cent paper sold within the city, I could not give you that figure offhand.

The CHAIRMAN. You get 2 cents in the city and 3 cents outside?

Mr. McANENY. Inside of the city it is on an entirely different basis.

The CHAIRMAN. How much do you net now at the prices charged for it within the city?

Mr. McANENY. I have not those figures at hand.

Mr. GARNER. Do you charge 2 cents within the city and 3 cents outside?

Mr. McANENY. Yes.

Mr. GARNER. Two cents a copy a year would be how much?

Mr. McANENY. The 2-cent rate is charged for the daily paper, and 5 cents for the Sunday.

Mr. GARNER. How much would that be a year inside the city?

Mr. McANENY. Has anybody got that? About \$7.50.

Mr. GARNER. And you charge \$10 for wrapper subscribers?

Mr. McANENY. Yes.

Mr. GARNER. A difference of \$2.50.

Mr. McANENY. We charge a higher rate outside the city because it involves—may I put it this way: Of course, papers that are sold on the sidewalks and in the city have very little handling expense to them. With those that are sold outside the city we encounter a different class of expense, and that is why we charge more for the paper. The figures that are used were to show relatively the net cost through express and the two divisions of the postal service.

Mr. GARNER. A subscriber in Texas pays \$10 and in New York \$7.50.

Mr. McANENY. In New York he is not a subscriber. He gets it at a stand.

Mr. GARNER. Suppose he buys it every day. I am in Texas and I buy it every day. Mr. Rainey is in New York and he buys it every day on the sidewalk, and he would pay in the course of a year \$7.50, and I would pay \$10. You say that it costs more than \$2.50 to send it to me in Texas than in New York?

Mr. McANENY. I haven't those expenses scheduled, but as between the sales in New York and those in Texas there are more intermediate expenses in the latter.

Mr. GARNER. Take this concrete case, Mr. McAneny. I pay you \$10 in Texas; Mr. Rainey doesn't pay you that, he pays you \$7.50, and you are telling the committee that you get less revenue out of me in Texas than you do from Mr. Rainey.

Mr. McANENY. Mr. Mooney has assisted me. He figures out that the price in New York is \$8.86.

Mr. GARNER. That makes a difference.

The CHAIRMAN. Does that \$8.86 include your Sunday paper?

Mr. McANENY. That is subject to some expense allowed to the newsdealers for handling it, but I can not give you the exact figures.

Mr. STERLING. What do they get for handling the papers in the city?

Mr. McANENY. The news dealers in the main get from about 50 to 60 cents in a hundred for handling it.

Mr. STERLING. Per hundred papers?

Mr. McANENY. Yes.

Mr. STERLING. About 6 mills out of the 2 cents.

Mr. McANENY. Yes. It graduates from 5 to 6 mills.

Mr. STERLING. Let us say a cent and a half to the newspaper, then.

Mr. McANENY. Yes.

Mr. STERLING. At least that. Well, at Mr. Garner's town in Texas he pays you 3 cents a copy.

Mr. McANENY. He pays less than that, because he gets it by mail and gets it cheaper. He pays \$10 a year.

The CHAIRMAN. Does that include the Sunday issue?

Mr. McANENY. Yes. He pays \$10, while the man at the stand pays \$8.86.

Mr. STERLING. You mean the stand or hotel in New York City?

Mr. McANENY. The stand or anywhere else in New York City.

Mr. STERLING. Can a man in a hotel in Texas get a paper cheaper than Mr. Garner, who is a subscriber?

Mr. McANENY. I notice that the different hotels in different cities have different prices.

Mr. MOORE. You are not responsible for what they get in the hotels?

Mr. McANENY. No, sir.

Mr. STERLING. Don't you fix the rate at which they sell?

Mr. McANENY. Only in fixing the rate to the dealer who takes the paper. I will give you an instance. Every New York paper sells for 5 cents, but in Brooklyn the news dealers have raised it to 6 cents. They pay us what they have always paid.

Mr. STERLING. It costs you half a cent to sell them in New York City, and you get net a cent and a half apiece. Now, Mr. Garner, in

Texas, pays \$10 a year. The postage on the paper to him is only 1 cent now, is it?

Mr. McANENY. It is \$1.85 a year.

Mr. STERLING. Suppose you put a paper up in a wrapper; you only have to put a 1-cent stamp on it.

Mr. McANENY. I am speaking of the pound rate.

Mr. GARNER. \$1.85?

Mr. McANENY. What the Government charges, 1 cent a pound.

Mr. GARNER. The average rate would be \$1.85 to the subscriber?

Mr. McANENY. \$1.85, the average in the year being 185 pounds.

Mr. GARNER. You mail it to me and you make a net profit, so far as the Post Office is concerned, of \$8.15?

Mr. McANENY. Yes.

Mr. MOORE. Is that the fact, Mr. McAneny? That is the point we are after.

Mr. McANENY. The first deduction is \$1.85.

Mr. GARNER. I understand.

Mr. MOORE. Do you lose on that transaction between Texas and New York, or do you gain?

Mr. McANENY. As between the paper we sell outside of New York within 50 miles and the paper we sell 300 miles in Texas, we lose. On the nearby paper, which I gave you, the figures were net \$8.04. On the middle-class papers we net \$7.26. In Texas we net \$7.12.

Mr. GARNER. I am just trying to get at that net aside from postage. You would get out of me in Texas \$8.15, charging nothing except postage.

Mr. McANENY. Yes.

Mr. GARNER. In New York you would sell your paper for \$8, or your revised figures show \$8.86.

Mr. McANENY. Yes.

Mr. GARNER. You give each newsboy one-half of a cent for selling them.

Mr. McANENY. He gets about four-tenths of a cent of a daily and a full cent on the Sunday.

Mr. GARNER. Four-tenths of a cent a day off from \$8.86?

Mr. McANENY. I hadn't figured it.

Mr. GARNER. I just can't for the life of me see how you make less on the Texas man than you do by your delivery in New York City.

Mr. McANENY. I didn't—

Mr. GARNER (interposing). I thought that was the statement you just made.

Mr. STERLING. Isn't it true now that the Government carries your paper from New York to Texas so that you can sell it for more money than you yourself can carry it from the publishing house to the streets of the city and sell it on the streets? Doesn't the Government do that for you?

Mr. McANENY. It does not.

Mr. STERLING. It seems to me that your figures bear out that proposition.

Mr. McANENY. I will tell you why. The publishing business in order to support itself has its own natural subdivisions, and from time immemorial without regard to the mail rates at all, the metropolitan dailies have had a price for the city and a price outside of the city. That has nothing to do with the postage. The returns from

those two classes make up the aggregate income. Now, you are coming to the mail question, which is a detail of the service outside of the city, and the comparative increases that I gave are those of returns that we got from the papers that are sent by express, for instance, to dealers. They go in the mail in packages to dealers. Those do not go in wrappers. Take the New York Times, which has a daily circulation of 350,000, there are only about 25,000 of that number that go in wrappers in the mail. It is a small proportion compared with the whole.

Mr. GARNER. Don't you have any subscribers in New York?

Mr. McANENY. No; they are practically all served by the dealers, from stands, by carriers, and from the hotels.

Mr. STERLING. Do you send out any at all in wrappers in New York City?

Mr. McANENY. No; it would cost 1 cent apiece.

Mr. GARNER. If I lived in New York City and wanted to subscribe for your paper there, would you permit me to subscribe for it?

Mr. McANENY. If you paid the 1 cent on it that the paper required if sent in a wrapper. As you know, there is a separate mail rate for city delivery, a cent on each piece of mail.

Mr. GARNER. You have no list of subscribers in the city of New York?

Mr. McANENY. No.

Mr. LONGWORTH. If I understand you correctly, your total circulation is about 350,000, and on that only about 25,000 goes through the second-class mail?

Mr. McANENY. No; about 56,000 goes through the second-class mail, and out of that 56,000, 30,000 go not in wrappers but in parcels which are consigned directly to local dealers. May I just explain why I make that difference. The packages that go to the outside dealers, the Post Office Department does not touch at all. They are taken to trains in packages by the publishers, by their own employees and put on cars. There the Post Office Department gets them, and when they get to the city to which they are consigned the local dealer takes them. For that service the department has only the cost of transportation, which is, in the nearby zones, the first zone, only one-fourth of a cent.

Mr. LONGWORTH. What I am trying to get at is simply just what percentage of your daily circulation is actually affected by the second-class postal rate as provided in the last revenue bill?

Mr. McANENY. It is all affected because it has increased, making no distinction between papers that go in packages—and they do not have any wrapper—and the papers that go in the wrappers.

Mr. LONGWORTH. I am speaking of the whole circulation. How many papers out of your 300,000?

Mr. McANENY. Fifty-six thousand.

Mr. LONGWORTH. That is only about 15 per cent, isn't it?

Mr. McANENY. Something like that.

Mr. LONGWORTH. Isn't that really a high average? Does the New York Times circulate outside of New York City more than any other paper?

Mr. McANENY. I think it possibly has a larger outside circulation than any other New York paper.

Mr. LONGWORTH. Would it be safe to say this, then, that on an average about 10 per cent of the circulation of the newspapers is affected by the mail rate? I am asking for information. I thought it would be interesting to know of the average newspaper in the country what percentage of its circulation is affected by the rate of second-class mail.

Mr. McANENY. If by average you mean the papers of the class having, say, a circulation of 10,000—

Mr. LONGWORTH. Let us put it 100,000, the big papers?

Mr. McANENY. I really could not tell you accurately.

Mr. MOONEY. About half and half.

Mr. McANENY. About 50 per cent. I think Mr. Jones's paper in Minneapolis would go more than that. Our bulk is large, but our proportion is small.

Mr. LONGWORTH. Well, what I would like to know is, and the committee would like to know—we have never had this information so far as I understand—what proportion of circulation of newspapers is affected directly by the rates of second-class mail matter.

Mr. McANENY. I can not answer that directly.

Mr. LONGWORTH. In your case it was 15 per cent.

Mr. McANENY. I do not know whether anybody could, because the mere estimating of these amounts on the zone plan would take weeks. I know that it took the auditing department of my paper eight weeks to compile the figures which I have given you.

Mr. MOORE. Does any other New York paper have as large a circulation as the New York Times?

Mr. McANENY. No.

Mr. MOORE. So, if yours is 15 per cent, 10 per cent might be a fair average.

Mr. LONGWORTH. That is as far as New York is concerned.

Mr. McANENY. I dare say, the Post Office Department ought to be in a position to give you that exactly, but it is an illustration of the fact that they haven't the figures.

Mr. SLOAN. Isn't it true that a large proportion of the out of the city circulation is from cities from 25,000 to 100,000 inhabitants? In other words, those cities having papers serve a large country population, as for instance the papers of Omaha or Minneapolis and Kansas City have a greater circulation outside of their own municipalities than would New York, Philadelphia, or Chicago papers?

Mr. McANENY. Yes, that is true; and that would account for Mr. Mooney's estimate of fifty-fifty.

Mr. MOORE. And isn't it true that they have a free in the county circulation?

Mr. McANENY. No; that is only in the nondelivery system.

Mr. MOORE. That applies to Omaha, Nebr., and elsewhere, but not to the metropolitan papers.

Mr. McANENY. They have that service. It costs the Government about \$4,700,000 a year. That is part of the deficit.

Mr. SLOAN. That is a very small portion of the share of the \$90,000,000 which is the total deficit arising out of this second-class matter.

Mr. McANENY. Yes; comparatively.

Mr. MOORE. Might they not add a few millions to the deficit on account of rural free delivery?

Mr. McANENY. I understand that a very large part of the deficit under the second class is attributable to the rural free delivery. Of course, they charge that in their overhead expense.

Mr. MOORE. Mr. McAneny, that induces me to say to you that if you were in Congress, coming from a great metropolitan city, you would probably hear a great deal about subsidy to newspapers, and while you indicated in the early part of your address that the people pay this second-class postal deficit, if there is one, you would hear in the discussion of the rates that the newspapers in this country are enjoying a subsidy. I think that you would find, and a great many Members of Congress would find, that it is claimed that a subsidy is granted newspapers and that this law would correct that condition. I thought you might like to discuss that question.

Mr. McANENY. I should be glad to. I think there must be a widely prevailing opinion, for I hear echoes of it constantly. If I were in your honorable body I would expect that my associates should always be prepared on learning that, to see that it was corrected.

Mr. STERLING. I do not think that any Member of Congress, as Mr. Moore says, thinks that this disposes of the subsidy. A great many Members of Congress think that it helps to dispose of the subsidy, but nobody thinks that it wipes it all out.

Mr. MOORE. I do not say that it was intended to wipe out the subsidy, but I want you to know that there is a very widespread opinion in Washington which it is very difficult to counteract that there is a subsidy to the newspapers under existing law.

Mr. McANENY. I know that there is a widespread opinion.

Mr. MOORE. I am inclined to think that there is a loss on the second-class matter.

Mr. McANENY. What can we say to correct this misunderstanding more than we have said here?

Mr. GARNER. Let me make a suggestion. The theory of the Post Office Department has been through Congress from time immemorial that each piece of mail should pay as nearly as possible the cost of handling it through the post office. We based the second class and the parcel post on that theory. Now, if you gentlemen could get together and assist us in some way to arrive at an equitable rate of postage on second-class matter, that would injure your business as little as possible, and those who patronize it, you would render a great service. But up to date you have not done anything to help. The idea has been inculcated into the people's mind that you are helping out the first-class mail, the third-class mail, and the fourth-class mail, and therefore, you ought to continue with \$50,000,000 loss of \$70,000,000 or whatever you want to term it—I don't care if it is \$10,000,000, it is a loss. If you gentlemen would get together, I think Congress would adopt any method you suggest.

Mr. McANENY. If Congress or its committees is willing to accept our cooperation in that respect, it would be given with the utmost pleasure.

Mr. GARNER. I will say for one that I would be glad to have you, and I believe I speak for the committee and Congress. We labored hard to arrive at a conclusion in this matter, and we went to the Senate, and you remember the hearing we had there, and we postponed it so that you could arrange your business to test this out.

Mr. McANENY. We tried hard to come back and talk about it.

Mr. GARNER. Somebody has been making such a campaign in the country with reference to this present law until the Members of Congress who passed it have been compelled in self-defense to meet that campaign. My judgment is that the power you have—I realize what it is in this country—if the people were to realize and were made to understand just what the relation between the second class matter and the Post Office Department is, and the amount of money they are having to contribute in a tax, the difference between what it is costing without and what it is charged in the post office, I believe we would be able to maintain our position clear, and therefore I am anxious to adopt some plan by which we may have some equitable adjustment for carrying second-class mail, and I beg you and your associates to do that. Instead of you gentlemen giving any constructive remedy, you criticize what we have done.

Mr. McANENY. We have always been willing to cooperate in the hearings before the Senate committee. A year ago, or last fall, I believe, when the subject first came up, Mr. Seitz, who was then chairman of our postal committee, made a direct proffer of any aid or cooperation that we could give and we have repeated that offer to the postal committees. On the other hand we have not made any campaign in this matter. The newspaper publishers have made no campaign in this matter beyond the adoption at their convention of the resolution that I have read.

Mr. GARNER. I will withdraw that so far as the newspapers are concerned. I only mentioned that because of the many editorials of criticism of the present law that I have seen, but I do know that another class of papers has done that.

Mr. McANENY. May I add this further, that we are not here to criticise?

Mr. GARNER. Let me make a suggestion to you. There are two classes that patronize the second-class matter, the newspapers and the magazines. They are the bulk of the weight of stuff that goes through the second-class mail.

Mr. McANENY. And the trade journals.

Mr. GARNER. We will class them as magazines. Let me, as one of the committee, ask you to do something, you and your associates. Prepare a law, suggest such a law that will apply to your business that would be satisfactory, and at the same time provide something like the revenue that the Post Office will have to pay out for the transaction of your business. I don't ask you to do it for the magazines, because I think that would be asking too much of you, but I do ask you and your associates to prepare some kind of legislation and suggest to this committee and to Congress that you would be willing to stand up for and convince the country that that was just the legislation that ought to be on the statute books.

Mr. McANENY. In the first place, that brings me back to the point I made at the start, that no one has the data upon which a fair bill can be prepared, and that we believe that there ought to be further inquiry before anything is crystallized into a permanent postal law.

Mr. GARNER. Do you believe, Mr. McAneny, that we should take another year or two years, and this matter shall be thoroughly investigated, and when the time comes to levy the tax and that tax is

going to increase the cost of transporting your stuff through the mails, that we could come to an agreement?

Mr. McANENY. I think we would come very near it.

Mr. MOORE. Would you include all publishers in that bill? We have evidence that the publishers have not thoroughly agreed as to the method to be pursued, the magazines on the one hand and the newspaper publishers on the other. They could not agree on a flat rate.

Mr. McANENY. We appear only for the daily newspapers. It is only the daily newspapers that would be materially affected by this law. We haven't anything to say about the case of the magazines and trade journals. Our cases are different. If they have grievances, a case of their own, naturally they have our sympathies, so far as it can go, and we respect their opinion in the matter, but our cases are different and our plea is put on a different basis. The difference between the two is a natural division, but the newspapers themselves are now quite united. They were not in accord several months ago at the time this thing was first passed, but one of their divisions, the Southern Association, backed by the Inland Association, did present an argument in hearings before Judge Moon's committee, did present a substitute plan which they were willing to adopt, and which we are willing to accept, gladly accept, as a substitute for the plan that is now before the country. That has been done, sir. That was the first item in our program adopted in New York, and our first plea here is that if there is to be any legislation at once, do it that way, as the Southern Association proposes. But we naturally assume that it would be difficult within the slight time remaining to bring about the adoption of this entire thing, so we say that if the time is too slight, to spend another year and give us a chance to argue on these alternatives, and to take the matter up with the Post Office Department, and, of course, we are prepared to recognize any inequities that may develop in the course of such an inquiry.

Mr. MOORE. Could this thing be done by classification of the various businesses instead of by a zone system? Could we classify the business in any manner to produce the revenue on the one hand and cover the alleged deficiency on the other? Suppose we separated magazines from newspapers, giving one a flat rate and reverting to a classification system for the other.

Mr. McANENY. I hesitate to propose such a plan, but I think it would come very much nearer recognizing the place of the newspapers.

Mr. MOORE. If something of that kind were done, what would you say to a tax on advertising, in view of the Government's necessities for revenue now, in both magazines and newspapers, if any measure of relief might be found?

Mr. McANENY. My opinion about taxing advertisements, chiefly, would be this: In the first place, under the present revenue law advertising is heavily taxed, representing as it does the profits of the newspaper business. There is no newspaper that I know that makes money out of its sales. On the contrary, the returns from the sales scarcely more than pay for the white paper and the other ingredients that go into the mechanical composition of the paper.

Mr. MOORE. Would the newspapers be taxed if advertising was taxed? Wouldn't it be charged up to the advertiser anyhow?



Mr. McANENY. The newspaper would be taxed in this respect, that the advertiser would pay more than he was paying to-day for his advertising, and the result of an additional tax, if we attempted to put it upon him, would inevitably be a serious reduction in the volume of advertising. Now, we think that that would not only be injurious to the newspaper in reducing the assessable tax, but that it would be a very serious thing for the business.

Mr. MOORE. Mr. McAneny, I presume we could not state this proposition to a man better qualified to pass upon it in the United States, remembering your representative capacity. The President has asked for a very large sum of money to conduct the Government. The Secretary of the Treasury has indicated that \$8,000,000,000 will be needed for the year 1919, which must be met by taxation apart from the \$16,000,000,000 that will have to be forthcoming on loans. Now, with the powerful influence of the newspapers throughout the country, all advocating war, and the continuance of our preparations for war and victory, how can we avoid putting some additional taxes upon those who do business through the newspapers, to wit, the great business concerns of the country?

Mr. McANENY. I think in this way, Mr. Moore. You have got to recognize that this \$8,000,000,000 that must be raised by taxation are to come out of the business of the country, and that so far as it is possible and compatible with the use of the industries of the country for war purposes, we want our business plants to do the best that they can.

Mr. MOORE. Do not we simply utilize for the purposes of the war the various manufacturers of the country as sluiceways through which we can at the end collect large sums of money from people who are amply able to pay; that is to say, the man who can afford to advertise to obtain business?

Mr. McANENY. You could not make a tax that would discriminate in favor of those who would be bound to be paying a flat tax, and our experience as publishers is that they are doing as much as they could to recoup the losses of the past year, and we can not get any more out of advertisers. The result would be that the advertiser would reduce that item in order to let his business run on without interruption. The tendency would be to cut that item.

Mr. MOORE. Isn't it a fact that the rates for advertising have increased since the war?

Mr. McANENY. About 15 or 18 per cent, and the cost of white paper has increased anywhere from 60 per cent to 200 or 300 per cent, and, of course, the paper is more than one-half the running cost of the newspaper.

Mr. MOORE. To a certain extent that increased cost has been covered by the increased price of advertising?

Mr. McANENY. No; indeed not. The added returns from advertising have hardly scratched that added increase of the cost of paper. But so far as can be, higher advertising rates have been employed. I do not say that they would not stand 1 or 2 per cent higher, but I think it would be hazardous and I think a very high tax would surely reduce the volume greatly.

As illustrating that point, may I give you these facts, the fact that already there has been a great slump in the advertising business in the newspapers of the country. Take the month of January, for

instance. That is prepared by the statistical bureau. That is audited regularly, the standard bureau of the country. We estimate by thousands of lines in our statistics. In the year 1918 in the principal cities of the country there were 49,674,000 lines. In 1917, the year before, those figures had been 54,657,000 lines, in other words, a loss as between the two years of 1917 and 1918, of 5,000,000 lines of advertising. That slump has been reflected in the figures taken since. In the case of individual papers it has been in some cases serious. In other cases there has been an increase in the amount of advertising, as, for instance, in the case of the New York Times. But those instances are very few. The average, the bulk, are the figures that I have given you.

Now, to further reduce, to give acceleration to that tendency down, we think would not fail to hurt us, as it certainly would. We admit that it is different from the postage rate, because we can pass the other to some degree. We can not pass the advertising.

Mr. MOORE. A flat 5-cent rate was suggested when this bill was introduced, and it was thought at that time that if such an amendment were adopted that all the newspapers would have to do would be to collect that as a collector for the Government.

Mr. McANENY. You can't collect from an unwilling customer. If Congress passed an act requiring them to advertise, it would be a good thing.

Mr. O'SHAUNESSY. But if they were making money it would be well to collect it for the Government.

Mr. McANENY. That is the way to get a tax from any source. If you tax advertising, the result will be that you will get less revenue from the excess profits out of the newspapers; you will take 20 per cent from the peak they are paying you when you tax advertising.

Mr. MOORE. We can not escape raising \$8,000,000,000, an enormous sum of money, and that must come even if it draws blood.

Mr. McANENY. But the means of raising it—haven't they got to be considered first of all, just as the means of raising the bond issue, which was through the newspapers, through newspapers and advertising; and if for the sake of what is a dropping return you take away the greatest thing that moves the masses in the end, haven't you done a real injury to the tax-collecting system?

Mr. MOORE. We had this suggestion day before yesterday, that we might raise \$100,000,000 by adding 1 cent to each street car ticket; but if we did that, it would mean that we would have to have 10 other means of raising \$100,000,000 in order to get \$1,000,000, and then we would have to find 700 more to get the \$8,000,000.

Mr. McANENY. Isn't it a question of proportion? Your street ticket tax you can get because people have got to use the cars. If you put a 5 per cent addition on advertising I don't think it would net more than \$10,000,000, and for that slight return you would have reduced the service for the Government.

Mr. Roper, the Internal Revenue Commissioner, has told the public that the increase in the yield of last year's tax bill over what was estimated was due chiefly, in his judgment, to the good that the newspapers did in getting the people stirred up to pay and in putting the right start upon it in public opinion, and the same is true in increased postal rates. In exchange for an estimate of \$2,000,000, a

four-thousandth part of the sum that you need to raise—in exchange for that you will materially reduce the area of circulation of newspapers through which you wish to reach the people.

Now, Mr. Moore, may I add one thing to that by way of emphasis and comparison, that at the very moment that our Congress is preparing to do this thing, to increase these charges and to reduce circulation, the government of Canada, in a similar situation, is anxious to get its propaganda before all the people, and has reduced its flat rate, which was one-half of a cent, to one-fourth of a cent, and has done that in order that they may get printed material all over the British Empire, which goes to any part of it at one-fourth of a cent.

Mr. O'SHAUNESSY. Two million dollars distributed among the members of your association would be a very trifling amount.

Mr. McANENY. It bulks very large in some cases. It is an estimate only, but whatever it is it would hurt and disturb circulation, because they will not pay the added prices.

Mr. O'SHAUNESSY. Why won't your people pay the added prices, there are so many of you?

Mr. McANENY. Because <sup>the</sup> newspapers of the country can not afford to do it. Not only that, it is paid the first year, and the next year it goes to a double rate and the next year higher still until it reaches \$7,000,000.

Mr. O'SHAUNESSY. We would more readily appreciate the argument if it were \$20,000,000 instead of \$2,000,000.

Mr. McANENY. That is a powerful \$2,000,000, the small thing that will break the back in the matter of local mail circulation. If we send out a lot of papers with an increased rate from \$1 to \$1.80, which we would have to do, we are going to get a great many stop orders, on that slight increase. That is in the case of the average newspaper. I can assure you, gentlemen, that I am not talking from the point of view of the newspaper with which I am associated. On the contrary, the New York Times will be but slightly affected by this bill. If we wished to be helped in the general postal situation, you could not have done anything better for the New York Times than to have passed the bill just as it is. I think that the character of its circulation is of a sort that will keep it pretty compact. For that matter it is better able to sustain losses than almost any of the others, or a great many of the others.

Mr. GARNER. I do not know whether I got your exact view of your association as to whether or not you favored a flat-rate system, if of it was an increase—and up to date I have not heard you say that we should be an increase, particularly in second-class matter.

Mr. McANENY. I do not think, Mr. Garner, that that need has been shown, because, in the first place, as I have said, the Post Office department is self-supporting, and it is but a division of its interlocking activities, and in the second place, if there were a loss, I think naturally it should be charged to the Government service and not to subsidies to anybody. It is no more a subsidy than the expenses of the Department of Commerce are a subsidy to individual plants and concerns. It is not any more a subsidy than the service of the Department of Agriculture, which is doing so much to promote the prosperity of the country. You might as well talk about subsidizing public schools, or the public libraries, because a part of their funds

REVENUE BILL.

are taken from the public common treasury. And that is true here that if there were a loss, so-called, it would represent the expenditure of the Government out of their own postal revenue to get literature and education over the country without limitation, and therefore you can not deal with this thing as you would with any express company. You can not say that I or you, or anyone else, that it ought to be made to pay its cost, and that a flat rate will produce that cost better than a zone rate. In order to produce that cost, in my judgment, the first inquiry should be as to what the cost is. That, we do not know. Under this bill, it will cost more to put newspapers in the farther zones that go from the office of the publishers at the pound rate than it will cost the individual to put the newspaper in the mail at the third-class rate. There you have an instance of unscientific preparation, because of the way in which this bill will work.

The CHAIRMAN. Suppose we adjourn now and come back here at 2.30.

(Thereupon, at 1.15 p. m., the committee took a recess until 2.30 p. m.)

AFTER RECESS.

The committee reassembled at the expiration of the recess.

**STATEMENT OF MR. GEORGE McANENY, NEW YORK TIMES,  
NEW YORK CITY, REPRESENTING AMERICAN NEWSPAPER  
PUBLISHERS' ASSOCIATION.**

The CHAIRMAN. Mr. McAneny, do you want to make any additional statement now without interruption by questions from members of the committee?

Mr. McANENY. If I may, Mr. Chairman, I would appreciate that.

The CHAIRMAN. I regret that we interrupted you with questions this morning.

Mr. McANENY. I was very glad to answer the questions.

The CHAIRMAN. The reason I broke my general rule and did so was that my questions were in connection with that particular part of your discussion and would have been out of place anywhere else. But you may now complete your statement without interruption.

Mr. McANENY. Well, I trust the committee will be patient with me if I repeat here and there in a small degree some argument of this morning, as the discussion then suggested certain points that ought to be brought in and can best be understood if again woven with points that have been made.

But I would like to speak first about the theory of the subsidy. As was suggested here this morning by Mr. Moore, that idea, of course, has been prevalent. It has been converted into more or less of a cry which has been accepted by a great many people who have not had the time, or the patience, perhaps, to go into the underlying facts.

As a matter of fact, we ask you to recognize upon the evidence that we can readily present, that there is no subsidy involved in the present postal rates that goes to the newspaper publisher; that the benefit of the present rates, expressed in terms of dollars and cents.

goes only to the reading public, and that in similar instances of a return to the people of moneys paid by them to the Government, such return is not called a subsidy, but it is called a Government service; that whatever there may be of so-called deficit attributable to this class of mail, it really has been passed on long ago in the adjustment of the publishing business to the individual reader, and if there be any questions coming out of a doubtful mind upon that subject, we will frankly answer them. But that is the fact.

I endeavored to show it, to some degree, from the figures with which I am most familiar, in the case of the New York Times; and Mr. Garner's questions suggest to me a further reply that I would like to make directly to him, but of course to the committee also.

He spoke of the cost of buying paper in Texas, for instance, as against buying it in New York, and of the relative profit. I showed that in the business of every metropolitan newspaper in every large city there are certain sales made at a city price, as in New York at 2 cents, and outside sales at an outside price, as 3 cents, and that the two must be read together in order to get a view of that particular newspaper enterprise. The fact that they differ is a fact that has stood as long as newspaper selling has stood, as a natural incident of the business.

But going out into the outside field, I then showed how the net receipts from the sales decrease from those that are sold through expressage, from those that are sold through dealers' packages in the mail, and, finally, from those which are sold in wrappers through the mails, which are those which you have commonly in mind when you speak of the second-class newspaper mail.

I showed that those net receipts run from \$8.04, which we get through expressed material, down to \$7.12, which we get on the wrapped material.

That is not a net profit, you will understand; there is not any profit in the sale of the paper; the profit is only realized when you get to the proportion of the receipts from advertising that may be kept as profit. We were speaking merely of net receipts in case from the sale of the paper.

I have figured more closely during the recess than I did this morning, and I find that our net returns on the papers that we sell, even at the 2-cent rate in the city through the news dealers, after allowance for all percentages that go to them and for other costs, in the year are \$7.10. That represents the net receipts upon each year's sales, theoretically, if you choose, to one person who buys on the street or from a hotel stand, and so on, while in Texas it would be \$7.12. So it happens coincidentally that, even as between the 2-cent and the 3-cent gross rates, it comes out about the same in the matter of net return.

Again, I offer that as evidence of the fact that there is no subsidy coming from the mails to the newspaper, nor any semblance of one. But under the increased rates provided by the act of October 3, 1917, where we charge Mr. Garner, for instance, who is in the seventh zone with relation to New York, \$1.85 now for his postage, the rate that the Government fixes, there will be an increase next year of \$2.18, bringing the postage rate to \$4.03 upon his subscription. In the second year there will be an increase of \$4.16, bringing the total postage rate to \$6.01. In the third year there will be an increase of \$6.01 funds

bringing the total to \$7.86, and in the seventh year a total of \$7.86, bringing the total to \$9.71.

In other words, charging Mr. Garner now \$10 a year, \$1.85 of which represents postage, we should have to charge him under the full fruit of this act \$17.90, of which \$9.71 would be postage, in the seventh year.

That is the result in a concrete case of the adoption of this act, and I offer it as evidence of the fact that if this increase to which I refer is a part of a subsidy that has been paid to somebody, who has been getting it, the newspapers or Mr. Garner—as Mr. Garner is now required to give it up in the shape of the increased postage that the act itself provides?

Mr. LONGWORTH. May I ask a question at this point, or would you prefer to proceed and have me ask it later?

Mr. McANENY. I shall be glad to answer it now.

Mr. LONGWORTH. It is simply in regard to a remark that was made this morning. When I asked a question as to what proportion of the average newspaper circulation went through the mails this morning, some gentleman stated that he believed 50 per cent did. You have called attention to the fact that in the case of the New York Times not over 15 per cent of the circulation was affected directly by rates on second-class mail.

Mr. McANENY. Yes.

Mr. LONGWORTH. And I have spoken to one or two newspapers since then, and they seemed to think that the gentleman's estimate of 50 per cent was an overestimate to a considerable extent.

Mr. McANENY. I have also talked with some of the members of this committee who think that would be a fair average. The percentage in the case of a city newspaper like the Times is low, but the bulk of the circulation of a metropolitan newspaper is paid through there. The case of the Times is exceptional. But you go to the West, and in many cases the bulk of the circulation is paid through the mails, as in the case of the Minneapolis Journal.

Mr. LONGWORTH. I would like to have you cite a case where the bulk of the circulation was through the second-class mail. I would like to hear of one such case.

Mr. McANENY. I would say the Minneapolis Journal, for instance. Mr. Jones, of the Journal, is here.

Mr. LONGWORTH. Well, about what proportion of the circulation of that paper is sent through second-class mail?

Mr. JONES. We have a circulation of 115,000, net paid circulation; and 50,000 of that goes to the country through the second-class mail and 65,000 is delivered through our own carriers.

Mr. McANENY. That, I judge, is about 45 per cent.

Mr. GARNER. That is on account of the two cities being close together; that is an abnormal condition, is it not?

Mr. McANENY. I do not think they view it in that way out there.

Mr. JONES. The two cities have no interchange of newspaper circulation. St. Paul is less than 7 miles from Minneapolis; and there are less than 7,000 copies of our paper that go to St. Paul daily.

Mr. LONGWORTH. There is a case where your outside circulation is 60 per cent of the whole.

Mr. JONES. No; 48 per cent.

Mr. LONGWORTH. Well, my question was general; take the newspapers throughout the country; do you think the circulation through the second-class mail would approximate 50 per cent?

Mr. JONES. Our paper is a very fair example of those in the West in that respect. Take the western cities as a whole, and ours is a very fair example.

Mr. McANENY. The western papers would be hit a great deal harder than the eastern ones by this law.

Mr. LONGWORTH. The reason I asked that question was to determine the situation with regard to the magazines and the situation with regard to the newspapers, and to see how they differed. What proportion of magazines are circulated through second-class mails?

Mr. McANENY. That I can not tell you.

Mr. LONGWORTH. There is a difference, as you pointed out this morning, between the two cases.

Mr. McANENY. Yes, there are substantial and important differences.

Mr. LONGWORTH. And I wanted to find out what I could in regard to the differences as to outside circulation between magazines and newspapers.

Mr. STERLING. Do you send out newspapers by express?

Mr. McANENY. Pretty nearly half of our outside service is by

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night railroad service.  
Mr. McANENY. That no doubt is true in cases where time is not an essential element. The magazines may be sent in advance, of course; they are not tied to particular dates. The newspaper has got to get out at 2 o'clock every morning, and it has got to make train service and local deliveries, and all of that, and therefore it must choose that which best serves its purpose in the matter of time.  
Mr. MOORE. There must be an advantage in the express service, however?  
Mr. McANENY. Well, the evidence of that, as I say, is that, I should say, about 40 per cent of our out-of-town circulation is handled by express.  
Mr. STERLING. In sending your papers to Philadelphia and Boston, for example, you send them by express, do you?  
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Mr. STERLING. In sending your papers to Philadelphia and Boston, for example, you send them by express, do you?

Mr. McANENY. That is outside of the 15 per cent.

Mr. STERLING. You actually mail 15 per cent of your issues in the mails, what per cent of your issues are sent by express?

Mr. McANENY. Yes; or about 55,000 copies of the daily; 30,000 in the mail in dealers' packages that the Post Office Department does handle.

Mr. STERLING. Can you circulate your papers more cheaply by express than by mail?

Mr. McANENY. In the districts served by express we can. Of course, in the districts served by mail we cannot.

Mr. MOORE (interposing). Mr. Farelly, of the American News Co., testified to the committee several days ago in the course of his statement that the freight service of the country could beat the Postal Service, and that it paid them to use the freight service—I mean the freight railroad service.

Mr. McANENY. That no doubt is true in cases where time is not an essential element. The magazines may be sent in advance, of course; they are not tied to particular dates. The newspaper has got to get out at 2 o'clock every morning, and it has got to make train service and local deliveries, and all of that, and therefore it must choose that which best serves its purpose in the matter of time.

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NT. We send them by express except as they go in  
papers to mail subscribers.

CHAIRMAN. You did not finish your statement, Mr. McAneny.  
I believe we agreed that we would not interrupt you with ques-  
tions, as that might interrupt the consecutive course of your state-  
ment. You will let us know when you have finished, will you?

Mr. McANENY. Yes. Passing from the question of who carries this  
cost, which I trust that I have made clearer, Mr. Chairman, may I  
speak of the place of this legislation in the war revenue producing  
scheme?

We feel that it has been unfortunate that a permanent change in  
the postal system, the establishment of the great second-class busi-  
ness upon a basis that is revolutionary in its change, should be treated  
as anything except postal legislation.

Last year, when this bill was passed, everything, of course, was in  
a hurry. The House had passed a species of flat zone increases; the  
Senate had passed nothing; and in conference the present plan  
worked up—I understand proposed by the Post Office Depart-  
ment but with the reservation on the part of the Postmaster Gen-  
eral that the department did not think it ought to be done in this way.

That was a matter of opinion, where, of course, you  
are within your right and according to your own notion of what  
is right. But inevitably it led to rather hasty construction work, and  
the result that the newspaper publishers had no opportunity  
heard or to offer their argument upon either the necessity of  
the new plan before the bill accepted in conference was.

Now, the Postmaster General in his annual report re-  
fers to this matter in this way: he is reviewing the last fiscal year:

The language of the act clearly indicates that the increased rates on first-  
class mail and the tax on parcels post were imposed as a war tax, and therefore  
temporary, while the rates on second-class mail were to partially reimburse the  
Government for the enormous loss it suffers in the handling of this class of mail, and are  
legislation.

As I said this morning, we understand that it will remain  
permanent legislation; and it does not necessarily come up in con-  
nection with the discussion of the next revenue bill: it is fixed, it is  
settled. At least, it will be if it goes into effect on the 1st of  
July.

Now, gentlemen, not only is it not a war revenue legislation in  
the sense of the intent of the bill, or the character and scope of the dis-  
position of the act, but in the vital test of producing war revenue it is not  
a war revenue bill.

I have mentioned the figures of the Post Office Department. They  
estimate that from all classes of second-class material there will be  
an increase next year under this bill of \$4,900,000; that from news-  
papers within the second-class mail—and it is the cause of the news-  
papers that I am pleading—there will be less than \$2,000,000 realized.  
Now, against that we must charge the increased cost of handling  
this system. There are very few newspaper men—I mean the prac-  
tical men who handle the mechanical department—who believe that  
it will be possible to operate this law.

As I have said, it requires a separate measurement of the news-  
paper advertising in every edition of every day's issue of every daily  
paper in the United States. When that division has been made,



it applies seven different rates on the same night, base  
 In other words, you multiply the difference in the ratio  
 and advertising by a zone rate in each case; and you have  
 that in one newspaper office, running off four editions, for in  
 as most do of a morning newspaper, and there will be 28 differ-  
 rates of postage to be paid; and the basis upon which they are paid  
 must be estimated practically on the night on which the work is done.  
 It can not be done, gentlemen.

The Post Office Department has prepared regulations interpreting  
 the act and intended to go into effect on the 1st of July, in which they  
 attempt to make it work by providing that the assessments upon  
 zones need not be for the individual issue, but that the publisher  
 may take a six months' average and charge according to that average.

Well, if that can be done it will lighten the burden, although it will  
 leave it complicated beyond degree nevertheless. But if they do  
 that, then they have got themselves to violate the act of October 3,  
 with 17 because that act does not permit anything except assessment  
 proportional to each day's newspaper.

Mr. McANER to do that—or to do anything that this act requires—  
 Mr. LONGWORTH says they have got to spend more money for clerical service and  
 morning, but they have got to spend more money for mechanical handling; and \$1,000,000 would, in my  
 Mr. McANER come a long way short of meeting that extra expense.

Mr. LONGWORTH get down with that deduction, you come to the fact that  
 Mr. McANER what remains would be wiped out over and over again by  
 to the difference in circulation that these war prices are bound to bring  
 newspapers.

Mr. STERLING, is it not fair, gentlemen, to recognize that as a revenue

Mr. McANER in the sense in which you are dealing with the revenue  
 express there is practically nothing in this bill?

Mr. STERLING to the effect upon circulation—I have shown that the  
 express, Mr. McANER most must be passed on. As to the effect upon circulation,  
 mail, Mr. McANER increases have been made for purposes incidental to the  
 speak of rates, in New York, for instance, and in other cities, there has

I show a marked shrinkage of circulation immediately afterwards.  
 through not already happened; a little of it has been recovered. But  
 wrapped in circulation figures of to-day of all the papers are far, far

That is, the figures of six months ago.

profit in the figures of six months ago.  
 get to know never, let me take the case of Mr. Jones's paper again, if I may  
 kept as a moment. He tried this thing out in a very practical way.

the so: In the 1st of March he sent out to 800 of his subscribers whose  
 subscriptions were due for renewal at about that time two cir-

ing, I had letters. In one of them he merely reminded the subscriber  
 at, that his subscription was due, without reference to rates. That

went to 400. In the other 400 he indicated the coming increase,  
 and said that he would be obliged to collect that on the 1st of July.

He did that in order to see what the result would be on that chance  
 list, not selected, but coming on his books right along. And out of

the first 400, up to the time that the bulk of them were in, he had  
 received only two stop orders; and out of the second 400 he had

received 200 stop orders; 50 per cent of his mail circulation had dis-

appeared under the application of the higher rate to the individual  
 subscriber.

Am I right in my figures, Mr. Jones?

Mr. JONES. I could go a step further and say that out of the  
 say, anywhere no statement as to increase was made all paid but 3; could  
 express. paid by

Mr. STERLING

or example, you } — by express, do you?

Boston,

3 stops out of the 400. On the other 400 there were 200 stops, 9 paid, and the balance never recognized the bill or made any comment whatever, and they automatically went off for nonpayment. We only got 9 subscribers out of 400 in one case, and we got 39 in the other.

Mr. McANENY. That, gentleman, with variations of degree, is bound to be the common experience in the application of these higher rates.

I have not anything further to present in the way of argument, except this final appeal to your judgment: That at this particular time, when the Government of the United States and its people need the service of the newspapers for all their normal purposes more than they ever have needed that service before; at a time when the President of the United States and the heads of the various departments have written public letters expressing their appreciation of the service that the newspapers are doing and calling on them cheerfully for more—is such a time opportune for making a change of this character the effect of which is scarcely financial from any point of view in a serious way, but which, in the dislocation of a system and the complete disorganization of the publishing business, so far as its mail side goes, is bound to be hurtful and harmful to the highest degree?

Gentlemen, is it worth while when as an alternative the daily newspapers of the country, not pressing their plea upon the ground of service immodestly, I trust, or too far, nevertheless ask you merely that this matter shall be held in abeyance for another year until they have had an opportunity to study with you or with the Post Office Department, the underlying facts; the two Houses through resolution might require an official inquiry that would yield more dependable results; and until the newspapers along with the rest of the country are in clearer waters.

That, gentlemen, is our plea. We ask, on the one hand, what is gained during the next year by pressing this matter? And the answer must be a doubtful million or two of dollars. On the other hand, you have a solution that has been offered for the second-class problem that necessarily is faulty from one end to the other; that ought to be revised; that is bound to breed trouble for us and for the business and reading interests of the country, and that can be made right very much more readily when another year has passed that that would seem to be almost the natural course to take.

Mr. Garner asked this morning about our willingness as publishers to join in any effort to get a permanent bill that would be generally accepted. I repeat that we will most cheerfully enter into that cooperation, and I will repeat, too, that at the hearings of nearly a year ago Mr. Sykes on behalf of our association made that offer, urging that the inquiry be made through official sources, and pledged our cheerful help in whatever might be undertaken.

We should hope that such an inquiry—Post Office Department or congressional or otherwise—would lead to a general agreement that this thing should be done upon a different theory with the purpose of getting the press as widely circulated throughout the country as possible, in the interest of a national unity and in the interest of a broader sort of educational propaganda, and of every other consideration that makes under the head of the national progress—with the

hope that that view might be accepted as a result of further test and inquiry.

But whatever is brought out in such a test, whatever is brought out in the way of assessment of costs that may be taken as a rightful basis for a system, we will accept. We would depend upon the justice that that careful process would be bound to develop, and we would not fear the result, gentlemen.

Now, I shall very gladly answer any questions, Mr. Chairman, if you will kindly allow me a few minutes in conclusion.

The CHAIRMAN. All right. Does any gentleman desire to ask Mr. McAneny any questions? I suggest that the different members question him in order one at a time; after Mr. Rainey has finished another member may question him, and so on. In that way we will avoid having members of the committee interrupt each other with their questions.

Mr. RAINEY. Mr. McAneny, your proposition is to have this matter investigated by a commission; that is one of your propositions, is it not?

Mr. McANENY. Yes.

Mr. RAINEY. With a view to ascertaining what? Whether there is a loss occasioned by carrying second-class mail at the present rates or not?

Mr. McANENY. We suggest such an inquiry, Mr. Rainey, with a view of ascertaining, in the first place, not only what the actual cost of carrying these various classes of second-class material is, but as to what its proper distribution and assessment within the system is. There are many different kinds of second-class material, and they are carried under varying conditions; they may well be shown to be entitled to different rates.

Mr. RAINEY. Are you anxious to find out whether newspapers are carried through the second-class mail at a loss or not?

Mr. McANENY. Not as narrow as that, sir.

Mr. RAINEY. You admit that they are carried at a loss, to start with, do you not?

Mr. McANENY. We admit that they are carried at a cost; that is, less than they pay to the Government.

Mr. RAINEY. Well, that would be a loss to the Government, would it not?

Mr. McANENY. A loss borne by the Postal Service. It is the cost of a Government service.

Mr. RAINEY. Yes. Now, do you know how many investigations we have had by commissions on this very subject?

Mr. McANENY. I know that the last one of any conspicuous sort was the investigation of the Hughes Commission in 1908.

Mr. RAINEY. How many altogether?

Mr. McANENY. I did not go very much back of that.

Mr. RAINEY. We have had six investigations for the purpose of ascertaining the facts for which you now propose another investigation.

Mr. McANENY. Which was the most recent one, Mr. Rainey?

Mr. RAINEY. I do not remember the most recent one.

Mr. McANENY. I do not think you or I will recall any in the last 10 years.

Mr. RAINEY. Of course, the expenses of the Government have been increasing for the past 10 years and the situation is now worse than it has ever been. Do you know what the results of the investigations of all six of these commissions were in the matter of ascertaining whether newspapers were paying their way through the mails or not?

Mr. McANENY. I have the Hughes Commission report before me.

Mr. RAINEY. I think they all agreed on the proposition that there was a very large loss. That is from my standpoint. From your standpoint it is a Government service, and therefore nobody can lose anything if it is a Government service.

Mr. McANENY. Well, it goes to the people, whatever it is; it is usually called a Government service.

Mr. RAINEY. The Government is carrying freight now; the railroads are under the control of the Government. We have just raised the freight charges in order to make it possible to carry freight without a loss to the Government. Is that not a public service now, the carrying of freight over the railroads?

Mr. McANENY. Of course, any operation of the Government, whether it is new or old, is a public service.

Mr. RAINEY. Yes.

Mr. McANENY. And of course in the carriage of freight you will have an effort to meet the costs of administration; and of course that cost will vary with the distance. That is all peculiar to the business of carrying freight, but not to the business of carrying newspapers.

Mr. RAINEY. In your judgment that is true of everything that the Government carries now, that it ought to pay the expenses of carrying it over our railroads and our rural routes, wherever they go—everything except newspapers?

Mr. McANENY. No; I would not put it that way, Mr. Rainey.

Mr. RAINEY. Well, is not the effect of your argument to put it that way, whether you are willing to put it that way or not?

Mr. McANENY. Permit me to correct myself. The Government is conducting the business of the railroads as a new department. I do think it should adjust the revenues of the service so that it will pay for itself; and the Government apparently is doing that. Now, the Government is also carrying the Post Office Department as a department, and the Post Office Department is paying its way to-day.

Mr. RAINEY. Well, there was a time when that was a new department?

Mr. McANENY. The Post Office Department?

Mr. RAINEY. Yes.

Mr. McANENY. Oh, yes; 50 years ago it had a zone plan.

Mr. RAINEY. And under the zone plan the Government so managed it that it paid its own way, did it not?

Mr. McANENY. Well, do you think that there is much value in the figures of 50 years ago? The conditions have changed so absolutely that they have not the same meaning now.

Mr. RAINEY. Only so far as they show that the various classes of mail paid their own way 50 years ago; and your position is that they ought not to do it now, as I understand it, but it ought to be charged up to the service generally?

Mr. McANENY. No; my position is—

Mr. RAINEY (interposing). What about the Parcels Post Service rendered by the Government? Do you think that ought to be carried at a loss, or carried at its cost?

Mr. McANENY. That, of course, is a great deal nearer the principle of the carriage of freight or express; it is the assumption by the Government, under the Post Office Department, of something very much like what it has assumed under the Railroad Administration; and I do not think there is a very clear analogy there when you have freight, on the one hand, carried on express principles, and the dissemination of news and of literature and knowledge, on the other hand, carried on the principle of Government service.

Mr. RAINEY. We carry books by parcels post and make them pay their own way. We carry the Bible and make it pay its own way. And if we make the Bible pay its own way, do you know of any reason why we should not make your paper pay its own way through the mails? Half of your paper is advertisements, yielding a return to your office; and I never yet saw the Bible with a paid advertisement in it. [Laughter.]

Mr. McANENY. I do not say it with irreverence; but a new edition of the Bible comes out less frequently than a new edition of a New York newspaper.

Mr. RAINEY. Well, they do get out a great many new editions, however.

Mr. McANENY. Yes; but the Bible circulates or is distributed in such a way that it can, without injury to the consumer, be sent out and distributed through the mail much more slowly.

Mr. RAINEY. Some years ago we paid to the southern railroads and to other railroads an additional compensation for carrying the mails; more than we paid to most railroads. Would you call that a subsidy?

Mr. McANENY. I should hesitate to get into the larger field of railroad economics, Mr. Rainey.

Mr. RAINEY. But the Government itself subsidized the southern railroads, because the southern railroads said that they were not paying their way and needed that assistance from the Government.

Mr. McANENY. Well, the Government built, bought, and owned and subsidized the Pacific railroads for a good many years, in order to build up the West. There is some analogy in the building up of the West, or of the South, or East—any part of the country, through the dissemination of the press.

Mr. RAINEY. Confining the proposition now to the southern roads, do you remember how recently it has been that we abandoned that subsidy?

Mr. McANENY. I do not.

Mr. RAINEY. Do you know why it was abandoned?

Mr. McANENY. I do not recall.

Mr. RAINEY. We never could get rid of it until the southern roads gave it up voluntarily themselves. They said that they could not in good conscience accept that any longer out of the Treasury of the United States. Have you heard of any newspaper that enjoys this subsidy, with a few exceptions, who are advocating its abandonment?

Mr. McANENY. I know of no newspaper that enjoys this subsidy, Mr. Rainey.

Mr. RAINEY. Does the New York Tribune belong to your organization?

Mr. McANENY. Yes; it embraces all the principal papers in the United States, I think, with the exception of the New York Herald, for some reason or other.

Mr. RAINEY. And all of your organization favors continuing the present rates, do they—all the papers belonging to your organization, so far as you know?

Mr. McANENY. Our papers favor the continuation of the present rates.

Mr. RAINEY. The papers that belong to the association for which you appear?

Mr. McANENY. Yes.

Mr. RAINEY. And the New York Tribune belongs to that organization?

Mr. McANENY. Oh, I see your point. [Laughter.]

Mr. RAINEY. Let me read you what the New York Tribune says—

Mr. McANENY (interposing). I had forgotten that the New York Tribune was the only paper that had taken the other side.

Mr. RAINEY. How about the Philadelphia Ledger?

Mr. McANENY. I have not read the Ledger recently.

Mr. RAINEY. Here is an editorial I have from the New York Tribune of October 4, 1917, at about the time this law was passed; they head it:

The Second-Class Subsidy Fight. Lopping Off a Subsidy.

And they say, among other things:

One of the most gratifying features of the new war-tax law is the partial withdrawal of the present Government subsidy to users of second-class mail.

You could not agree with them on that proposition, although they do belong to your association?

Mr. McANENY. No; I would not agree with them upon that editorial at all.

Mr. RAINEY. On August 6, 1917, the New York Tribune carried a similar editorial:

The House is entitled to credit for the recent second-class mail rates, and for establishing a zone system of charges, payment to be proportionate to the length of the haul.

On June 4, 1917, the New York Tribune, under the heading "Take away the subsidy," was pleading that we abolish this subsidy on account of the fact that it was a subsidy, and that in good conscience newspaper publishers ought not to have it any longer.

Is that the only newspaper that belongs to your association which regards this proposition in the light of a subsidy?

Mr. McANENY. That is the only paper that I have seen or heard about that makes that argument. I am speaking, of course, of papers that are members of the association; and that comprises practically all.

Mr. RAINEY. I have heard of others, but I do not have the names with me.

Mr. McANENY. Perhaps there are others, but I have not heard of them. Of course, there are members of the association who believe in a modified zone plan. That I have explained.

Mr. RAINEY. That is what you believe in, too, is it?

Mr. McANENY. No, I have not—

Mr. RAINEY (interposing). I thought you stood for the McKellar proposition?

Mr. McANENY. There were a series of propositions under consideration, Mr. Rainey. I would adopt them as my own.

Mr. RAINEY. Would you be opposed to the McKellar proposition?

Mr. McANENY. I would say, first of all, that nothing should be done until the need has been more clearly shown, or the propriety has been more clearly shown.

Mr. RAINEY. By a seventh investigation?

Mr. McANENY. Yes.

Mr. RAINEY. In the meantime and pending that investigation, you want us to stop the operation of these zone laws?

Mr. McANENY. We all most earnestly urge that.

Mr. RAINEY. You send out a lot of your papers by express. How far does the express company carry them?

Mr. McANENY. Some of them go as far as Chicago.

Mr. RAINEY. By express?

Mr. McANENY. Yes. The express rate to Chicago is identical with the Post Office rate.

Mr. RAINEY. And therefore you send to Chicago by the express route?

Mr. McANENY. For instance, it costs the same price to send the bundle of 200 papers to a big hotel in Chicago that it costs to send them by mail.

Mr. RAINEY. Delivered to one address?

Mr. McANENY. Yes; to one local dealer.

Mr. RAINEY. To one local dealer; you find that costs just the same to Chicago by express as to send by mail?

Mr. McANENY. I think it does to that point; as you know, the rates vary.

Mr. RAINEY. You send papers to Chicago that go to other persons than this local dealer, do you not?

Mr. McANENY. We send them by three methods.

Mr. RAINEY. Yes.

Mr. McANENY. Some go by express—

Mr. RAINEY (interposing). That is, those go by express that can go just as cheaply that way as they would go by mail?

Mr. McANENY. And where it best suits the convenience of that particular dealer.

Mr. RAINEY. That is true, is it not?

Mr. McANENY. Yes.

Mr. RAINEY. Now, what is the second means?

Mr. McANENY. The second means is through the so-called dealers' packages that go by mail. That is just the bulk package of newspapers bound together and sent to one person.

Mr. RAINEY. You say they go by mail?

Mr. McANENY. Yes.

Mr. RAINEY. Why?

Mr. McANENY. It is a question of convenience in reaching the local dealer.

Mr. RAINEY. Does it cost any more than to send them by express?

Mr. McANENY. In that single instance it costs about the same; and frankly, I do not know just how that divides.

Mr. RAINEY. Except that the Government delivers it to one local dealer?

Mr. McANENY. No, the Government does not deliver it to the local dealer; the dealer comes to the train and gets it.

Mr. RAINEY. He goes to the train and gets it?

Mr. McANENY. Yes.

Mr. RAINEY. And what is the other way?

Mr. McANENY. The other way is the individual wrapper; that goes into the mail into sacks; sacks are made up in the office of the paper.

Mr. RAINEY. That is sent by mail?

Mr. McANENY. That is sent by mail in sacks to Chicago and there distributed by the carrier service.

Mr. RAINEY. To a great many different addresses?

Mr. McANENY. Yes.

Mr. RAINEY. Why do you not send those by express also?

Mr. McANENY. Because it would not be possible to do by express what the Government there does in order to get the papers to the people.

Mr. RAINEY. Because it would cost more?

Mr. McANENY. Because it would be a prohibitive cost.

Mr. RAINEY. It would cost you more, in the first place?

Mr. McANENY. No; it would not cost us more, because we could not undertake it.

Mr. RAINEY. If you did undertake it, would you have that additional expense?

Mr. McANENY. If we undertook it, we undoubtedly would.

Mr. RAINEY. If you undertook it, you would add just that much to each paper?

Mr. McANENY. It might add a dollar an issue.

Mr. RAINEY. And the only reason you send those by mail is because it would cost more money to send them by express?

Mr. McANENY. It would be impossible to do it that way, just as it would be impossible to send a letter in that way.

Mr. RAINEY. The express company, we will assume, makes a little money carrying the Times to Chicago in bundles to be delivered to one dealer. Therefore you give that business to the express company and do not give the Government an opportunity to make any money on that package, but where the express company would lose money and you would lose money on the delivery, you put that expense on the Government?

Mr. McANENY. Oh, no; we do as any other person in business would do.

Mr. RAINEY. You would put the expenses on the people who mail letters with 2 cents postage on them?

Mr. McANENY. No; just as the Post Office Department and the newspapers there have two methods of getting these newspapers into circulation; and naturally the publisher of the paper chooses the express where it is cheapest for his purposes and the other method where it is cheapest for his purposes there; but in choosing the other he runs up against the other side of this proposition, the fact that the Government is getting that paper to the individual subscriber.

Mr. RAINEY. And you want the Government to keep on doing it at this rate, no matter what it costs those who buy 2-cent stamps for letter postage?

Mr. McANENY. So long as those who pay the 2 cents letter postage are paying for all of this, and incidentally turning in a profit to the Government.



Mr. RAINY. One cent pays the cost of carrying a letter through the mail and the other 1 cent is profit that the Government makes out of it; that is true, is it not? That is what the department says.

Mr. McANENY. It is an excess of receipts for that particular class of mail.

Mr. RAINY. The department gives those figures. When the purchaser of a 2-cent stamp puts it on a letter and mails the letter, 1 cent pays the cost of carrying that letter to the addressee; the other 1 cent is a surplus. Now, that surplus is the only surplus the Government gets from any part of its service, and you have a service which you impose upon the Government and which you seek to have retained, which absorbs that 1 cent profit.

Mr. McANENY. We print a supplement which is practically a separate newspaper on Sunday; and we do not get a cent for it; but its earnings go into the earnings of the paper. It is the same thing exactly.

Mr. RAINY. Has the cost of the Times increased since the war started?

Mr. McANENY. The cost of production?

Mr. RAINY. No; the cost to the reader; the cost to the purchaser of single copies.

Mr. McANENY. Yes; the New York papers increased their rate early this year from 1 cent to 2 cents for the local service and from 2 to 3 cents for the outside service.

Mr. RAINY. In other words, they doubled their charges?

Mr. McANENY. Yes; they were obliged to do so.

Mr. RAINY. I understand that they are making large sums of money, more money than they made before the war started.

Mr. McANENY. That is true of individual papers here and there.

Mr. RAINY. Well, that is true of your paper?

Mr. McANENY. It certainly is.

Mr. RAINY. That is, you doubled your prices to the purchasers of your paper at a time when your profits were greater than they were before the war?

Mr. McANENY. No; we did not do it at all in that way.

Mr. RAINY. Did you ever make as much profit before the war as you are making now on the Times?

Mr. McANENY. No. But that is because—

Mr. RAINY (interposing). Then, making such a profit, you doubled your price to your purchasers—because they had to have the Times, of course.

Mr. McANENY. No; we would have preferred to remain at 1 cent.

Mr. RAINY. Why did you do it then?

Mr. McANENY. Because in a given city where papers are at 1 cent, no one can go to a higher rate unless all agree to do so. The position of the Times, as stated to its associates, was that, "We are not keen for this increase, but we shall do what the rest of you will do, if necessary"; and when they all found it necessary, those whose plight was a great deal worse than ours, to go to 2 cents, we naturally joined with them. There is a similar situation in Boston to-day.

Mr. RAINY. You did that reluctantly, of course?

Mr. McANENY. Yes; although you may doubt it, reluctantly. I will explain that if you like.

Mr. RAINEY. That is, the position of the Times is this: You are making more money than you have ever made before; but the other papers forced you to make still more?

Mr. McANENY. Oh, no; I would not put it that way.

Mr. RAINEY. I know you would not put it that way; but that is the way it analyzes.

Mr. McANENY. No; the other papers did not do anything of the kind. The force of circumstances did require all papers in concert to take care of their mounting bills by providing additional revenue; and no one paper could do that in a given city unless all would. As I said, exactly the same situation exists in Boston to-day, where all wish to go to 2 cents except one, and he will not, and so none of the rest can. You will readily appreciate that if one newspaper in a city remained at 1 cent while all the rest went to 2 cents, half the circulation of the other papers might turn to that one.

Mr. RAINEY. What kind of agreement do newspapers in cities enter into which makes it obligatory for each one of them to charge the same as all of them charge?

Mr. McANENY. Not a formal agreement—

Mr. RAINEY (interposing). Was not your agreement up there, which you were reluctantly forced into, a violation of the antitrust laws?

Mr. McANENY. I believe newspaper publishers in the city of Philadelphia, in which this step was first taken, was advised upon that point by a great constitutional lawyer, and that his advice was to the contrary; and that they did not go to him seeking advice as people who wished to dodge a law or statute, but as people who found it absolutely necessary to provide this revenue or else go out of business.

Mr. RAINEY. When people engaged in other businesses besides newspaper publishing enter into a combination to maintain their prices and to prevent others from infringing upon those prices, the law has held that to be a violation of the antitrust laws, and there are penalties provided for it.

And, morally, what is the difference between what you are doing and what any combination of manufacturers does to keep up the prices of their products and not to compete with each other? Can you think of any moral difference at all?

Mr. McANENY. I certainly can.

Mr. RAINEY. I will be glad to hear it, because I can not.

Mr. McANENY. As to legal differences I would not undertake to advise you; but I refer you to the gentlemen from Philadelphia who were competently advised on the matter.

Mr. MOORE. Who was that attorney in Philadelphia?

Mr. McANENY. The late John G. Johnson.

Mr. MOORE. John G. Johnson; he was a great constitutional lawyer.

Mr. McANENY. As to the moral side of it, that moral side is a business side; and there is nothing improper in any industry that is run at a loss, where costs are mounting above receipts and threaten to go higher, taking steps to provide for its own protection in this way.

Mr. RAINEY. But this business was not running at a loss.

Mr. McANENY. Not our particular paper; no.

Mr. RAINEY. No. Now, have you any objection to telling us what the net receipts of the Times—or the net profits of the Times—were in 1914, and what they have been in subsequent years?

Mr. McANENY. I could not tell you that accurately, for the reason that—

Mr. RAINEY (interposing). I know, but are you willing to utter, I us a statement—

Mr. McANENY (interposing). May I answer your question?

Mr. RAINEY. Yes; certainly.

Mr. McANENY. For the reason that I stated to the chairman of this committee, Mr. Kitchin, this morning: I am unwilling to present the statement of a single newspaper intended to go into your record as evidence as to what should be done in the case of 500. If there is a request for the statement of every daily newspaper in the United States, for the information of your committee, ours will be readily forthcoming; but until that request is made, I can only say to you that the net profits of my paper are considerably greater than they were before the war; that every bit of it has been earned through the building up of its service; that for the present year, they will be considerably less than they were last year; and that what profit will remain goes, in a very considerable degree, into the Treasury of the United States.

The CHAIRMAN. I do not like to interrupt you, Mr. McAneny, but there is a roll call of the House, and we will be obliged to take a recess of 15 minutes to answer it.

(A recess of 15 minutes was taken.)

Pursuant to the taking of recess, the committee resumed the hearing at 3.50 o'clock p. m.

Mr. RAINEY. Did you finish your last answer?

Mr. McANENY. I think I had finished it.

Mr. RAINEY. I understood you to say that you would be willing to show what your profits have been in the past three or four years, provided that the other newspapers of the country do the same thing?

Mr. McANENY. We have shown all our profits to the Commissioner of Internal Revenue.

Mr. RAINEY. That is not for our information.

Mr. McANENY. And my answer to your question was that I would be quite content, as one of the newspaper publishers, to submit a statement of financial returns for the year 1917 if that is exacted in common from all publishers. I make that point merely because the purpose of any such information here would be to use such material as findings as bearing upon our argument, and it will be recognized, of course, that the experience of one exceptional newspaper, or of a case which is exceptional, would be of little value in investigating the case as a whole.

Mr. RAINEY. I understand your position. You made that same argument before, and you made that same claim, too. But you will not be willing to furnish us that statement?

Mr. McANENY. I should prefer not to do so except under the general call that I have suggested.

Mr. RAINEY. That we get the same statement from everybody else?

Mr. McANENY. Yes, sir.

Mr. RAINEY. The Times, you say, has not had any propaganda for the repeal of the second-class postage rate?

Mr. McANENY. Oh, no. The Times has commented upon this matter in such place as a public question would receive such comment, just as the Tribune has. You read a while ago, I think, from the Tribune. But of course a matter of this significance has been under discussion for several months and no doubt has received some attention from every paper in the United States.

Mr. RAINEY. You have opposed the proposition in the columns of the Times, have you not, to do away with this attempt to compel newspapers to pay their way?

Mr. McANENY. Of course you do not put it as I would.

Mr. RAINEY. I am putting it from my point of view, and my point of view is not the point of view of an interested publisher.

Mr. McANENY. But mine is not only of a paper but as a witness on the part of the reading public. The attitude of my own paper has been, I should say, substantially that which has been expressed here to-day, because that has been the attitude of practically all the papers; not an opposition in itself to increases on second-class matter, but opposition to its being done in this particular way and at this time.

Mr. RAINEY. Have you ever favored any particular proposition by which the Government could recoup a part of this sum?

Mr. McANENY. We are without data upon which to base any such suggestion.

Mr. RAINEY. And therefore you have not made any?

Mr. McANENY. We have not. I think you are equally without that data.

Mr. RAINEY. Without any data you did do it because I have your editorial in the New York Times of August 17, 1917, in which you favored the Weeks' amendment to the revenue bill and I will read it to you so that you can see it:

#### SECOND-CLASS MAIL.

Senator Weeks, of Massachusetts, has offered an amendment to the war-revenue bill, striking out the sections increasing the postal rates on second-class mail matter and imposing an additional tax on the income of newspapers and periodicals. So far as second-class postage is concerned, there will be no disagreement as to the obligation of the publishers of newspapers and periodicals entered into that class to pay all the cost of mail transportation, but it is obviously unfair to shift some of the burden of the large cost of transporting certain kinds of publications upon the publishers of others which can be carried more cheaply. There should be a distinction between magazines and newspapers. The magazines carry much heavier mail. They are published once a month, some of them once a week, and an extra force is required to handle them in the post offices. The newspapers are put in the mails 365 days a year. Few of them have to be carried out of comparatively small areas. They are more easily handled, and by the regular force.

A large number of publications passing through the mails as second-class matter have no net income in excess of \$4,000. The proposed tax, therefore, would not be generally levied upon such second-class matter. The purpose of the tax to compel additional payments for the second-class privilege would be defeated. It would be a special tax levied upon publications which already pay a heavy tax on incomes and other taxes. Viewed in this light, the proposed additional tax is shown to be unfair, discriminative, and arbitrary.

You are opposed even to that proposition?

Mr. McANENY. I do not recall that particular, but I gather from its tone that it is negative. That is, it opposes the particular plan put forward for the solution of this problem. That is quite consistent with my previous statement.

Mr. RAINEY. Have you ever favored any plan except the continuation of the old law?

Mr. McANENY. Oh, yes. We have favored an inquiry to determine what the plan should be.

Mr. RAINEY. That is, a seventh inquiry, after having six?

Mr. McANENY. Do you recall the period covered by the six? Do you go back to the beginning for 20 years? The last of them was 10 years ago and presented inconclusive evidence, stated that it could not get the evidence upon which to base a definite suggestion, and that was 10 years ago. I have the reports here and would be glad to read its findings, if you wish.

Mr. RAINEY. If it is printed we can get it. Now, how much does it cost you to get a copy of the Times to the purchaser on the street in New York?

Mr. McANENY. The cost for the individual paper, you mean?

Mr. RAINEY. No; how much does it cost you to get the paper from your printing office into the hands of a purchaser on the streets? Do you pay a commission to some newspaper distributing agency?

Mr. McANENY. The papers are circulated partly through news companies and partly through individual dealers.

Mr. RAINEY. When that goes through the news company how much do you pay that news company?

Mr. McANENY. The rate paid by all the newspapers to news companies is usually, I think, on a quantity basis per package. Individual dealers pay \$1.40.

Mr. RAINEY. A little over 1 cent apiece to get a newspaper from the Times office into the hands of any purchaser in the city of New York?

Mr. STERLING. They sell them for \$1.80 at the news stands.

Mr. McANENY. We pay four-tenths of a cent.

Mr. RAINEY. To get your newspaper in the hands of a purchaser?

Mr. McANENY. Yes.

Mr. RAINEY. That is the commission that goes to the news stand?

Mr. McANENY. That is the dealer's profit.

Mr. RAINEY. Do you deliver it to the news stands?

Mr. McANENY. They are delivered mainly through the news companies to the news stands.

Mr. RAINEY. What does the news company get out of it?

Mr. McANENY. I do not know.

Mr. RAINEY. They ought to get almost as much, ought they not?

Mr. McANENY. Mr. Rainey, you are asking me a line of questions with relation to the minutia of the mechanical side of the operation of my paper, which I am frank to tell you I am not very familiar with.

Mr. RAINEY. Would you think it would cost as much or more?

Mr. McANENY. Of course the obvious things I can readily give you; I mean how much we pay to get our paper to the sidewalk, but I do not know all the detail in relation to the news companies.

Mr. RAINEY. Is not that a large charge to get the newspaper from the printing office to the news company?

Mr. McANENY. I have said four-tenths of a cent is the entire cost.

Mr. RAINEY. The news price is about 10 cents a hundred, and what is the amount that the news stand takes out?

Mr. McANENY. It is the same; that is, the rate to these we pay them is practically 40 cents a hundred. Putting it the other way, they pay \$1.60 a hundred to us for the papers they get and sell in their own way.

Mr. RAINEY. That is half a cent the news stand gets out of each paper?

Mr. McANENY. Four-tenths of a cent.

Mr. RAINEY. How much do the news agencies get who distribute to the news stands in addition to the four-tenths?

Mr. McANENY. Mr. Palmer has passed the statement that it is one-tenth of a cent, but that is only a part of the delivery that goes through them. The great part of it goes directly to the dealers.

Mr. RAINEY. How do the newsboys get paid; do they get their commission?

Mr. McANENY. I do not know.

Mr. RAINEY. They get something, of course?

Mr. McANENY. I trust they do; they are a pretty clever lot, and I guess they get it.

Mr. RAINEY. Do you pay that?

Mr. McANENY. No, we have nothing to do with that.

Mr. RAINEY. You pay that out of the four-tenths of a cent?

Mr. McANENY. I do not know.

Mr. RAINEY. The situation then is this, one newspaper delivered to a reader in New York costs you one-half of a cent?

Mr. McANENY. I did not say that, Mr. Rainey.

Mr. RAINEY. How many newspapers weigh a pound?

Mr. McANENY. It varies. I think the average is about 2.7 of the daily paper to the pound. In other words, the daily paper weighs about four-tenths of a pound on the average.

Mr. RAINEY. Of the Times there would be three to the pound?

Mr. McANENY. Yes.

Mr. RAINEY. Then you get three Times under this present system carried to San Francisco and delivered there to three separate purchasers for three-tenths of a cent. That is a system you champion. That is, the system you champion imposes on this Government the burden of delivering three of your papers in San Francisco for a total of three-tenths of a cent when you yourself pay agencies in New York one-half a cent for delivering one.

Mr. McANENY. There is not the slightest relation between the two propositions.

Mr. RAINEY. But I have stated the fact, have I not?

Mr. McANENY. In a way that is meaningless. In the first place, your half cent does not apply except in some cases. I have told you that the normal rate is four-tenths of a cent. In the second place the paper that goes to San Francisco costs a great deal more to handle in the office to put in the mails, to wrap, to prepare for that delivery, and all that cost goes into the cost before we get our net receipts. The paper that is delivered to San Francisco gives us in a year \$7.12, and the other paper nets us \$7.10.

Mr. RAINEY. But the fact remains that no matter what kind of a package they are in they are some of your papers and you are asking the Government to deliver three of them in San Francisco for three-

tenths of a cent when you pay one-half a cent to people in the city of New York.

Mr. McANENY. Mr. Rainey, why can not we agree upon the fact that the Government asks the man in San Francisco to pay that postage in order to get his New York paper? We do not ask him to pay us. We do not get the benefit.

Mr. RAINEY. Then your position is this, if your theory is right you are asking the Government to deliver for nothing in San Francisco what it costs you half a cent to deliver in New York?

Mr. McANENY. Not a bit of it, because there are other costs on the way to San Francisco that more than balanced the New York cost. I can not make that much clearer.

Mr. RAINEY. They are not costs to you. They are costs to the Government.

Mr. McANENY. I beg your pardon; they are costs to the newspaper incidental to wrapping the paper and handling it and classifying it and putting it in the sack, of taking care of everything incidental to its carriage across the continent.

Mr. RAINEY. That is no reason why the Government should carry the same weight to San Francisco, three of them for one cent simply because from the standpoint of ordinary business simply because they cost you more money to put a wrapper on them to send them to San Francisco than they cost in the city of New York.

Mr. McANENY. But that is an issue between the Government and the man who buys the paper.

Mr. RAINEY. And we are representing the Government, or trying to as against the interested publishers.

Mr. McANENY. Are not you also representing the man who buys the paper? That has been my own theory for some time.

Mr. RAINEY. Therefore, representing the man who buys the paper, we ought to stand for a \$90,000,000 loss to the Government every year in order that the man who buys the paper can get the benefit of it?

Mr. McANENY. Mr. Rainey, upon that argument I have closed. I have nothing more to say on that.

Mr. RAINEY. Now, you say that what you get is not any more a subsidy than is embraced in distributing farmers' bulletins, agricultural publications, and pamphlets.

Mr. McANENY. We do not get it. I say what the subscriber in the West gets in the way of mail service is no more a subsidy than what he gets in his agricultural pamphlets or bulletins.

Mr. RAINEY. Has anybody made any money out of the distribution of agricultural pamphlets and packages of seeds?

Mr. McANENY. They are sent to the farmer on the theory that he is a better farmer because he gets them.

Mr. RAINEY. And it is your theory that whoever gets your newspaper derives considerable benefit, and therefore the Government ought to pay his expense in getting it?

Mr. McANENY. I would not for a moment say my newspaper; I would say newspapers generally.

Mr. RAINEY. I think the Times is a great newspaper myself.

Mr. McANENY. Thank you. I would broaden it and say that the man who gets any publications, and especially newspapers of the United States, is improved by getting it and wants to have it for that reason.

Mr. RAINEY. In other words, the Government, in your method of arguing, pays the expense of carrying the farmers' bulletin directly out of the Treasury to the recipients; in your case the recipients pay those expenses to you?

Mr. McANENY. As a matter of convenience to the Government. I am told that under the old plan——

Mr. RAINEY (interrupting). As a matter of convenience to the Government you keep the receipts and distribute them in your distribution to your stockholders.

Mr. McANENY. That is not true. I have stated it repeatedly, and I can not understand the justice of that suggestion. You will pardon just a bit of breeze; I nevertheless must make that point.

Mr. RAINEY. That is all I want to ask you.

Mr. STERLING. You stated just before noon that it cost the Government \$4,000,000 a year for county free delivery of newspapers.

Mr. McANENY. About \$4,700,000.

Mr. STERLING. How did you arrive at those figures?

Mr. McANENY. The fact that they carried last year 60,000,000 pounds and their estimate of the cost, including their overhead, is six-sevenths cent a pound for carrying.

Mr. STERLING. How did you find they delivered in the counties 60,000,000 pounds?

Mr. McANENY. From the reports of the Postmaster General.

Mr. STERLING. And how did you determine it cost the Government six-sevenths of a cent a pound?

Mr. McANENY. I also took the figures.

Mr. STERLING. How did you arrive at them?

Mr. McANENY. I went over to 1906 and took the House report.

Mr. STERLING. And you regarded that as a fair statement?

Mr. McANENY. As the statement available. Of course, that is based upon the only statistics available.

Mr. STERLING. If the Post Office Department could determine the cost to the Government of free delivery in the county why can not it determine the cost of carrying second-class mail matter?

Mr. McANENY. It is dealing with all alike. As I have said, the figures on the cost of free county matter go back along with all those other figures 10 years. I do not understand it has prepared any figures on that class of mail since that time.

Mr. STERLING. You do not think the Post Office can determine just what it costs to deliver second-class mail matter?

Mr. McANENY. They have not done it.

Mr. STERLING. They have given it out frequently that it has cost so much. Do you not believe their computation is correct?

Mr. McANENY. May I read from the testimony of Mr. Koons?

Mr. STERLING. Just answer the question. Do you believe the computation is correct?

Mr. McANENY. I believe the figures made in 1908 were correct when they were made, but I am without information as to whether they are correct to-day.

Mr. STERLING. Do you remember what Mr. Koons said about it to this committee last year when we had the bill under consideration?

Mr. McANENY. I do not.

Mr. STERLING. Well, it has been reported that it cost the Government about \$89,000,000 more to deliver second-class mail matter



than it received for it. Have you any reason to think that is not a fair computation or fair estimate of the cost?

Mr. McANENY. In the first place, as I have said, we have not got the basic figures and we can not tell how it is distributed. In the second place, they failed to get statistics as to the second-class mail which would cover the case I am talking about. Why carry it back to 10 years ago?

Mr. STERLING. I want to ask the question: Do you think the Post Office Department can determine with fair definiteness as to what it cost the Government to deliver this second-class matter?

Mr. McANENY. I can not answer that question in any other way than to refer to their own statement.

Mr. STERLING. They would do it in the very same way they would determine the loss that they sustained on free county deliveries, would they not?

Mr. McANENY. Yes; and they so stated, and their determination of that goes back to 1908. That is part of my point.

Mr. STERLING. If they could determine it in 1908 they could determine it by the same process now?

Mr. McANENY. But they have not done so.

Mr. STERLING. How do you know they have not done it?

Mr. McANENY. I have asked them and they have replied that they have not.

Mr. STERLING. They came before the committee and gave us figures last year.

Mr. McANENY. Mr. Koons testified before the Senate committee stating that 3.86 cents was the average overhead charge for second-class matter and he introduced a table of the cost, and he said:

It is the overhead charge on second-class matter, the information for which was obtained in 1908 by the most careful investigation under authority of an act of Congress. The cost of handling all classes of mail, the distance transported, and everything; and those figures were later supplemented by additional information secured for the Hughes commission in 1912.

That is the language. That is his own statement, that those figures were supplemented by additional information up to 1912.

Mr. STERLING. Do you think it would be less now than it was at that time?

Mr. McANENY. I can not tell. I think it quite likely.

Mr. STERLING. Is it not quite likely to be more?

Mr. McANENY. No, I do not think so. The methods of carrying second-class mail, of freight and express, have gone through several changes during that time, and each time the Government expected to secure a money profit out of it. There have been all manner of changes in the administration of the post office. Take the Rural Free Delivery Service, for instance—and, by the way, there is no proposition to put that on a cost-paying basis that I have heard of.

Mr. STERLING. I think rural delivery would cost twice as much as it did in 1908.

Mr. McANENY. It cost about \$45,000,000, I believe, but it has been a greatly extended service. I am talking about the piece cost.

Mr. STERLING. You said a while ago that this would produce about \$2,000,000 this next year.

Mr. McANENY. That is Mr. Koon's statement.

Mr. STERLING. And you say it would add so very greatly to the cost of the post office administration that there would not be very much left. Wherein does that additional cost come?

Mr. McANENY. In the additional clerical cost it would take, to take over each day, sample copies of every newspaper of the United States and measure up the proportion between the news and advertising, of keeping those copies on file, and making up bills based on 28 different rates of postage in one evening. That is a general statement of some of the difficulties they would have to meet, and of course it is going to cost them more to do it.

Mr. STERLING. You assume the Post Office Department could do that, of course, or you would not compute it that way?

Mr. McANENY. The law requires them to do it.

Mr. STERLING. Suppose the New York Times were to print a statement of the per cent of the New York Times that is advertising. What per cent of the Times is advertising?

Mr. McANENY. About 45 to 85 on the average.

Mr. STERLING. Suppose you would print on the face of the Times, "45 per cent of this issue is advertising matter and 52 is reading matter," and you weigh it and take it to the Post Office Department. Do you imagine the Post Office clerk would take up a copy of the Times and divide it and weigh it and measure it to see whether your statement was correct or not each day?

Mr. McANENY. In the first place, it would not be physically possible to do that. And, by the way, the department notices proposed regulations with identically that provision. It was shown to them, however, that in order to carry out that plan the newspaper would have to be measured out at the last moment before it went to press, and that the process of measurement would require the holding of the last stereotyped form of the first page in order to carry that imprint and would delay the process about half an hour of a night issue when every minute is worth its weight in gold. Thereupon the Post Office Department very reasonably withdrew the suggestion that you have made and in the regulation as printed they eliminated that requirement.

Mr. GREEN. Can you possibly explain to us why that has to be made before the newspaper is printed?

Mr. McANENY. In order to stamp on it the ratio of news to advertising. That was the proposition, to print it on the face of the paper.

Mr. STERLING. Does it happen very often that the ratio is very much changed between the advertising and the news?

Mr. McANENY. It is changing every moment up to the time it goes to press.

Mr. STERLING. Very materially!

Mr. McANENY. Very materially, but not only that, it is changing from one edition to another edition of the same day. The advertising in the first edition is different from the advertising in the second, and in the second from the advertising in the third and in the third from what it is in the fourth.

Mr. STERLING. Which edition do you send to the country through the mail?

Mr. McANENY. The first, in the main; but some of each gets in.

Mr. STERLING. You do not think that the Post Office Department would require you to specify to the line just how much is advertising and how much is reading matter, do you?

Mr. McANENY. The law requires them to do it. I do not know how complacent they are going to be in going about it.

Mr. STERLING. Do you not believe that all these difficulties you speak of are purely imaginary; that it would not add any cost to the Government to carry the newspaper under that law?

Mr. McANENY. If you will pardon me, we have examined into this thing with the greatest care because it affects our working machinery very seriously. Every paper will be affected by this law. There is no imagination about the fact; it would make the greatest possible complication and disturbance, and we do not see how it is going to work.

Mr. STERLING. I agree that there would be some additional trouble to the newspapers.

Mr. McANENY. I have pictured what it would be.

Mr. STERLING. I do not imagine that it would be very much additional work to the Post Office Department. So I think the \$62,000,000 would be practically net. Now, you said a while ago that you thought a newspaper ought to be treated more as a public library or as a public school, and that inasmuch as the Government subsidizes public schools and libraries we ought not to complain if the newspapers are subsidized. Do you think that is a fair argument?

Mr. McANENY. No; I do not; only I did not make it, sir. May I correct that inference. What I did say was that the educational side of the circulation of a newspaper and other literature is as much a public institution as the circulation of public libraries or the work of the public schools, and that it is as reasonable to refer to the cost of carrying on that service to the people as a subsidy as it is to refer to distributing the newspapers to the people as a subsidy.

Mr. STERLING. There is this difference between the two.

Mr. McANENY. A newspaper is not subsidized.

Mr. STERLING. It is run for profit.

Mr. McANENY. Neither is the public library subsidized.

Mr. STERLING. The public school of the library are not mercenary institutions.

Mr. McANENY. The newspaper is run incidentally at a profit, and if it did not earn a profit it could not run.

Mr. STERLING. Its primary purpose is the money they make out of it?

Mr. McANENY. Yes; but the newspaper offers its goods, its product, to its customer for sale, and it will sell it wherever it can sell without incurring a serious loss.

Mr. STERLING. And the educational feature is the merit the public sees in it, and that is the reason they buy it?

Mr. McANENY. And the reason a farmer buys a plow is because he sees some merit in the plow, and that induces him to buy that; so there has got to be some merit to everything if you will sell it on the market.

But he does not buy it from a producer who could not deliver it to his town because the delivery would involve a loss. In the case of the newspaper business the postal service takes it where the newspaper necessarily stops. The newspaper company can sell its paper in its town or nearby, or anywhere else, so long as the load is not an oppressive one, but you get to a point in the charting of these zones where it could not carry the paper farther and sell it upon the basis proposed.

Mr. STERLING. Do you not think the newspapers of the country made a great mistake when they reduced their price from 5 cents to 1 cent?

Mr. McANENY. Oh, Lord; that was long before my day.

Mr. STERLING. Do you not remember when the leading metropolitan papers sold on the streets for 10 cents a copy?

Mr. McANENY. I am proud to say I do not remember that.

Mr. STERLING. I can remember when the Chicago Times sold for 10 cents a copy, and all of them sold for 5 cents. If you would sell to-day for 10 cents a copy do not you think the public would read them?

Mr. McANENY. The public would buy them so far as the public could afford, but there would be an immense reduction in the circulation.

Mr. STERLING. There would be for a little while, but do you not think they would soon sell for 5 cents a copy?

Mr. McANENY. No. I have reason to know that a raise in price from 1 to 2 cents has resulted in a material reduction of the aggregate circulation.

Mr. STERLING. When was that price raised?

Mr. McANENY. About the first of February.

Mr. STERLING. How much did the circulation fall off?

Mr. McANENY. It varied from paper to paper. It fell off anywhere in the first week or two from seven or eight per cent to 40 per cent. Some of that has been recovered.

Mr. STERLING. And in time it will all be recovered?

Mr. McANENY. It has not all been recovered in Philadelphia, where the thing was done a year earlier.

Mr. WHITE. How does the Cincinnati Enquirer maintain a 5-cent rate?

Mr. McANENY. I can not explain that. That is the only paper that does.

Mr. LONGWORTH. It has always sold for 5 cents and never made a reduction.

Mr. McANENY. May I make a little plainer possibly the answer I made to Mr. Rainey with relation to the increases to which he referred. He asked about concert of action, and so on. Of course, there was nothing of that sort in the raising of the price from 1 to 2 cents, which practically took place all over the country. That was a recognition in every city of the economic need for such an increase. Without it the newspapers could not have continued. I have forgotten which was the first city to change from 1 to 2 cents, but pretty nearly all are changed that are of a very large consequence, excepting Boston, and they have been unable to do it because one man holds out. But there has been no agreement between the publishers in the sense of coming together to increase the price of a commodity in order to benefit themselves. On the contrary, they were urged by the Government itself through the Federal Trade Commission to increase their prices from 1 to 2 cents, and the Federal Trade Commission, in the person of Commissioner Harris came to New York City and at a meeting of the publishers said, "Gentlemen, in order to meet the rising cost and to decrease the volume of consumption of news-print paper, you must raise your prices from 1 to 2 cents," and it was at the suggestion of the Government in that session that

the New York publishers first took this matter up. It was not concert of action in the sense which sometimes is understood. It was the meeting of the national necessity upon the recognition of the National Government.

Mr. GREEN. Let me ask a question with reference to this rise of price, but not with reference to the particular matter of which you have just been speaking. The New York papers doubled their price, with the result that there was a light falling off in circulation?

Mr. McANENY. There was a considerable falling off. I have the figures here.

Mr. GREEN. You stated, I believe, that if one paper alone had raised the price its circulation would have fallen off very largely, perhaps to less than one-half or more.

Mr. McANENY. I should say more.

Mr. GREEN. If it was one paper alone?

Mr. McANENY. Yes.

Mr. GREEN. Or if a change was made by about half of them the ratio might be a little different. Now, you gave an illustration from some newspaper—I have forgotten what the paper was—where the manager sent out a notice with reference to expirations.

Mr. McANENY. That was the Minneapolis Journal, whose publisher is here.

Mr. GREEN. And he sent out notices to some of his subscribers, stating his intention with reference to raising the price, and to others he did not notify them that there would be a raise in the price, with the result that a large number of those who were notified of the raise in price did not continue their subscriptions. Was not that just in the same situation that you speak of where one paper in a city should put its price up to 2 cents and the others keep their price to 1 cent?

Mr. McANENY. I think not at all, because in that case if he raised his rate on account of postage that would fall upon everybody.

Mr. GREEN. Oh, no; he could not do that.

Mr. McANENY. He referred to the increased postage.

Mr. GREEN. There is the trouble with his notice. These papers did not know whether any other papers were going to advance their prices or not.

Mr. McANENY. There might be some paper that would attempt to carry this cost itself, and thereby give additional advantage to the individual subscriber?

Mr. GREEN. I am asking the question, if you please, if you will permit me. They could tell anything about what these other papers were going to do, these farmers that these notices were sent to, and they did not have any idea whether any other papers were going to increase their prices or not. We know perfectly well that there is a large number of newspapers sent out, especially those gotten by farmers and people in the country, in which the price does not compare at all with the cost of the paper. Some farm papers are sent at a subscription price of 50 cents a year, or for 50 cents for five years.

Mr. McANENY. You mean daily papers?

Mr. GREEN. No; they are not daily papers.

Mr. McANENY. I am not discussing the others.

Mr. GREEN. But the farmer gets them just the same, and they would not know where this cost was going to. They would be in the same situation as the paper would be in the city.

Mr. McANENY. I think the difference is that if one publisher in a city raised the price his customers are the customers on the street and they would learn pretty quickly that it was the only one there that had raised the price, but in the case of increase of postal rates that ought to be borne by everyone, and I can not conceive of any paper in this particular territory or any subscriber assuming that they were going to get a free gift of this increase of postage.

Mr. GREEN. And you think there would not be any way to find out about it?

Mr. McANENY. I do not think one in a thousand would.

Mr. GREEN. I am afraid you do not understand the temper of the people as some of us do who deal more directly with them.

Mr. McANENY. I have read to Mr. Garner what these rates amount to. In a Texas town a paper that nets in rates \$8.15 under this bill would have to pay \$9.61.

Mr. GREEN. But they are not taking papers from New York down in Texas, to any extent.

Mr. McANENY. He showed me his. I received that assurance with a great deal of pride.

Mr. GREEN. But this Minneapolis paper you were talking about would naturally circulate in the first and second zones.

Mr. JONES. I would like to tell you about that.

Mr. ANENY. I understand Mr. Jones is very largely in the fourth and fifth.

Mr. JONES. I do not want to interrupt, but in order that the members of this Ways and Means Committee may realize the position that certain papers in Minneapolis, St. Paul, Omaha, Kansas City, St. Louis, Chicago, Dallas, and Fort Worth, Tex., were in you must analyze the situation geographically. Many of you people here in the East, while you may have traveled—

Mr. MOORE. Mighty few of us, Mr. Jones, in this Congress and this committee are from the East.

Mr. JONES. Very few of you people realize the area of the States in which we live and the territory reached from certain primary markets. In order that you may grasp the situation in the Northwest, which applies equally to the States of the Southwest, Minnesota is larger in area than Maine, New Hampshire, Vermont, Rhode Island, Connecticut, and half of New York. In other words, the circulation of your paper goes into the fourth zone before you get out of your own State. To the west of us lie North and South Dakota, each equaling, or nearly so, in area Minnesota. West of that comes Montana, 800 miles long and 400 miles deep, in area larger than Maine, New Hampshire, Vermont, Rhode Island, Connecticut, New York, Pennsylvania, New Jersey, and Delaware. This is the territory that we are circulating in. In all that territory from Minneapolis to Spokane, 1,700 miles, there are no Associated Press franchise papers because they have no service. Three hundred miles west of us is Fargo and Grand Forks. Then beyond is the little city of Bismarck and other small cities. Those two cities have pony service, and they merely have the benefit of a skeleton service.

Mr. MOORE. That is paid for by the Government.

Mr. JONES. It is not paid for by the Government but by the individual man who buys the service.

Mr. MOORE. Many people in the East pay postal rates which will enable the population of such States as you mention to secure mail and enable them to get news service at lower rates.

Mr. JONES. There is no news service from the territory beyond that point that anybody pays for excepting the individual who pays for the delivery of everything he gets.

Mr. MOORE. Free delivery goes there, and the New York Times would go there, and a paper in the territory would probably have a larger circulation, and therefore a larger advantage derived from the expenditure of the Government's money to maintain that service.

Mr. JONES. In this great district, which is the bread basket of the world, the normal wheat production of the four States for the last five years was 200,000,000 bushels. I am going to give you a concrete illustration of what six newspapers can do. I am going to take some credit to ourselves.

The CHAIRMAN. That is quite interesting, but I understood you to interrupt Mr. McAneny to answer a question. I think you have answered that.

Mr. GARNER. If you have those letters that you referred to will you leave them with the committee?

Mr. JONES. I have not them with me. I gave them to Mr. Burleson.

The CHAIRMAN. The committee will be glad to give you such time as you want after Mr. McAneny is through. We would like to hear every one of the representatives of the newspapers here.

Mr. McANENY. The members of the committee have discussed the proposed and they have decided upon who will speak for them.

The CHAIRMAN. We will be glad to hear them to-morrow, or Monday.

Mr. GREEN. I had practically finished, but I thought, coming from the West myself, I would see if a New York paper could double its price without very greatly reducing its circulation; those in the West might possibly want to say something on the subject.

Mr. McANENY. The increases that have been made already were made in the main in order to make up for losses that had gone before, to reduce the balances in the matter of increasing costs. As I have said they were made practically at the instance of the Government itself. There has been a variety of experience as the result. I think Mr. Williams told me last evening that in Pittsburgh the early losses have been almost entirely recovered. In Philadelphia I know that they are still somewhat shy. How it is in St. Louis, in Washington, in Buffalo, all of which have gone to 2 cents, I can not tell you, though I believe they are still back of the mark, more or less.

In New York they are still a little bit behind in the matter of recovery. There were some retained for the first three or four weeks, but apparently they have crystalized at a lower basis now. I am speaking, of course, of the aggregate of newspaper circulation within the city. There are one or two instances, I think, where the circulation is even greater than it was before the increase from one to two cents, but they are not typical instances and have really no relationship to the general question; and moreover the fact that so much circulation has been taken off already by the increases of the price we are bound to make would naturally lead to a greater proportion.

of cancellations when you come to another and even greater addition, as this law would compel us to do.

Mr. STERLING. What is the purpose of the comic sections in the Sunday papers?

Mr. McANENY. I am afraid I should have to refer you to some one else who uses them. We do not, but the argument is that a great many readers of such a paper who buy them for that purpose, that depend on them for home amusement, or otherwise; and it is also argued that the circulation gained through that particular attraction of course becomes useful in news and information to people who otherwise might not get it.

Mr. GREEN. What is the outside price of the Sunday edition of the New York Times at this time?

Mr. McANENY. Seven cents. Five cents in the city and 7 cents outside.

Mr. MOORE. The comic supplement of a newspaper is very popular with women and children and with those who enjoy a smile once in a while and do not take life too seriously.

Mr. McANENY. Those papers that use them are convinced that they supply a very real need and they have a very useful purpose, they would be very loath to give them up.

Mr. MOORE. They may add to the circulation, and they do no harm and afford a great deal of amusement.

Mr. McANENY. They do not bulk very largely in the entire proportion of the State.

Mr. GREEN. Have you made any investigation as to what the rate ought to be in the first and second zones in order to pay the cost to the Government?

Mr. McANENY. The Government's own figures show the cost. That is, going back again to 1908, they say that the cost of \$5.44 a hundred, practically 5½ cents a pound, is the average of the first three zones. In other words, in nearby zones, as far as the whole of the paper is concerned, it would cost more proportionately according to them than in the longer zones.

Mr. GREEN. Unquestionably that is true. I assume the higher charges in the nearby zones are large based on the fact that the overhead would be the same as it would be in the longer distances. That is the cost of distributing the paper to each individual.

Mr. McANENY. Exactly. Their cost runs this way. The first, second, and third zones—we reach the transportation figures by zones. To each of these is added a flat overhead charge. The first, second, and third zones average \$1.50. In the first zone that is only 25 cents, but the average for the three would be \$1.50; in the second \$2.49, and so on.

The CHAIRMAN. What page is that?

Mr. McANENY. Page 54 of the pamphlet containing the hearings before the Senate committee. Shall I resume?

The CHAIRMAN. Yes, go right ahead.

Mr. McANENY. On fourth, \$2.49; on fifth, \$3.90; on sixth, \$5.52; on seventh, \$7.14; and on eighth, \$8.76.

To each of those rates for transportation they add a flat overhead estimate of \$3.86. They argued that it cost just as much overhead to carry a piece of mail 50 miles as it does 3,000 miles; and, with some minor modifications, probably it is true. Observance of those



figures gives a final zone cost, as they put it. The average of the first three zones is \$5.44; the fourth, \$6.35; the fifth, \$7.76; the sixth, \$9.38; the seventh, \$11, and eighth, \$12.62. With figures like that it is pretty hard to venture any counter proposition.

Mr. GREEN. Why so?

Mr. McANENY. Because so much is involved in this element of service. Nobody could attempt to offer an alternative based upon these costs, or even the modified and corrected costs, because that would simply bar the newspapers entirely out of the mail.

Mr. GREEN. I understand you then that you would not bar the newspapers paying costs?

Mr. McANENY. Decidedly, sir; that is, the cost shown in this schedule.

Mr. HAWLEY. What is the weight on which they base that?

Mr. McANENY. That is per pound. Coming down to 12.62 cents, their cost rate on the pound in the last zone——

Mr. GREEN. I do not know that I would myself favor the newspapers paying costs. Of course, the claim is that, on the part of the Post Office Department, they have not even approximated that, and there is some claim made that these proportionate rates in the first and second zone are too high, and it has even been claimed at more cost to the Government.

Mr. McANENY. The plan of Senator McKellar's amendment was to exempt utterly the first three zones; that is, where they show a cost of 5.44, and continue 1-cent charge, and to grade the zones upward beyond that point.

Mr. GREEN. That would not cover a case like that of Mr. Jones, of Minneapolis?

Mr. McANENY. That would cover a good deal of his case, the first three zones out of four, of course.

Mr. GREEN. He would have to go in under the new or fourth zone?

Mr. McANENY. Yes; he would commence at the fourth zone.

Mr. GREEN. It would help within the area that encompasses most of this circulation?

Mr. McANENY. Oh, yes; it would help everybody. You take our own figures, so far as they are good, for illustration of circulation. Out of our 56,000 in the mails, that is, both packages and individual wrappers, the first, second, and third zones, there were 34,760 out of 56,000; and in the other five zones, 20,000.

So that you see even in a large metropolitan daily, the plan that exempted the first three zones would be of material assistance to get the paper to the people who want to buy it.

Mr. STERLING. Senator McKellar's amendment applied only to newspapers?

Mr. McANENY. I think Senator McKellar's amendment would apply to newspapers. It was the proposed substitute of the Southern Association that applied only to newspapers.

Mr. GARNER. There is no difference between the present and the McKellar law, except the first three zones exempted?

Mr. McANENY. No; the advertising division is novel in the new law entirely. That came up quite freshly out of the clear sky.

Mr. GARNER. The principle of the zone system was retained in the McKellar amendment?

Mr. McANENY. Yes. But in the present plan, which groups news and advertising, on the theory that news is to go for a flat rate and the

advertising for the zone rate—of course we do really get a common zone plan, very much like the McKellar plan, except in degrees, because none of the newspapers, for instance, are allowed to change materially their zone of ratio news to advertising, because the premium is made on the news in this composite scheme. The Federal Trade Commission has kept statistics of the used news space for the last several months as between news and advertising, and the percentage is 46 advertising to 54 news.

That ratio is pretty general, and no doubt it would be maintained, and the result is that when you take this fixed newspaper established along those lines, and then charge a flat rate for one-half on the zone rate you do get a compounded zone rate. In the case of 50/50 news and advertising newspaper, the zone rates run up to the maximum in the last zone of 5.75 a pound under the new plan, an increase of about 500 per cent.

Mr. GREEN. Has the Post Office Department announced upon what plan it would compute the rates?

Mr. McANENY. It has sent out a circular of regulations, which of course incidentally constitutes a circular of operation, proposing that while the measurement of advertising and news shall be made each day and filed with the department, subject to verification, that when it comes to the division into zones—and, mind you, every one of our 56,000 publishers has got to be put by itself in the designated zone, every one of them has got to be treated individually; and that after that is done they are willing to let the average of the six months' period stand as a basis for the postal charge until another six months. Another six months may come around, and they substitute another average. That I referred to a moment ago, as they are afraid to lead the way in putting this plan into effect. I can see, however—in fact, I said to Mr. Koons, "This law is being violated by yourself." And he laughed and said, "Yes; we are violating it, but we will take the consequences,"

Mr. GREEN. Why do you say "violating the law"?

Mr. McANENY. The law says it shall be based upon the actual number of newspapers carried for each zone each day.

Mr. GREEN. Oh, no; you are mistaken.

Mr. McANENY. It does not say it in that exact language, but it implies it pretty clearly.

Mr. GREEN. The law says that newspapers shall furnish to the Postmaster General a statement containing such information as he may prescribe for determining the postage charges thereon.

Mr. McANENY. Very true; but what is the clause as to the charge?

Mr. GREEN. Those two sentences have got to be taken together in construing the law.

Mr. McANENY. It seems to me, first, the law fixes the charge.

Mr. GREEN. Yes.

Mr. McANENY. And then says in order to fix certain data thereby determined.

Mr. GREEN. I think you are very clearly in error.

Mr. McANENY. Not in error as to their legal right to do it, and, of course, whether they do it legally or not we welcome it as some measure of relief. But it would alter the general situation very slightly. It will not make a great deal of difference to us whether

the zone is averaged once in six months or once a week; in fact, a good many of them would prefer it once a week. The rub comes in on the exact measuring up of each paper and each edition, and inasmuch as under their own plan they are going to check every newspaper and every issue, I can not see how they are going to avoid that extra clerical service for which we look.

Mr. STERLING. That would be done in the newspaper office instead of the post office?

Mr. McANENY. Oh, no; the checking up and the making out of the bills would be done by the Post Office Department. The file copies they make each day will fill a warehouse in a year.

Mr. MOORE. You are referring to paragraph C of section 1100, "With the mailing of each issue of each said publication, the publishers shall file with the postmaster a copy of such issue, together with a statement containing such information as the postmaster may prescribe," which I presume he has done in the regulations for determining the postage chargeable thereon. That is one of the things that worried me somewhat when the bill was passed. Does not that mean the charging up of the advertising on the one hand, and of the literary matter on the other, is up to the publisher, "who shall file with the postmaster a copy of each issue," and so forth?

Mr. McANENY. The publisher can make his original statement of how these ratios compare, but I am not sure it will be within the business plan of the department to accept them without checking.

Mr. MOORE. I took it he was going to rely very much on the integrity of the publisher.

Mr. McANENY. That would be flattering, but it would be an unusual business relationship.

Mr. STERLING. Do they not do it that way now?

Mr. McANENY. No; in most instances they weigh the sacks of mail at the publisher's plant before they go to the trains.

Mr. STERLING. In my town—

Mr. McANENY (interposing). They are weighed by Government weighers.

Mr. STERLING. We have a very excellent paper in my town. It weighs the papers and a man takes them over and throws the bag into the door of the post office, and never makes any statement to the postmaster unless there is a change in weight. If there is a change in weight he gives him a statement. But it goes on that way day after day, just the same.

#### STATEMENT OF MR. C. P. J. MOONEY, MEMPHIS COMMERCIAL APPEAL, MEMPHIS, TENN.

Mr. MOONEY. Pardon me, but the railway mail clerk will not receive newspapers on a train unless they have a certificate from a Government weigher, and in the case of daily papers those papers are either weighed by the Government man at the office of publication, or in the post office itself.

Mr. STERLING. Every day?

Mr. MOONEY. Every day.

Mr. STERLING. What business are you in?

Mr. MOONEY. I am managing editor of a newspaper, the Memphis Commercial Appeal. They may do that in your town, but I undertake to say they do not do it in one town in ten.

If I may make this statement, the process by which the papers are handled by the Government in cities of our size is this: The Government sends a clerk to the newspaper office; the newspaper itself previously sends to the post office and gets sacks. Those sacks are filled by the clerks in the publishing office, are addressed, and then are thrown on a scale, and the Government agent weighs those sacks on the scale; then those sacks are loaded into wagons, and that shipment will not be received on a train until the railway mail clerk on the train has a certificate of weight signed by the Government agent.

Mr. STERLING. That may be the regulation.

Mr. MOONEY. That is the way it is done in respect of about nine-tenths of the newspapers.

Mr. STERLING. But the Government clerk simply gives a statement made by the publisher?

Mr. MOONEY. But the papers are then weighed in the post office.

Mr. McANENY. I doubt whether in any instances the receipt of any considerable portions of the mail is made without some check.

Mr. STERLING. They get it just in that way. The Government clerk takes the statement of the publisher and gives a certificate of it, and I venture that is done nine times out of ten.

Mr. MOONEY. We lost a carload of papers last Saturday night, about 12,000, because the Government clerk went to sleep and we could not get the certificate in time to catch that train, and the train left without the papers getting on board.

Mr. STERLING. I do not dispute but what they have to have the certificate.

#### STATEMENT OF MR. GEORGE McANENY—(Resumed.)

Mr. RAINEY. You say the Times has not entered into any propaganda on the second-class postage proposition—I think you stated that at the start—except what has appeared in the newspaper. You have not mailed anything to Members of Congress?

Mr. McANENY. No.

Mr. RAINEY. The editorial I read you from the New York Times as of August 17, 1917, was printed separately on slips of paper and sent to each Member of Congress, and I do not know who else. This is not a clipping [referring to paper] from the Times. It is a reprint on this slip of paper. Was that done by the Times—can you tell by looking at it [exhibiting sheet of paper to Mr. McAneny]?

Mr. McANENY. I imagine somebody has flattered us.

Mr. MOORE. You have not gone out of business altogether since the passage of the act?

Mr. McANENY. No, sir.

Mr. RAINEY. You did not do it?

Mr. McANENY. Oh, no.

Mr. RAINEY. It was apparently circulated in that way, Mr. McAneny.

Mr. McANENY. I have no personal knowledge of it having gone from the Times office.

Mr. RAINEY. Those were printed on one side, and it is a reprint from the New York Times. It is not a clipping from the paper?

Mr. McANENY. Oh, no; it could not be a clipping from the paper. It was not sent from the New York Times. We present our propaganda differently.

Mr. RAINEY. No other paper except the New York Tribune was opposing the position you took?

Mr. McANENY. Among 500 there may have been one or two other instances. I said I had not heard of any.

Mr. RAINEY. Does the Evening Telegraph of Philadelphia belong to your association for which you are appearing?

Mr. McANENY. I assume it does; yes.

Mr. RAINEY. In its issue of September 19, 1917, under the heading "Second-class postal subsidies," they say, among other things:

It seems almost inconceivable that there should be any disagreement over this matter. The Government is paying over \$100,500,000 a year for the transportation of magazines and similar publications, for which it receives in postage \$11,383,000, making a loss of \$89,000,000. This amount comes out of the Treasury and goes into the pockets of the publishers, substantially as a subsidy.

That is the Evening Telegraph. I will publish the entire editorial.

Mr. McANENY. You will permit me to observe that even a newspaper might profit by the information we have been able to give here to-day. There have been a good many misstatement of facts.

Mr. MOORE. I think there has been a change in editorship of the Evening Telegraph since that article was published.

Mr. RAINEY. Does the Ithaca Daily News belong to your association, and do you appear for them to-day?

Mr. McANENY. I believe not. Our members are the larger newspapers.

Mr. RAINEY. On Saturday, September 22, 1917, they published an editorial under the heading, "The second-class postage rate," opposing the position you now occupy.

I have another article from the Evening Telegraph.

Mr. MOORE. What is the date of the article?

Mr. RAINEY. It is September 17, 1917.

Mr. MOORE. That is the same old letter.

Mr. McANENY. Justice moves quickly in Philadelphia sometimes.

Mr. RAINEY. What have you to say as to Claremont, Minn.?

Mr. McANENY. It does not sound probable. Mr. Jones says it circulates the copies of its publication free in the county.

Mr. RAINEY. The Daily Dispatch of Moline, Ill., belongs to your association?

Mr. McANENY. I do not think it does.

Mr. RAINEY. On the 12th day of April, 1918, the Claremont News, of Claremont, Minn., under the heading, "Just a little more graft," published an editorial opposing your position, which was copied approvingly in the Daily Dispatch of Moline, Ill., at a later date, on the 27th day of April, 1917. Does the Philadelphia Record belong to your association?

Mr. McANENY. I think the Record does.

Mr. RAINEY. I have an editorial which appeared in the Record on the 28th day of April of this year, "The cut in publishers' subsidies," opposing the position you now occupy.

I want to ask permission of the committee, so that we can see that the newspaper publishers do not agree with the position taken by the representatives of this association, to print these editorials in our record.

Mr. McANENY. While I do not wish to encumber the record, Mr. Rainey, might I ask the privilege of publishing the editorials approving our position?

Mr. RAINEY. I suppose nearly all of them agree with you.

Mr. McANENY. It is a rather bulky document, but I am sure you will grant us that privilege.

Mr. GREEN. Just a moment. Do you think that is a fair proposition? You come here representing a number of papers, and then Mr. Rainey says you are not correctly representing all newspapers and to show that he wants to print some editorials. We assume as to the others that you represent them.

Mr. McANENY. I do not think that was Mr. Rainey's point. Of course, any one familiar with an organization of any character in the United States, with several hundred members, will appreciate that upon a given issue there may be a few dissenters. The American Newspaper Publishers Association passed upon this matter at its annual meeting in New York, at which something like four hundred of the five hundred members were present, and after careful discussion and debate this action of ours, which we present to you, was taken unanimously. There was not a single dissenter present in the meeting, and while, of course, there is no newspaper publisher who, because of his membership in an organization, will renounce the right to express his opinion upon any public question, the fact remains that those who have taken the other ground in this general discussion are very few. With all courtesy, I merely wish to point out, by comparison, the very great preponderance that this proposition has received from the daily newspapers.

Mr. RAINEY. I am willing to admit that the great preponderance of magazines and newspapers, especially the larger ones, agree with you.

Mr. STERLING. There is a very great difference in the character of the testimony of the two sides.

Mr. McANENY. You mean these editorials?

Mr. STERLING. Yes.

Mr. McANENY. Naturally so, if they take the other view they are apt to urge it.

Mr. STERLING. The statement made by these newspapers which you represent are simply self-serving statements; these others are against their own interests.

Mr. McANENY. I do not think that naturally follows. One might tell perhaps more certainly from their own mailing lists.

Mr. MOORE. There is a great deal said in the newspapers these days about lobbyists. Much force has been given to newspaper comment about lobbies by the President of the United States, and in his last address to Congress, telling us of the necessity of raising war revenue, he stated boldly that there was a lobby, and that the members of it were known. He spoke of lobbies and spoke so that every one could understand. Members of Congress hear a great deal about so-called lobbies. They see—I am speaking from experience—they see very little lobbies except men who come and go who have to do with legislation. These charges of lobbies and of their influence upon Members of Congress naturally irritates them. I am saying that now as a member of the majority, in fairness to the majority. Do you not think that an organization like yours, for instance, which is repre-

representative of the great newspapers of the United States, whose influence upon public affairs is tremendous, should have the right to come before the Ways and Means Committee, or any other congressional body, to make a fair and frank statement of what you believe to be proper for your interests?

Mr. McANENY. It is because that we do believe that we have that right that we are here, Mr. Moore.

Mr. MOORE. It is merely because, for one, I feel that right should be accorded to every citizen who feels he has a grievance has a right to approach his member of the legislative body. But I differ with some of my colleagues sometimes about the attitude of the papers. I feel sometimes they are unjust and perhaps unwarranted in their criticism of the members of Congress, but that they should be denied the right to come to a committee of Congress and present their case I can not agree.

Mr. McANENY. This committee has been very courteous in giving this hearing, although it has been a bit late.

The CHAIRMAN. I would like to dispute that right.

Mr. HULL. You would not consider that any members of this committee would deny you the right to come before the committee to make an argument?

Mr. McANENY. Personally, I should not.

Mr. HULL. I never heard that before.

Mr. RAINEY. Nobody on this committee ever took that view of the matter.

Mr. McANENY. As I had occasion to say in reply to a question earlier in the day, the American Newspaper Publishers' Association has appeared here only in person at hearings that have been granted for that purpose, and it has appeared in no other way. There have been conferences with the chairman of the committee and others necessary to arrange hearings, and I assume that is the natural avenue of approach to Congress that Congress has itself provided.

Mr. STERLING. Our chairman has always given you to understand that the committee wanted to hear you, has he not?

Mr. McANENY. Our application to your chairman has been very courteously received and we are here in consequence.

Mr. MOORE. The President himself has given credence to these rumors, and it seems to me fair to you gentlemen as well as the chairman of this committee, that some reference be made to this question of lobby, because this committee holds that men have a right to come here and present grievances, and so far as I have observed—and again in fairness to the majority—I have testified that the chairman of this committee has thrown the doors wide open for every man to come, and, as a matter of fact, under the Constitution of the United States this is the first place to come on a question of revenue. There has been some little dispute between Senatorial action and House action. But revenues, under the Constitution, originate with this committee.

Mr. RAINEY. I want to say, in that connection, that nothing the President has ever said, in the wildest stretch of the imagination, could be construed in any sense as any opposition on his part or on the part of the administration to the fullest investigation by committees of this House, and we are glad to have the information given to us by representatives of any interests who appear before us, and,

in fact, we invite and propose to continue to invite fullest attendance on these hearings until they are complete, and the President has never taken any other position.

Mr. HILL. In that connection, I do not think any person could justly construe anything the President has said to embrace within what you term "lobbyists" any body who comes before the committee and presents an argument.

Mr. McANENY. I understand Mr. Moore's reference to the matter—

Mr. MOORE (interposing). Pardon me just a moment. I would like to quote just what the President did say, so there may be no misunderstanding:

If lobbyists hurry to Washington to attempt to turn what you do in the matter of taxation to their protection or advantage, the light will beat also upon them. There is abundant fuel for the light in the records of the Treasury with regard to profits of every sort.

The President is the one who originated this question of "lobbyists" and there it is in his own message, and I think we are justified in calling attention to it, for, as one Member of Congress, I feel every man who has something to say to his Congressman, every group of men who have a grievance, should have the right to come freely and fairly to his Representatives, and that has been accorded by this committee.

Mr. RAINEY. You will not find any Member of Congress disagrees with the position you take.

Mr. McANENY. I, for one, agree with you. I understand Mr. Moore's references are to the larger aspect of this matter and not particularly to the President's suggestion. I do not understand that it has anything in it that refers in any way to our appearance here, for instance.

Mr. MOORE. Oh, no; I assume he was not referring to anybody in particular, except as he indicated in that address; but, in consequence of his address, there was severe criticism in the newspapers generally as to lobbyists in Washington. He was the bellwether, and they commented on his suggestion that the lobbyists were here and that Congress was being unduly influenced; and that has had the effect of sending to us witnesses who have appeared before this committee who have stated squarely—one of them was here some time ago, the second or third day of these hearings—that he feared that Congress was under the influence of the newspapers, and that the newspapers were under the influence of the bankers, and that the whole country was going to the demnition bowwows in consequence thereof.

The CHAIRMAN. Mr. McAneny, I want to examine at some length and we want to adjourn certainly by 6 o'clock. Will it be possible for you to come back to-morrow?

Mr. McANENY. I can do it if necessary. I would gladly stay on my feet for some time if it will suffice to clear this up.

The CHAIRMAN. I have a good many questions I want to ask you from my standpoint, and inasmuch as you are evidently about the best posted man on this second-class matter in your association I want to ask them now.

Mr. McANENY. That is true only by reason of the accidental fact that I am on this committee, and there may be questions that you will ask me for which I might have to refer to elsewhere.



The CHAIRMAN. But before we get down to the main question, I want to direct your attention to a few things. I want to clear away as far as I can some of the matters to which you have referred. I notice that you have referred, and others who have been before us have referred, to the rural carrier service as being a subsidy. Do you appreciate the fact that the rural carrier service is for every person in the United States, man, woman, and child—every kind of business, from the newspaper business down to the paper-of-pins business—and that all use this rural service on the same conditions and at the same rates, do they not?

Mr. McANENY. Yes, sir; but I, of course, did not refer to the deficit in the rural mail service as a subsidy.

The CHAIRMAN. You did not?

Mr. McANENY. No; but what I did say was that it was just as logical to ask it to pay its own cost as it was that any other department pay its own way. For my part I think this is a good service and should be continued.

The CHAIRMAN. Is there any more loss by the rural service than by any other part of the mail service? The second-class postal matter uses \$30,000,000.

Mr. McANENY. A large part of the Rural Delivery Service you will find charged to second class.

The CHAIRMAN. Let us see. Do most of your papers that go through the mail go to rural-delivery subscribers?

Mr. McANENY. I couldn't possibly answer that without a great deal of analysis; in fact, I couldn't answer it without the aid of the Post Office Department. We mail our papers and we do not know what they do with them.

The CHAIRMAN. Isn't it true that a very small part of that mail matter goes through the rural deliveries?

Mr. McANENY. I should think it must, because they charge it with a great part of the loss.

The CHAIRMAN. No; they do not.

Mr. McANENY. I do not recall exactly but I think it is \$17,000,000 or \$18,000,000.

The CHAIRMAN. Now, wouldn't you give it as your opinion that the greater part of your subscribers who get your paper through the mail get it where it goes to the city where there is a city carrier service?

Mr. McANENY. The only one who could answer that question would be the officer in the Postal Service who has to do with this distribution. My judgment is the greater part goes on the rural routes.

The CHAIRMAN. Do you think so?

Mr. McANENY. Yes, sir.

The CHAIRMAN. Your paper?

Mr. McANENY. Yes, sir; outside of the first, second, and third zones.

The CHAIRMAN. I don't care where it goes if it goes through the mail and goes to the rural routes. Won't you please, when you go back to New York have your man that attends to it tell you how many of these 56,000 subscribers you address on the R. F. D. routes? He can find that quickly.

Mr. McANENY. If that will aid you, I will, gladly.

The CHAIRMAN. And my guess would be that you send four times more papers to the cities having City Delivery Service than you do to rural carriers—that is, on routes of rural carriers. You will find that to be a fact.

Mr. McANENY. Well, then, much of that entire schedule of costs—

The CHAIRMAN (interrupting). I am coming to the rural carrier now. You use the city carrier for your paper four times more than you do the rural service, whereas perhaps many papers now represented here will use the rural service more than the city service. If the rural service is to be classed as a subsidy, or if it be said we have a deficit in that and charge something else up to it, why not to the City Delivery Service also.

Mr. McANENY. I don't think it ought to be charged anything. I would leave it exactly as it is.

The CHAIRMAN. So, then, the rural service and City Delivery Service and railroad service is a part of the general service that makes up the total deficit, isn't it?

Mr. McANENY. It is all included in the 386 which they charge as an overhead charge.

The CHAIRMAN. And the rural carrier service is no more a privilege to the people who live in the country than the city delivery is to the people in the city.

Mr. McANENY. Certainly not.

The CHAIRMAN. In fact, there is no special privilege, because all use it?

Mr. McANENY. There is a great deal more charged to the rural routes, but I want them to have it, nevertheless.

The CHAIRMAN. Don't you see a great difference in principle; the rural service everybody uses, and why charge that service five times as much as another; another service has four times as much use by some people, but it all goes through the same post office, the same railroad, the same City Delivery Service—

Mr. McANENY (interrupting). I confess I don't quite see your point.

The CHAIRMAN. I know you don't.

Mr. McANENY. I am willings to, if you will let me. I don't see how it affects the question we are discussing.

The CHAIRMAN. I will tell you. The first class pays its own way and a profit; the third class pays its own way and a little profit; the fourth class pays its own way and perhaps a little profit. The only class which does not pay, according to the calculation of the experts in the department and who have no financial interest in the result of the investigation is the second class, and it has a big deficit, and that class is the class which imburses the newspapers, periodicals, and magazines. In 1918 there were 40,000 rural carriers, and we appropriated last year \$53,000,000 for that service; and there were 40,000 city delivery carriers, and we appropriated for that service in round numbers \$50,000,000. So the service is exactly alike, except the one supplies the people who do not live in incorporated cities or towns and the other supplies those who live within incorporated cities and towns. Now, the railroads supply identically the same service to the town dweller and to the rural man, and there is a loss

in transportation. Now, if I understood you this morning you seemed to be under the impression that the establishment of the zone system was through hasty legislation?

Mr. McANENY. No——

The CHAIRMAN (interrupting). Do you mean the establishment of the zone system or the establishment of the zone system for advertising rates?

Mr. McANENY. I meant this particular bill, which establishes three principles in one: The flat rate, the weight rate, and the zone system.

The CHAIRMAN. You gentlemen had an idea and you expressed it to-day, practically, that that was just flung together as a compromise in the conference committee, without the presence of any persons who had any knowledge of postal matters having given any thought or consideration to it?

Mr. McANENY. On the contrary, I think I said that the Postmaster General had suggested it, but that the matter was put in while the bill was in conference, and that this bill did not appear in either House as it was after it came from the conference, and therefore no opportunity was given for hearings.

The CHAIRMAN. I want to set you straight about that, Judge Moon the chairman of the Committee on Post Offices and Post Roads, was the man who first suggested that, and that was three or four months before we began to write the bill. But, as I understood it, the experts of the department had been working on this very system affecting a zone system for the advertising portion of the paper, the commercial part of the paper, and not on the reading matter. Did you ever compare the rates of the present law with the zone rates, not separating the advertising matter from the reading matter, in the bill as it passed in the House?

Mr. McANENY. Oh, yes.

The CHAIRMAN. Take your paper, how much more would your paper pay under the present law than in the bill as it passed the House?

Mr. McANENY. That I have not figured.

The CHAIRMAN. You will find it practically the same. Only one or two are a little higher under the present bill. So what you are after in this present bill is a rate. If it is going to cost you \$200,000 under either one of two systems, would you as leave it be under one system as the other, if the administrative features are approximately the same?

Mr. McANENY. Well, if the bill were presented to me, I would not care under which factor it happened to come, but I would continue to object to the process by which it was presented. It will not be presented to me; it will be favorable to subscribers.

The CHAIRMAN. Do I understand your association is objecting to the zone system; to a graduated rate?

Mr. McANENY. No; my statement was that, while not recognizing the need for this increase in postal rates, but if it was to be increased we would rather have it a zone system.

The CHAIRMAN. You would rather have a zone system if you have to have anything?

Mr. McANENY. Yes, sir.

The CHAIRMAN. Then your association is opposed to it, but if we need anything you will want that?

Mr. McANENY. Yes, sir.

The CHAIRMAN. Your association has changed its mind since April, 1917, has it not?

Mr. McANENY. I don't know.

The CHAIRMAN. Do you know Lafayette Young?

Mr. McANENY. Yes, sir.

The CHAIRMAN. Do you know Urey Woodson?

Mr. McANENY. Yes, sir; he is here now.

The CHAIRMAN. He is a member of your association?

Mr. McANENY. Yes, sir.

The CHAIRMAN. Do you know Mr. Ewing—Robert Ewing?

Mr. McANENY. Yes, sir.

The CHAIRMAN. He is a member of your association?

Mr. McANENY. Yes, sir.

The CHAIRMAN. Do you know Maj. E. D. Stahlman?

Mr. McANENY. Yes, sir.

The CHAIRMAN. Do you know Mr. Louis J. Wortham?

Mr. McANENY. Yes, sir; he is here.

The CHAIRMAN. He is a member of your association?

Mr. McANENY. Yes, sir.

The CHAIRMAN. Let me read you a published statement which they handed me, and let us see how your association stood a year ago last April:

The American Newspaper Publishers' Association, composed of more than 500 publishers of daily newspapers in the United States, at its annual session in New York in April last, apprehended that an advance in letter postage would call for an advance of the rate on second-class matter, and after proper consideration of the subject, declared by unanimous vote in favor of the zone system and appointed a legislative committee with instructions to govern itself accordingly in their presentation of the matter to Congress.

Is that right?

Mr. McANENY. I hope you are not trying to stir up civil strife.

The CHAIRMAN. No; I am trying to get at the facts.

Mr. McANENY. Well, while there may have been some poetic license in the writing of that report the fact is that at that time if there was anything we agreed upon it was that if an increase was needed we desired the zone rate.

The CHAIRMAN. Can you put in the form of that resolution?

Mr. McANENY. Yes, sir. Mr. Palmer, have you it?

Mr. PALMER. No, sir; I haven't it here. While the resolution was very short it was put to a vote for those in favor of the zone system or those in favor of the flat rate, after quite a long talk by the president—

The CHAIRMAN (interrupting). That resolution didn't say anything about any condition you were going to prefer?

Mr. PALMER. It didn't come out and favor it. It put it that we were opposed to any increase without any discussion, which precluded any knowledge of the costs or conditions. And then while under the view that we were opposed to any increase until these conditions were solved, then should there be a necessity of an increase, are we in favor of a flat rate, or do we favor a zone system, and the result was that there was no negative vote on the zone system, and there was no affirmative vote on the other.

Mr. GARNER. You did, then, favor the zone system?

The CHAIRMAN. These gentlemen, then, are mistaken when they handed me this paper?

Mr. PALMER. There is a qualification there.

The CHAIRMAN. I wish you would get me the form of that resolution. I think I have it in some of my papers if I can find it, but I think you can find it easier than I can. Certainly you are under this impression, that a great many members of your association were left under the belief that your association was in favor of the zone rates?

Mr. PALMER. Under that condition, if there was to be an increase.

The CHAIRMAN. Didn't this legislative committee appointed by your association, when the question was really up and pending in the Senate, come down here and abandoned the zone system and combined with the publishers of periodicals not to have any increase at all?

Mr. PALMER. That I believe not to be a fact.

The CHAIRMAN. Let us see what they said:

It appears that this committee, composed of capable men, did not follow the instructions given by the association, as expressed in the unanimous action of the large annual meeting of its membership, but was persuaded that the publishers of the newspapers should cooperate with the publishers of magazines, trade papers, and other periodicals in an endeavor to defeat an advance or change of any kind in the postal rates. To the extent that this committee acted in this manner in conjunction with the publishers of magazines, trade papers, etc., it did not represent the American Newspaper Publishers' Association.

Mr. McANENY. May I ask, Mr. Chairman, what you are reading from?

The CHAIRMAN. I am reading from the paper signed by E. B. Stahlman, Louis J. Wortham, Robert Ewing, Urey Woodson, and Lafayette Young, dated Washington, D. C., August 15, 1917. What I am getting at is that I gathered this impression. You gentlemen must realize I was not present at that meeting. I did not know you were going to hold it, and I have never talked with any members of your association that ever denied this, and now I am glad to get a denial; I did not think that these gentlemen, men like Maj. Stahlman and Mr. Woodson, Mr. Young, Mr. Wortham, and Mr. Ewing ought to come down here and mislead me and mislead Congress.

Mr. McANENY. But I can't believe that these gentlemen had any such purpose.

The CHAIRMAN. They said they had. That is the one question I wanted to ask you, whether that is true or not. We must hear both sides of this.

Mr. McANENY. What you have read is the reflection of a difference of opinion which occurred a little over a year ago, and which has long since been buried.

The CHAIRMAN. I am getting at why your association changed its mind.

Mr. McANENY. I think you have a settled desire to make trouble among friends.

The CHAIRMAN. No; I am led to believe that this is true, that your association went on record for a zone system and appointed a committee to work for the zone system. When they got here they found the representatives of the periodical publishers, the magazine and trade publishers here, and then they went into cooperation with them and to disobey instructions. This paper, you see, misled me <sup>in</sup> believing it. I am glad you gentlemen come here and say it need not be.

Mr. McANENY. May I complete your disillusion? While I am not familiar with this earlier piece of history—

The CHAIRMAN (interrupting). That was just 30 days before we passed the zone system in the House. That was in April and we presented the bill April 9. It could not have been but 30 days.

Mr. McANENY. There was something you said about other members coming down with other things in view and finding magazine people here and cooperating with them; I must correct you in that.

The CHAIRMAN. Not correct me; correct these honorable men.

Mr. McANENY. I will permit you to correct them.

The CHAIRMAN. All right. As a matter of fact there has been no cooperation.

Mr. McANENY. And no connection whatever between the two bodies in interest in this matter between the newspapers and the magazines. I explained this morning that whatever our sympathies may be with their troubles their interests are not ours.

The CHAIRMAN. To what class of publishers was Mr. Frank P. Glass referring a few weeks ago when he said that only in April of this year were they able to get together?

Mr. McANENY. This very class to which I am referring now. [Laughter.] He had no doubt had in mind these little differences that you have referred to. The reconciliation of those differences, which were merely of detail, occurred quite a while before April. The meeting at which this resolution was adopted was the annual meeting held in April and then the opinion was crystalized and the action taken to do real work together. Mr. Woodson will inform you.

The CHAIRMAN. It happened a long while ago and they got together a short while ago to fight this proposition.

Mr. McANENY. We are quite united now without any differences of opinion.

Mr. MOORE. What Mr. Glass said was about what Mr. Kitchin had said?

The CHAIRMAN. Yes. Let us see whether you agree with these honorable members of your association who are now here cooperating with you in this matter and have been cooperating with you since April according to Mr. Glass.

Certain it is that the zone system is the one and only one equitable method for the fixing of postal rates, and the one that will produce the greatest amount of revenue to the department, and cover such publications as those so greatly favored in the past by causing them to pay their rightful portions toward enabling the department to meet at least a portion of its annual deficit.

Do you subscribe to that?

Mr. McANENY. No; there will be a great deal of difference of opinion yet.

The CHAIRMAN. Have you and Mr. Young, and Maj. Stahlman, and the others got together? You differed a great deal a year ago; have you got together now for or against this?

Mr. McANENY. Our action is expressed in the resolutions I read to the committee.

The CHAIRMAN. What I want to know, have you gentlemen got together or are you still divided?

Mr. McANENY. Where there has been differences of opinion they have been yielded in favor of the one side or the other and our opinion

has been crystalized in the resolution. That frequently occurs in organizations for various purposes.

The CHAIRMAN. Let me read you further:

Members of the committee—

The committee appointed by your association—

who appeared at the Senate committee hearing, as the representatives of the American Newspaper Publishing Association, had been directed by the unanimous vote of that association to advocate the adoption of the zone system.

I believe you deny that?

Mr. McANENY. That has been explained.

The CHAIRMAN. That is what is misleading me.

Mr. PALMER. I differ with the last statement just made that we subscribe to that.

The CHAIRMAN. All right, I am glad to hear that. Let us read this:

The association realized that something should be done to get rid of at least a portion of the large annual deficit of the Post Office Department, and that this result could not be reached in an equitable way by an advance of the existing flat rate. The association never for a moment thought that its committee would signify its approval of a continuance of the flat-rate plan, or an inadequate and improper advance of rates under it.

Did these gentlemen correctly state that in April, 1917? Did these five gentlemen who signed this paper state the attitude truly of your association in April, 1917?

Mr. PALMER. I didn't hear all that you read.

The CHAIRMAN. I will read it again:

The association realized that something should be done to get rid of at least a portion of the large annual deficit of the Post Office Department, and that this result could not be reached in an equitable way by an advance of the existing flat rate. The association never for a moment thought that its committee would signify its approval of a continuance of the flat-rate plan, or an inadequate and improper advance of rates under it.

Mr. PALMER. I haven't any recollection of that, that the association has ever opposed any principle of zone rates; on the other hand its attitude was one of a desire for investigation so that full knowledge of costs may be had so that there should be no occasion for lack in that, and that it never did advocate so far as I know an increase in the flat rate. So far as I know it never has departed from the principle of zone rates.

The CHAIRMAN. What paper do you represent?

Mr. PALMER. I am manager of the association.

The CHAIRMAN. The business manager of the Publishers' Association?

Mr. PALMER. No; manager.

The CHAIRMAN. Do you manage it in such a way as to collect the dues from the members?

Mr. PALMER. That all comes through my office.

The CHAIRMAN. Let me ask you, since you have volunteered, and got on your feet, you know more than these gentlemen here about it, how much more have been the dues and contributions passing through your office in the last six months than they were in 1916?

Mr. PALMER. That I don't know. The revenue has increased, but the amount I do not know. I can supply you that.

Mr. McANENY. It has increased by special funds.

The CHAIRMAN. Did you impose an assessment on the members of your association?

Mr. PALMER. Yes, sir.

The CHAIRMAN. When was that?

Mr. PALMER. April 9.

The CHAIRMAN. This year?

Mr. PALMER. Yes, sir.

The CHAIRMAN. How much did you assess the New York Times?

Mr. PALMER. That I do not know; there was an assessment of 20 per cent authorized on paper tonnage.

The CHAIRMAN. So it paid a good deal more than Brother Woodson's paper over there?

Mr. PALMER. Yes, sir. Naturally the newspapers using the greatest tonnage would have the greatest interest in the increased cost of news print paper and securing more evidence and figures of cost before the Federal Trade Commission.

The CHAIRMAN. How much did you as manager, or the committee, estimate that it would cost for the propaganda to fight against this tax?

Mr. PALMER. Not anything.

Mr. McANENY. Not one cent.

The CHAIRMAN. Why did you increase your assessments more this last year than the year before that?

Mr. PALMER. Because there was no occasion for it the year before that.

The CHAIRMAN. Then what was the occasion to do it now; to have these large assessments and contributions until the postal rate situation developed?

Mr. PALMER. Until the paper situation developed, and that is the only question involved.

Mr. McANENY. There is no other condition involved; nothing whatever.

Mr. PALMER. Nothing but the news-print paper situation is involved.

The CHAIRMAN. Let me get to that now. How much more are you paying for news-print paper in 1918, this year, than you did in 1917?

Mr. PALMER. The Federal Trade Commission has fixed it lately at \$3.10.

The CHAIRMAN. It is less now than then?

Mr. PALMER. No.

The CHAIRMAN. Let us see.

Mr. PALMER. The price of news-print paper in 1915 was \$1.90. It steadily increased until in 1916 there was hardly any limit and sometimes it was \$5 or \$6; in many cases it went up until on spot purchases it was that price. That was last year.

The CHAIRMAN. That was last year, 1917?

Mr. PALMER. That was in 1917.

The CHAIRMAN. How much did you pay for it in March?

Mr. PALMER. That depends entirely upon the mill with which the publisher was dealing.

The CHAIRMAN. That was this year?

Mr. PALMER. It is impossible to answer that question.

The CHAIRMAN. Did it sell for \$2 or \$3 or \$4 or \$5 a ton?

Mr. McANENY. \$3 up.



Mr. PALMER. \$3.50 would be high for a given publisher; \$3.10 about, normally; the price fluctuated.

The CHAIRMAN. \$3.50 to \$3.10?

Mr. PALMER. Yes, sir; I should say \$4 was an extremely high price.

The CHAIRMAN. How much are you paying now?

Mr. PALMER. The Federal Trade Commission fixed it last week at \$3.10.

The CHAIRMAN. You said in 1917 it was sometimes \$5 and \$6?

Mr. PALMER. No; last year it was a case of a great many publishers buying wherever they could and paying whatever they had to. For instance, one mill was offering contracts at that time at about \$2.50. Conditions varied.

The CHAIRMAN. Anyway in 1916 and 1917 it was a good deal higher than it has been from January to now?

Mr. PALMER. No; not at all. You see during 1917 the conditions of the paper market were very much upset and some publishers who were not protected by contract, or those who were protected by contract and not getting a supply for one reason or another, sometimes had to buy on the open market and had to pay an extremely high price. Their necessities were absolute, and they had to pay whatever price was demanded and buy wherever they could.

The CHAIRMAN. Are you interested in any newspapers that buy paper?

Mr. PALMER. No; I am connected with the association.

The CHAIRMAN. Have you any stock in any paper? In any newspaper that buys paper?

Mr. PALMER. No; only by my connection with the association.

The CHAIRMAN. You say in 1915 it was \$1.90?

Mr. PALMER. Yes, sir; I say for the period of—

Mr. McANENY. That was the sidewalk price.

Mr. PALMER. That was the approximate price of news print paper in comparison with \$3.10 to-day plus freight.

The CHAIRMAN. It was \$1.90?

Mr. PALMER. \$1.90.

The CHAIRMAN. What did you mean when you said in 1915 and then in 1916 it had gone up to \$5 or \$6?

Mr. PALMER. During 1915 the paper market was very much disturbed, owing to a large number of causes. Since that time the prices have been materially higher.

The CHAIRMAN. Higher than in 1916?

Mr. PALMER. Higher than in 1916.

The CHAIRMAN. In 1916 it was \$5 and \$6.

Mr. PALMER. No; it was higher—

The CHAIRMAN (interrupting). You are a practical man, Mr. Palmer, what do you say as to the cost of print paper? If you men in the business don't know how much it is costing how do we know? Now what do you say the average price for news print paper was in 1917?

Mr. PALMER. It was subject to so many fluctuations.

The CHAIRMAN. So was cotton and still we can tell the average price; so was wheat and we can tell the average price.

Mr. PALMER. Approximately \$3.25 was the average price.

The CHAIRMAN. All right. What has it been in 1918?

Mr. PALMER. About the same.

The CHAIRMAN. Don't you feel that they have been getting print paper for the last 2 or 3 months cheaper than they got it in February or March?

Mr. PALMER. It is impossible to state.

The CHAIRMAN. You do admit that it is a little cheaper this year than it was last year?

Mr. PALMER. No; most of these contracts run for 12 months.

The CHAIRMAN. All right, a man that made a contract in 1915, in January 1915, how much did he pay?

Mr. TAYLOR. Mr. Palmer isn't buying any paper.

The CHAIRMAN. What is your name?

Mr. TAYLOR. My name is Taylor, of the Boston Globe.

The CHAIRMAN. I ask you what was the average price in 1915?

Mr. TAYLOR. I was paying \$2.05.

The CHAIRMAN. What were you paying in 1916, the average price?

Mr. TAYLOR. \$2.50 plus the freight. The \$2.05 rate was delivered on the sidewalk.

The CHAIRMAN. All right, what was the freight?

Mr. TAYLOR. The freight rate was 16 cents, and then we paid storage, and we paid insurance.

The CHAIRMAN. Anyway the paper man got \$2.50 from you; what did you pay in 1917?

Mr. TAYLOR. About 3 cents.

The CHAIRMAN. That is \$3, you call it?

Mr. TAYLOR. Yes; 3 cents a pound.

The CHAIRMAN. What did you give for it January this year or February?

Mr. TAYLOR. We were paying approximately \$3.10, plus some more conditions—insurance, and every cost from the minute the paper leaves the mill.

The CHAIRMAN. You did that in 1916?

Mr. TAYLOR. No, sir.

The CHAIRMAN. You did it in 1917?

Mr. TAYLOR. Part of it.

The CHAIRMAN. What do you think the former witness meant when he said that in 1916 it was \$5 or \$6?

Mr. TAYLOR. There were people who jammed and had to pay any price.

The CHAIRMAN. All right; do you say paper is higher or lower than in 1917?

Mr. TAYLOR. It is in my case and in many cases. Competitors in my city are paying less than I am.

The CHAIRMAN. You made a contract for—

Mr. TAYLOR (interrupting). Anybody in the paper business can answer your questions better than a newspaper man. You can't buy paper at the market price. I can't go outside of my mill and buy paper.

The CHAIRMAN. Are you paying more for your paper this June than you were last June?

Mr. TAYLOR. Yes, sir.

The CHAIRMAN. How much more?

Mr. TAYLOR. Fifteen per cent.

The CHAIRMAN. Do you make your contracts for a year?

Mr. TAYLOR. I tried it.

The CHAIRMAN. What time of the year?

Mr. TAYLOR. We tried to make it in August and didn't close the contract until September.

The CHAIRMAN. For the contract you have now?

Mr. TAYLOR. Yes, sir.

The CHAIRMAN. How much did you pay in December?

Mr. TAYLOR. \$3.10.

The CHAIRMAN. When did you make a contract before that?

Mr. TAYLOR. I should say a year the previous August.

The CHAIRMAN. What did your contract call for then?

Mr. TAYLOR. \$2.50 or \$2.60, I have forgotten which.

The CHAIRMAN. And plus?

Mr. TAYLOR. Plus; prior to that it was \$2.05 on the sidewalk and all of those charges paid.

The CHAIRMAN. The commission has now cut it down?

Mr. TAYLOR. Yes; at the mills; freight has been increased 55 to 60 per cent now.

The CHAIRMAN. Mr. Palmer, after hearing this gentleman, do you think print paper was higher this year than it was last year on the whole?

Mr. PALMER. Through the Federal Trade Commission we have been informed that the cost of production has been steadily and constantly increasing in the manufacturing of news-print paper, and for that reason they have fixed the price at the moment at \$3.10 at the mill.

Mr. MCANENY. As of date of the 1st of April?

Mr. PALMER. Yes; as of date of the 1st of April, subject to change at any moment.

The CHAIRMAN. The reason that you gave me a while ago as to why you increased your assessment last April was because of the news-print paper situation?

Mr. PALMER. That was true.

The CHAIRMAN. Well, you don't need that money now, do you, since the Federal Trade Commission has fixed the rate at \$3.10?

Mr. PALMER. We do need it.

The CHAIRMAN. How do you operate with that money now?

Mr. PALMER. There has been a hearing lasting for many months, or several months.

Mr. GARNER. Didn't it commence in the early part of 1917?

Mr. PALMER. Yes; it did. But there has been a hearing on the question of establishing the cost of news-print paper, at which both sides have been represented by attorneys, and it has been necessary to get evidence and aid in every way in determining the cost of news-print paper, and that cost varies very much in different mills.

The CHAIRMAN. Do you keep books, as manager, showing the amount each member pays?

Mr. PALMER. Yes, sir.

The CHAIRMAN. Have you an account of how it was paid out?

Mr. PALMER. Every cent of it.

The CHAIRMAN. You haven't any objection to filing that, have you?

Mr. PALMER. Under the direction of the committee.

Mr. TAYLOR. I am a director, and I will guarantee that you will get it.

The CHAIRMAN. I have noticed some of your officers have been in Washington quite often and quite much of the time; Mr. Glass has been here right much of his time?

Mr. PALMER. Yes, sir.

The CHAIRMAN. Does your association contribute to his expenses coming and going?

Mr. PALMER. We do at times contribute to his expenses, repay him his disbursements.

The CHAIRMAN. What do you allow him?

Mr. PALMER. We don't allow anything.

The CHAIRMAN. You said awhile ago you did pay him.

Mr. PALMER. Some reimbursements and expenses.

The CHAIRMAN. Have you any idea when he was here three weeks or four weeks how much of his expenses he sends in for reimbursement?

Mr. PALMER. I haven't an idea.

The CHAIRMAN. Will you put that in?

Mr. PALMER. I will put in anything under the direction of the committee.

The CHAIRMAN. Mr. Glass lives at Birmingham, doesn't he?

Mr. PALMER. Yes, sir.

The CHAIRMAN. That is his home?

Mr. PALMER. Yes, sir.

The CHAIRMAN. For the last six months he has been here most of the time?

Mr. PALMER. I don't know.

Mr. MOORE. You mean, Mr. Chairman, Birmingham, Ala., not Birmingham, N. Y.

The CHAIRMAN. Yes; I mean Birmingham, Ala.

Mr. PALMER. Yes; Birmingham, Ala.

The CHAIRMAN. You are in your association's offices all the time?

Mr. PALMER. I am most of the time.

The CHAIRMAN. Don't you see him up there?

Mr. PALMER. Occasionally.

The CHAIRMAN. Occasionally; how long does he stay up there when he comes?

Mr. PALMER. Sometimes one day and sometimes two or three.

The CHAIRMAN. He has been spending most of his time in Washington?

Mr. PALMER. To that I should say no; but I don't know.

The CHAIRMAN. How many times has he sent in bills for trips?

Mr. PALMER. That I couldn't answer.

The CHAIRMAN. Your books will show?

Mr. PALMER. Yes, sir.

Mr. GARNER. Will you put that in?

The CHAIRMAN. Do you know of anybody else that has been in Washington the last six months that put in bills?

Mr. PALMER. Yes, sir.

The CHAIRMAN. Name them.

Mr. McANENY. Mr. McAneny was one.

Mr. PALMER. I think every member of our paper committee has been reimbursed for taking trips anywhere that might be necessary in connection with that matter.

The CHAIRMAN. Which matter? The print-paper matter?

Mr. PALMER. Yes, sir.

The CHAIRMAN. Do you mean to tell this committee that you think that is the only matter which Mr. Glass was in Washington about for the last six months?

Mr. PALMER. No; there have been very many.

The CHAIRMAN. He has been here about this postal zone rate provision?

Mr. PALMER. Yes; I believe he has been under the command of Mr. McAneny, but how he may have spent his time I don't know.

The CHAIRMAN. Does he have to report to Mr. McAneny about this any more than he does on the print-paper matter?

Mr. McANENY. Yes; that is, when he reports on that he reports to me.

The CHAIRMAN. I will resume with you.

Mr. GARNER. Mr. Glass is chairman of your association?

Mr. PALMER. Yes, sir.

Mr. GARNER. Would it embarrass or be inconveniencing to you to give us the amount of the allowances that you have allowed to members of your association and your directors that come up here about the print paper or otherwise?

Mr. PALMER. My employers are here and I act naturally under the direction of my employers.

Mr. GARNER. As one member of the committee I would like to have you put that in.

Mr. McANENY. Anything you like will go in.

Mr. GARNER. I want that matter.

The CHAIRMAN. You say, Mr. McAneny, Mr. Glass reports to you about the postal zone rate matter?

Mr. McANENY. I used that expression.

The CHAIRMAN. Mr. Palmer says that he reported to him about the paper matter.

Mr. McANENY. Since I am chairman on that subject, what Mr. Glass has to say he says to me, and I have the leadership of that part of the association and not Mr. Glass.

Mr. MOORE. Mr. Glass, as I understand it, is the president of the Newspaper Publishers Association.

Mr. McANENY. Yes, sir.

Mr. MOORE. And Mr. McAneny vice president?

Mr. McANENY. Yes, sir.

Mr. MOORE. And you are chairman of the newsprint committee?

Mr. McANENY. Yes, sir.

The CHAIRMAN. How often did you send or did Mr. Glass come down here in the last six months with reference to the postal-zone proposition?

Mr. McANENY. We were here, Mr. Glass and I, immediately following the meeting in New York, and we were here to ask hearings of the Senate, which were granted at that time.

The CHAIRMAN. It wouldn't take you but 30 minutes to ask for a hearing, would it?

Mr. McANENY. Yes; and I presume twice since; but I propose, if you will pardon me, to say a word on that subject.

The CHAIRMAN. Yes.

Mr. McANENY. Mr. Glass has been here in Washington during the period of two years chiefly upon the business of the paper committee of the association, of which he was chairman. Mr. Glass has given unselfishly of his time, as the usual volunteer and informal president that requires work to be done on his own time.

Mr. MOORE. He is a publisher?

Mr. McANENY. He is a publisher and a gentleman of the highest standing in the United States, and I am a little bit inclined to make the suggestion that this line of implication should not go a great deal further.

The CHAIRMAN. We want to get the truth and facts about this thing, without reference to the expense account of members of your association, but we are going to find out if we can.

Mr. McANENY. You are going to find it out, sir

The CHAIRMAN. Now, I ask you how often did he come down here on the newspaper proposition?

Mr. McANENY. You mean, by the newspaper proposition, the postal matter?

The CHAIRMAN. Yes; he reports to you, you say.

Mr. McANENY. Yes; I recall meeting him here once since the day in April.

The CHAIRMAN. Now, in New York, when he would go back from Washington to New York, would he see you?

Mr. McANENY. He goes to Alabama when he goes home.

The CHAIRMAN. I know when he goes to his Alabama home he goes to Alabama, but when he goes to his New York staying place, did he see you?

Mr. McANENY. I have not seen Mr. Glass in New York since April.

The CHAIRMAN. Has he written to you about this?

Mr. McANENY. I do not recollect.

The CHAIRMAN. What?

Mr. McANENY. Certainly; he has. There has been the usual correspondence between members of this committee as to the subject matter of his work.

The CHAIRMAN. He has been here very often, has he?

Mr. McANENY. He has been here.

The CHAIRMAN. Now, what kind of work did he tell you he was doing with respect to this postal-zone-rate proposition?

Mr. McANENY. May I speak a moment?

The CHAIRMAN. Yes; in answer to the question.

Mr. McANENY. You speak of Mr. Glass's presence in Washington. I told you that for two years he has been unselfishly working in the interests of the print-paper committee.

The CHAIRMAN. That is what the other gentleman said.

Mr. McANENY. And his presence in Washington has been given further to this matter.

The CHAIRMAN. You said—

Mr. McANENY (interposing). May I finish my statement?

The CHAIRMAN. Yes; all right.

Mr. McANENY. This matter has been of importance to the papers, and also to the Government. Certain members were invited, and the Government secured an agreement whereby they did not defend. The indicted men plead nolle contendere, and the Government accepted small fines, and the Federal Trade Commission was made an arbi-

tration committee on this paper matter with the newspaper association committee, of which Mr. Glass was the head and continued to represent it, although Mr. Elbert Baker, of Cleveland, is gradually taking his place. It engaged counsel and several counsel of standing to represent it before the Federal Trade Commission, and they have occupied weeks and months, and counsel upon the other side have been here and the presence of Mr. Glass in Washington has been almost exclusively devoted to that matter. The Federal Trade Commission the other day fixed a price of \$3.10, but the form of adjustment provided that there might be an appeal to the Federal court in New York for final adjudication, and they have already announced they are going to appeal it, or in that manner they have announced it, and it is supposed that it will be appealed and they will be likely to appeal it. I think the association will be continued to be represented by counsel and to be represented by Mr. Glass.

The CHAIRMAN. You took a very long time not answering me.

Mr. McANENY. I think I have answered you.

The CHAIRMAN. Here is the question I asked you: You suggested you had communications about the postal zone proposition; now I ask you what kind of work did he say he had done in connection with this postal-zone rate proposition?

Mr. McANENY. Nothing that I recall.

The CHAIRMAN. He did report his work first to you, and I ask you to explain.

Mr. McANENY. I can't quite catch that point. I don't mean that he reported and submitted reports as a clerk would of his views of this matter.

The CHAIRMAN. Didn't he ever say anything to you in the last six months as to what he was doing in the interest of the publishers' association in this matter?

Mr. McANENY. No; I have had a running correspondence with him; I don't recollect what he said.

The CHAIRMAN. You said he did?

Mr. McANENY. I might add, to complete my reply to the suggestion made by your questions, that of course the publishers' association has paid the expenses of its volunteer officers when they have come here on a public errand.

The CHAIRMAN. They should, and why should you think there is an implication when I am asking about it?

Mr. McANENY. I don't think I am alone in my feeling.

The CHAIRMAN. Since you have brought up the expense matter, have you paid for their time?

Mr. McANENY. No, sir.

The CHAIRMAN. Simply paid for their expense account?

Mr. McANENY. Yes, sir. You are familiar with the principles of mileage and what it is granted for.

The CHAIRMAN. Did you grant 40 cents a mile both ways?

Mr. McANENY. We haven't got it together.

The CHAIRMAN. You paid it when they sent it in; they didn't itemize it?

Mr. McANENY. That is the customary practice among gentlemen.

The CHAIRMAN. I don't blame you. To go back one minute more to the revenues of this association, has an assessment ever been made—

Mr. McANENY (interrupting). The contributions Mr. Palmer referred to was for the purpose of continuing the representation before the Federal Trade Commission.

The CHAIRMAN. What I don't understand is that this year it has been \$3.10 and \$3.65, the print paper, and in 1917 and in 1916 it went to \$5 and \$6, why they should levy a bigger assessment in this year when it was lower.

Mr. McANENY. That was not laid to make up the difference in the price of paper; that was laid to make our appearance here.

The CHAIRMAN. Do you know of anybody else than your association that this year has come to Washington at the expense of the association in the interest of themselves?

Mr. McANENY. I remember of one Maj. Stahlman and we properly paid his expenses.

The CHAIRMAN. His bill of expense is probably considerable, as I see him at the New Willard Hotel every time I go through there, and his bill of expense is probably considerable.

Mr. McANENY. He was in Washington a month, and I imagine he paid the usual living expenses for that length of time.

The CHAIRMAN. He was here a considerable time last year?

Mr. McANENY. I dare say he was; he was not then—

The CHAIRMAN (interrupting). Was he here last year and this year in the interest of this print paper proposition or the postal zone proposition?

Mr. McANENY. He was here at that time, I assume, as an officer of the publishers' association. I don't know the name of the association; he was not then a member of the association.

The CHAIRMAN. He is a member of the National Publishers' Association?

Mr. McANENY. Oh, yes.

The CHAIRMAN. Is not the southern association a part of the national association. Does it not embrace practically all of the papers?

Mr. McANENY. It is a distinct organization, although coincidentally many of their members are members of the national association, but their affairs are absolutely apart.

The CHAIRMAN. Why was Maj. Stahlman, if he was not representing your company and representing your association, but representing the southern association, sending his expense bills to your association?

Mr. McANENY. Because, in the meanwhile, in April last he was added to the postal committee of the American Association.

The CHAIRMAN. He is now on that committee?

Mr. McANENY. Yes, sir; since that time he has been a member of this committee and not of the other.

The CHAIRMAN. He has been a member of this committee since April?

Mr. McANENY. Yes, although possibly he is a member of both committees; he has been a member of this committee since action was taken by our association in April last.

The CHAIRMAN. You got the major over?

Mr. McANENY. I am inclined to think the major got us over, more or less. I have referred to compromises which frequently, I imagine, are employed in Congress in order to get good results.



The CHAIRMAN. He has put in more appearances for your association, in the interest of this postal proposition, than Mr. Glass and all others put together, has he not?

Mr. McANENY. He has appeared only once, within my knowledge, at a hearing at which I was present.

The CHAIRMAN. You have frequently talked to Major Stahlman about his work with respect to this postal proposition, have you not?

Mr. McANENY. I have not talked to him about his work, no.

The CHAIRMAN. You talked to him about his general work?

Mr. McANENY. I have discussed this question with him.

The CHAIRMAN. Did he tell you how he had seen this Member of Congress and that Member of Congress, and the arguments he put up to them for the repeal of this law?

Mr. McANENY. I do not recall any reference to Members of Congress.

The CHAIRMAN. Did he tell you the splendid arguments he has made to me?

Mr. McANENY. I do not recall any reference to you, Mr. Chairman, or any other member of the committee.

The CHAIRMAN. The executive committee of your association really regards him as one of the best men you could send to Washington to handle this situation?

Mr. McANENY. Oh, no; the major is quite incidental, quite casual.

The CHAIRMAN. I know you are tired, having been on your feet for a long time, so we will adjourn until to-morrow morning at 10 o'clock a. m., when I will go into these other matters.

(Thereupon the committee adjourned to meet Saturday, June 22, 1918, at 10 o'clock a. m.)

# REVENUE BILL

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No. 14

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## HEARINGS

BEFORE THE

## COMMITTEE ON WAYS AND MEANS

HOUSE OF REPRESENTATIVES

WITH REFERENCE TO

## THE NEW REVENUE BILL

[THIS PRINT OF THE HEARINGS IS SUBJECT TO REVISION  
BEFORE THE FINAL PRINT]

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JUNE 22, 1918



WASHINGTON  
GOVERNMENT PRINTING OFFICE  
1918

**COMMITTEE ON WAYS AND MEANS.**

**HOUSE OF REPRESENTATIVES.**

**SIXTY-FIFTH CONGRESS, SECOND SESSION.**

**CLAUDE KITCHIN, North Carolina, *Chairman.***

**HENRY T. RAINEY, Illinois.**

**LINCOLN DIXON, Indiana.**

**CORDELL HULL, Tennessee.**

**JOHN N. GARNER, Texas.**

**JAMES W. COLLIER, Mississippi.**

**CLEMENT C. DICKINSON, Missouri.**

**WILLIAM A. OLDFIELD, Arkansas.**

**CHARLES R. CRISP, Georgia.**

**GUY T. HELVERING, Kansas.**

**GEORGE F. O'SHAUNESSY, Rhode Island.**

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**WHITMELL P. MARTIN, Louisiana.**

**WILLIS C. HAWLEY, Oregon.**

**ALLEN T. TREADWAY, Massachusetts.**

**JOHN B. WALKER, *Clerk.***

## REVENUE BILL.

COMMITTEE ON WAYS AND MEANS,  
HOUSE OF REPRESENTATIVES,  
*Saturday, June 22, 1918.*

The committee met at 10 o'clock a. m., Hon. Claude Kitchin (chairman), presiding.

There were also present Representatives Rainey, Dixon, Hull, Garner, Collier, Dickinson, Oldfield, Crisp, Helvering, White, Moore, Green, Sloan, Sterling, Martin, and Hawley.

### STATEMENT OF MR. GEORGE McANENY—Continued.

The CHAIRMAN. Mr. McAneny, I believe your association or the heads of your association admit, however wide the difference of opinion between your association and the Post Office Department as to the cost of carrying second-class matter may be, that it would at least be 1 cent per pound. By that I mean the handling of the matter, its delivery by the postmaster, the handling by the railway mail clerks, by city carriers, or by rural delivery carriers. You admit that the cost would at least amount to 1 cent per pound?

Mr. McANENY. I think there can be no doubt of that.

The CHAIRMAN. The department estimated about 4 cents, or, to be more accurate, 3.86 cents per pound, or \$3.86 per 100 pounds. Now, then, if that be admitted, and I think all of us agree that the overhead charge would be at least 1 cent per pound—since the newspapers and magazines are paying now only 1 cent per pound, it would be admitted, I think, that the Government is really transporting magazines and newspapers free.

Mr. McANENY. Any answer that I might make to your question in relation to cost must be predicated upon my general statement of yesterday, that the difference between the cost and the revenue does not go to the newspaper, but goes to the subscriber.

The CHAIRMAN. Well, it will be admitted that it will go generally, or that practically all of it, we might say, will go to your subscribers and to your advertisers, or to your patrons. I can conceive of some cases where you could not transfer it all to your patrons. It might be so large in some cases or there might be such an increase in the cost of materials and labor that it could not be done. I am not attempting to say that the company can transfer all of it to its patrons, but, speaking by and large, it is the fact, ordinarily, that it will go to your patrons.

Mr. McANENY. I do not understand that it goes to our advertisers in any sense.

The CHAIRMAN. I will cover that, and see if it really does not go to them.

Mr. McANENY. It goes entirely to the subscriber.

The CHAIRMAN. I must admit that I have not studied the advertising proposition in relation to the newspaper as I have with relation to the magazines and other periodicals. I have made somewhat of a study of that. Now, I believe you stated yesterday that you had 56,000 mail subscribers, or about that, for the New York Times?

Mr. McANENY. Yes, sir; for the daily paper, with several thousand additional for Sunday papers.

The CHAIRMAN. How many subscribers would you say you have whose papers go by mail?

Mr. McANENY. Those that go in wrappers—and that is what we usually mean by mail subscribers—number 26,000.

The CHAIRMAN. All that you put in the mail, whether in packages or wrappers, I understood you to say yesterday, numbered 56,000.

Mr. McANENY. I will give you the exact figures. The last figures that we had compiled, and that was several days ago, showed that the individual subscribers, or those who received their papers under wrappers, numbered 26,751, and the number of papers carried by mail in packages, that are simply put on the train by the newspaper employees and are not handled by carriers employed at the other end, is 29,957. The rate is common to those two classes, or 1 cent per pound.

The CHAIRMAN. I understood you to say 56,000. Now, I do not want to ask for any of your business secrets, but, as I understand it, you have about 360,000 subscribers.

Mr. McANENY. Between 355,000 and 360,000.

The CHAIRMAN. Do I understand that most of your subscribers are—

Mr. McANENY (interposing). For the Sunday papers there are about 100,000 more.

The CHAIRMAN. Do I understand that most of your subscribers live within the city limits of New York or Greater New York?

Mr. McANENY. Of those who get their papers by mail?

The CHAIRMAN. No. Most of your papers, I might say, are sold in New York City, are they not?

Mr. McANENY. Yes, sir.

The CHAIRMAN. About what proportion would you say were sold in New York, Brooklyn, and around Greater New York?

Mr. McANENY. I should say, roughly, about 230,000, or 135,000 within the metropolitan district and 120,000 out.

The CHAIRMAN. They are delivered by you, or those papers are deliverable by your company?

Mr. McANENY. The 120,000 delivered outside of the city are handled in about equal proportion by express and mail.

The CHAIRMAN. How many are sold inside the city by boys on the streets?

Mr. McANENY. I am afraid that I can not give you that separately. I can simply give you the bulk for the city, or the entire number.

The CHAIRMAN. In other words, the papers circulated in the metropolitan district and in that vicinity number about 230,000?

Mr. McANENY. Approximately; yes, sir.

The CHAIRMAN. Now, you spoke yesterday about this zone rate, and I believe you stated that, while you are now charging Mr. Garner, we will say, in the seventh zone, \$1.85 on account of postage, when the

zone rate goes into effect it would be increased to \$7.86, and that he would be paying on account of postage on your paper, instead of \$1.85, \$7.86. In fact, after the law goes into effect, his paper would cost him \$18, I believe you stated.

Mr. McANENY. Yes, sir.

The CHAIRMAN. I am just using the New York Times in the questions I am asking you this morning, as an illustration, and the facts I am bringing out in reference to the New York Times would apply to any large daily paper.

Mr. McANENY. There is a higher rate than the one you mentioned. The rate of \$7.86 would be in the third year, and in the year following it would be \$9.71. In four years the total postage in Mr. Garner's district, which is now \$1.85, would become \$9.71, and that is not the worst zone.

The CHAIRMAN. A man in Texas would subscribe for that paper not for the purpose of reading the advertisements, but for the purpose of reading its news and editorials. You recall, of course, that the law makes a flat rate for the reading portions of your paper, and that it increases that after July 1, 1919, only one-half a cent, while the advertising portions of the paper carry a zone rate graduating from only 2 cents in the first and second zones to 10 cents in the eighth zone. Now, if you are going to make Mr. Garner pay only for the increase in the reading portions of the paper, his increase would be only 93 cents, would it not?

Mr. McANENY. I have not figured that out.

The CHAIRMAN. Two of your papers weigh one pound, according to your calculation. For 365 days there would be 365 papers that are now carried at \$1.85, at the rate of one cent per pound, and, as I understand it, two of your papers weigh a pound. Now, the law provides for an increase, and you have to pay that. Then, you would have to raise Mr. Garner's rate, and if he were made to pay all of it on the reading portion of the paper, which would be perfectly proper, it would be an increase of only 93 cents. Now, that being true, why are you going to charge Mr. Garner \$7.86? Why should you make him, a subscriber and reader, pay for the increase which the law provides for the advertising portion of the paper? Do you think that that would be right and proper?

Mr. McANENY. It would be inevitable in practice.

Mr. GARNER. Did you say it would be inequitable in practice?

Mr. McANENY. No, sir; I said it would be inevitable in practice.

The CHAIRMAN. You say you would charge Mr. Garner about \$18 for the paper when this law goes into effect. Now, a man in Texas subscribes for the paper only for the reading matter, on which there would be an increase of the flat rate of one-half a cent per pound after two years, or after 1919. You propose to charge those subscribers \$18, while you are going to let your subscribers in the State of New York have the paper for \$7.30. Is that right?

Mr. McANENY. No, sir; it would cost the man who buys in New York, \$8.86.

The CHAIRMAN. Do you mean the man who buys the paper in New York? You do not pay any additional rate there, because you deliver the papers?

Mr. McANENY. I am referring to sales within the city.

The CHAIRMAN. I am going to take up the question of sales in the city, and then in the metropolitan vicinity outside.

Mr. McANENY. A person buying the paper in New York—

The CHAIRMAN (interposing). Now, you propose to charge \$18 for the paper in Texas. What will you get for the same paper in New York?

Mr. McANENY. Approximately \$7. That represents net receipts. That is not profit, of course.

The CHAIRMAN. But you are going to get \$18 from Mr. Garner for that paper?

Mr. McANENY. That is net receipts from sales.

The CHAIRMAN. And \$7 in the city. Now, what will you get for the other 120,000 papers in the vicinity of New York?

Mr. McANENY. They are not within the vicinity of New York.

The CHAIRMAN. I mean for that other 120,000 papers you are going to send by express?

Mr. McANENY. The expressed papers net \$8.04, while the packages by mail net \$7.26. Those that are sent in wrappers net \$7.12.

The CHAIRMAN. How much does it cost you to send your papers by express to Philadelphia—about 40 cents per hundred?

Mr. McANENY. I do not recall the tariff. I am not in touch with that.

The CHAIRMAN. So you will not go up on him at all on account of the zone rate, for the reason that you send the papers by express?

Mr. McANENY. The zone rate has nothing to do with the matter sent by express.

The CHAIRMAN. You stated yesterday that your paper contains from 45 to 48 per cent, or practically 50 per cent, of advertising matter. Now, is not four-fifths of this advertising especially for those 230,000 purchasers who live in New York or in the vicinity of New York?

Mr. McANENY. I would not put the proportion quite as high as that.

The CHAIRMAN. What is the proportion?

Mr. McANENY. I have looked over it this morning, and it seems to be about four-fifths. For the month of January, of the advertising carried by New York City papers, there was a total of 6,600,000 lines, and out of that 1,600,000 lines was what is roughly termed national, as against local advertising. That would be 1,600,000 lines of national advertising, as against 5,000,000 lines of local advertising.

The CHAIRMAN. Now, the Times will make Mr. Garner, in Texas, pay an increased rate of over \$7 for the benefit of those readers and advertisers in New York City.

Mr. McANENY. The Times is not going to do it.

The CHAIRMAN. That is so, is it not?

Mr. McANENY. Your question leads—or, I assume, what you are leading to—

The CHAIRMAN. I want you to answer the question. Just answer my question.

Mr. McANENY. I might amplify it a bit; I could answer it better that way.

The CHAIRMAN. Mr. Garner, of Texas, takes the paper for the reading matter. Five-sixths of the advertising matter in the paper is intended for people in New York, but Mr. Garner, according to

your statement, is going to pay on account of that advertising, or you will charge it up to him, over \$7, while the man in New York, for whom the advertisements are put in the paper, is not going to pay one cent of increase, but the New York people are going to get their papers for \$7.05 and \$8.04, while Mr. Garner must pay \$18. Now, is that fair?

Mr. McANENY. In the first place Mr. Garner, estimable citizen though he is, does not represent the only class of readers in Texas.

The CHAIRMAN. Then I will say all of the readers in Texas.

Mr. McANENY. Among the readers in every State there are persons in business who are intensely interested in even the local advertising of New York City, because it spells to them the New York market, and it spells to them for that matter the different gradations of the market as between New York and their home town.

The CHAIRMAN. Could he not get that information in his daily paper right there in town three days before your paper could reach him? Could he not get that from the Houston and Dallas papers, for instance?

Mr. McANENY. I doubt whether his local daily paper would carry anything like that volume of national advertising. His local daily paper would carry hardly any of it, in fact.

The CHAIRMAN. Do you mean that they would not carry the report of the New York and Chicago stock market?

Mr. McANENY. I am not talking about the stock market.

The CHAIRMAN. Then what are you talking about?

Mr. McANENY. Those quotations are printed without charge to anyone, except the gentlemen who lose by following them. I refer to the markets of trade and business; and then, too, it would be physically impossible for the publisher of a newspaper in New York to separate his paper in the middle of the night, cut out, clip out, and eliminate matter, and then mold it together again for Mr. Garner and the subscribers in Texas. They would have to print two papers to carry out that plan.

The CHAIRMAN. The point is, why not make the man who needs this advertising pay some of this increased burden? Why not make the man who puts in the advertising and the man for whom the advertising is inserted pay some of the increased burden?

Mr. McANENY. That man will pay less in the future, because you will reduce our circulation very considerably, and it is the volume of circulation that controls the price of advertising. He will pay less, not more.

The CHAIRMAN. We will see if you will increase it before we get through. You do admit that the man in New York is going to get his paper 50, 60, or nearly 75 per cent cheaper than the man who lives in the seventh zone, and that that increase is mainly on account of advertising matter, five-sixths of which is meant for New York City and its vicinity?

Mr. McANENY. I did not say that, and I did not imply that.

The CHAIRMAN. Is that true?

Mr. McANENY. No, sir.

The CHAIRMAN. Let me see if it is. You said that five-sixths of it—

Mr. McANENY (interposing). I said 1,600,000 lines out of 6,600,000 lines.



The CHAIRMAN. That is, that about five-sixths of it is intended for local people.

Mr. McANENY. About three-fourths of it.

The CHAIRMAN. And you said you would get from them from \$7 to \$8.04, while Mr. Garner, if he lives where he does live, would have to pay in the neighborhood of \$18. You said he would have to pay around \$18 for his paper.

Mr. McANENY. I used those figures, but we have not made an accounting.

The CHAIRMAN. You did say yesterday that you would charge Mr. Garner \$7.85 increase on account of the zone system?

Mr. McANENY. I said that you would charge him that.

The CHAIRMAN. No; you said that your paper would. You said that if the zone system went into effect it would cost Mr. Garner that much additional.

Mr. McANENY. Yes, sir; he must give up his subsidy.

The CHAIRMAN. Now, don't you know that neither newspaper publishers nor the publishers of other periodicals will charge a man in Texas or Illinois or in Denver or in Colorado, or a man in the seventh zone, any more for a subscription than they will charge a man in Pennsylvania, or any more than they would charge a man in Tennessee or Arkansas?

Mr. McANENY. The geography does not matter, but they will charge according to the zone rate.

The CHAIRMAN. Are you going to make that charge to subscribers? Will you charge Mr. Garner in Texas \$18 and charge a man in North Carolina \$12?

Mr. McANENY. Certainly; if there is that difference in the zone rates.

The CHAIRMAN. Is that what you will do?

Mr. McANENY. Yes, sir.

The CHAIRMAN. Have you notified them that you will do that?

Mr. McANENY. We are proceeding to.

The CHAIRMAN. And you will have different rates?

Mr. McANENY. Yes, sir.

The CHAIRMAN. I am glad you have come before the committee, because I have asked a great many of the publishers about that, and they have told me that they will strike an average; that the rate will be a little bit higher to everybody, but that it will be the same rate. Mr. Farelly, who was here, and who is one of your big subscribers, he being the manager of the American News Co.—

Mr. McANENY (interposing). He has nothing to do with us.

The CHAIRMAN. Does he not buy your papers?

Mr. McANENY. I do not think he handles any of them. He handles magazines mainly. Mr. Farelly's testimony in relation to our purposes would not be of the slightest value to you.

The CHAIRMAN. Do you not think it is pretty late in the day to give that notice, with the zone system going into effect on July 1? If you have not notified them—

Mr. McANENY (interposing). They were notified on the 3d of last October.

The CHAIRMAN. You have not notified them in your paper?

Mr. McANENY. We do not change our advertised table of rates until the day comes along on which they will take effect, but we

your statement, is going to pay on account of that advertising, or you will charge it up to him, over \$7, while the man in New York, for whom the advertisements are put in the paper, is not going to pay one cent of increase, but the New York people are going to get their papers for \$7.05 and \$8.04, while Mr. Garner must pay \$18. Now, is that fair?

Mr. McANENY. In the first place Mr. Garner, estimable citizen though he is, does not represent the only class of readers in Texas.

The CHAIRMAN. Then I will say all of the readers in Texas.

Mr. McANENY. Among the readers in every State there are persons in business who are intensely interested in even the local advertising of New York City, because it spells to them the New York market, and it spells to them for that matter the different gradations of the market as between New York and their home town.

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The CHAIRMAN. Let me see if it is. You said that five-sixths of it—

Mr. McANENY (interposing). I said 1,600,000 lines out of 6,600,000 lines.

The CHAIRMAN. I just have them for the fiscal year 1917.

Mr. McANENY. That is different.

The CHAIRMAN. The number of your subscribers has largely increased since January 1, has it not? You have sold more papers since January 1, have you not?

Mr. McANENY. You mean the sales of the paper?

The CHAIRMAN. Yes.

Mr. McANENY. The New York Times has been singularly fortunate in that respect.

The CHAIRMAN. You increase your rate 100 per cent and even with that increase the number of your subscribers increased, and yet you now say that the sale of your paper is going to decrease by reason of an increased rate of anywhere from 35 to 40 cents.

Mr. McANENY. The receipts from the sales of the paper are subordinate in importance to those from advertisements. In the first place, the doubling of the gross price did not double the gross returns of the paper.

The CHAIRMAN. You did not lose any sales of the paper by increasing the rate 100 per cent, did you?

Mr. McANENY. I have said that was peculiar to the New York Times, and I have attempted to suggest a doubt as to the relevancy of making these comparisons with the New York Times.

The CHAIRMAN. How can you arrive at the conclusion that while you have increased the sale price of your paper 100 per cent, from 1 cent to 2 cents, and still gain in the number of sales, that by simply adding 35 cents or 36 cents to your sale price, which would be less than 10 per cent, 5 per cent, you will lose subscribers, because if you increased your general sales of papers and your subscriptions just 5 per cent you will more than cover the increased cost.

Mr. McANENY. May I answer that question?

The CHAIRMAN. You will more than cover the increased cost to be imposed under this zone system?

Mr. McANENY. May I answer your question a little more elaborately? In the first place, as I have stated before, the increase in the gross price of the daily papers in all of the great cities was intended to cover the increases in cost that all had encountered, in fact, it was compelled by those increases in cost. At the moment the Times, for instance, was receiving a somewhat increased net revenue from its sales of papers, it also was compelled to deal with a continually increasing bill of costs. The fact that the Times has weathered those days fairly well has no relation to the case of the other newspapers of the United States. There are, of course, other fortunate instances where business has been built up, through the service offered, and the returns come in proportion, but the case of one, two, or three is no indication whatever as to the principles or circumstances that underlie the case of the other 497. But coming down to your question as to the ability of those papers that have been gaining a profit, even a substantial profit, to accept a new loss under this head, the proposition there would be to accept a loss, let us say, of \$250,000 a year in addition, in order to retain a fraction of the general business of the paper. Do I make that clear, Mr. Chairman?

The CHAIRMAN. Yes; I think so.

Mr. McANENY. In other words, your argument logically would lead to the suggestion that any business concern that is making a profit, and a substantial profit, can afford to give away a quarter of a million dollars of that profit and do it joyfully. We do not propose to give away that quarter of a million dollars or any part of it; that properly should be paid by the subscriber who takes that paper.

The CHAIRMAN. Of course, I do not question the purpose or the motive of your increase—

Mr. McANENY (interposing). It is not a question of motive, but a question of business economics.

The CHAIRMAN. I asked you a question of fact about your increase of 100 per cent and the cost to the buyers, and yet instead of the number of buyers diminishing they increased, and I asked how, as a matter of fact, if an increase of 100 per cent to the buyers did not cause a decrease in the number of buyers, but actually an increase, you can say that by an increase in the price of your paper of only 5 per cent, which would cover the increased cost, there will be a decrease in your subscription list, and that the number of subscribers and buyers will diminish.

Mr. McANENY. Mr. Chairman—

The CHAIRMAN (interposing). That was my question. If you are satisfied with the answer you gave I am, and I will go to another question.

Mr. McANENY. You have put a new question, which I am also prepared to answer. As I said to you yesterday, very frankly, the New York Times is not going to suffer through the operation of this postal act, and I do not believe we will lose an appreciable fraction of our out-of-town circulation. I said to you then, and I am obliged to repeat it, much as it may offend the feelings of my brother publishers, that if you had contrived this plan to operate for the benefit of the New York Times you could not have worked it out more successfully for us. We do not expect to lose much of our circulation; we think that the great bulk of our mail subscribers will continue; our experience in other respects has indicated that, and we know our class of subscribers. Therefore these constant references to the case of the New York Times are really wasting your time.

The CHAIRMAN. They may be wasting yours and mine, but I will just say that my observation has been that the New York Times has denounced this bill, its provisions, and its authors about as much as any paper in the United States.

Mr. McANENY. Do you not suppose that the New York Times—

The CHAIRMAN (interposing). Wait a minute. All of that was done when it knew that what we had done was for its pecuniary benefit. Yet they continued to denounce the bill and its authors, and in doing so do you think they are very grateful for something which you say will result in making more money for them?

Mr. McANENY. Do you suppose that the New York Times, or any other paper in New York, Philadelphia, or anywhere else in the United States, is run purely to make money?

The CHAIRMAN. You said that if we had contrived this plan to operate for the benefit of the New York Times we could not have done better. In your judgment, then, this provision which we put in the revenue act last session is going to help the New York Times financially?

Mr. McANENY. It is not going to hurt it, but I did not say it was going to help it.

The CHAIRMAN. I understood you to say that if we had contrived this plan to help the New York Times we could not have done it better.

Mr. McANENY. In a relative sense, so far as its position with its competitors is concerned, but we do not want it understood that we do not think that there will be some loss of subscribers.

The CHAIRMAN. I thought you said that you would not lose a subscriber by mail?

Mr. McANENY. No; I said the number would not be appreciable, although there will be some, of course.

The CHAIRMAN. You may lose Bill Jones, but you will get Tom Smith and John Brown?

Mr. McANENY. We will do what?

The CHAIRMAN. You may lose Bill Jones when this goes into effect, but you will get Tom Smith and John Brown in his place?

Mr. McANENY. I do not know the habits of Tom Smith or what his views may be.

The CHAIRMAN. But you do know the habits of the Times?

Mr. McANENY. Yes; I am quite familiar with them. But I would like to complete my answer to your suggestion. We have been opposing this plan because we think it is against the public good and we think it is going to work an injury to the public, but we think we can adopt an editorial position on a public question which will not be governed by our accounting room.

The CHAIRMAN. I presume you can.

Mr. McANENY. Well, we can and do.

The CHAIRMAN. We will give you credit for that.

Mr. McANENY. But the case of the New York Times is of no value to the hearing, Mr. Kitchin. I am appearing here as the representative of 500 newspapers.

The CHAIRMAN. I am just taking that as an illustration. There are some other papers about as good as the Times.

Mr. McANENY. Oh, there are some that are better, although I do not know how they do it. You compel me to make these statements, and I do it with regret.

The CHAIRMAN. Have you ever figured out or has your accounting manager ever figured out the increased cost of postage which this zone rate provision will add to your paper, that is, to carry the same poundage.

Mr. McANENY. Oh, yes; I have the data right here, giving the prospective schedules.

The CHAIRMAN. What will be the increased postage after this zone rate provision goes fully into effect?

Mr. McANENY. You mean in dollars and cents?

The CHAIRMAN. Yes, taking as the basis the same poundage which you are now carrying.

Mr. McANENY. You do not mean the composite rates that we will charge, or that everybody will charge?

The CHAIRMAN. No. After July 1, 1920, the provisions go fully into effect. Then, basing it on the poundage you are now carrying through the mails, what will the increase in cost amount to?

Mr. McANENY. Upon the theory that the present circulation would be maintained?

The CHAIRMAN. The present poundage and the present proportion of advertising matter to reading matter.

Mr. McANENY. And taking for convenience, as I have, an even 50 per cent of news and 50 per cent of advertising as the average—

The CHAIRMAN (interposing). That is the way I have calculated it.

Mr. McANENY. In the first year—

The CHAIRMAN (interposing). Take the last year, that is, the year it all goes into effect.

Mr. McANENY. In the last year, that is, when this plan becomes fully effective, the additional rate that would have to be paid for postage would be \$225,000.

The CHAIRMAN. We are pretty widely apart on those figures. What is your average haul?

Mr. McANENY. I do not know.

The CHAIRMAN. You are proceeding on the basis of fifty-fifty now.

Mr. McANENY. That is for convenience.

The CHAIRMAN. I make it \$145,000, but you have given a much larger figure, and you may be figuring on a longer haul.

Mr. McANENY. The haul does not make any difference to us.

The CHAIRMAN. It does when you come to these zone rates.

Mr. McANENY. It does as to the zones, yes.

The CHAIRMAN. You paid last year \$119,020.35.

Mr. McANENY. I will tell you how we arrived at these figures, and it took us eight weeks to do it, too. We were informed by the Post Office Department that this zone plan would proceed on the zone plan of the parcel post, which has about 3,500 different squares throughout the country as the units of delivery. Then we proceeded to drop into those 3,500 squares each one of our 56,000 subscribers, and that gave us our total distribution as to zones of the reading matter and our total distribution as to zones of the dealers' package matter, comprising 56,000. We then took the average weight of the paper and figured the annual weight at 185 pounds; we took the zone rate on that 185 pounds and simply multiplied it by the number of subscribers in each zone that we have assigned under our plan, and that gives us in a positive way the figures I have read to you.

The CHAIRMAN. What were your figures?

Mr. McANENY. \$225,000.

The CHAIRMAN. I find, when I calculate the total amount on 45 per cent advertising and 55 per cent reading matter—

Mr. McANENY (interposing). I do not think that would make much difference; you apparently took some average haul or average zone.

The CHAIRMAN. Yes; because that is the only way we can get at it.

Mr. McANENY. We took the actual figures.

The CHAIRMAN. Figuring it on the fifty-fifty basis, it appears, according to the amount you paid last year and your average haul within the third zone, that is, 300 miles, that you would get \$208,000 instead of \$145,000, which was based on 45 and 55, which you said would be the average.

Mr. McANENY. To be exact, it is \$225,212, which we will pass to our subscribers.

The CHAIRMAN. You sell your Sunday paper at how much?

Mr. McANENY. In the city 5 cents and 7 cents outside the city.

The CHAIRMAN. If you increased the price of your Sunday paper just 1 cent, it would more than pay the cost by \$25,000 or \$30,000—just 1 cent for the Sunday paper.

Mr. McANENY. Why should any concern attempt to raise more money in order to give money away?

The CHAIRMAN. You are looking at it from one viewpoint and we are trying to get at the facts. I am showing you how you could take care of it without any loss to you and with very little increase to your subscribers. Here is one general question I want to ask you and every other man, whether in the newspaper business, periodical, or magazine business: Why is it, when the law gives a flat rate and only increases that rate a half a cent to the reading portion and the zone rate applies only to the commercial portion or the advertising portion, do you all unite in insisting that the subscriber, the man who takes it for the reading matter, shall bear all the burden of the increased cost and that the advertiser shall not bear any of that burden?

Mr. McANENY. Because the subscriber buys a newspaper and a newspaper is made up of news and advertising, and the business of publishing has been adjusted to that basis immemorially, and it can not possibly be changed now. You can not tear a paper apart in the middle of the night and send a man a clipped section of the news. The mere fact that there is a difference in the usual ratios is not going to change the character of the newspaper.

The CHAIRMAN. You say it is going to cost you \$225,000 to get it out under this zone system. What proportion of the gross receipts of the Times do you get from advertisers?

Mr. McANENY. I can not give you that figure.

The CHAIRMAN. But you get a great deal more from advertisers than you do from subscribers, do you not?

Mr. McANENY. Oh, yes. I think it is about two-thirds, but I can not give it to you accurately.

The CHAIRMAN. Could you not take the amount which you charge advertisers and add 2 per cent, 3 per cent, or 5 per cent of the cost to them and would you not then make the increased cost?

Mr. McANENY. We did that when we had to meet the cost of white print paper, but the advertiser is not going to pay any more. He is not a philanthropist, either.

The CHAIRMAN. You did increase the cost to your advertisers on account of white print paper?

Mr. McANENY. As far as they would stand it, yes.

The CHAIRMAN. In order to meet the Government's expenses why do you refuse to put any of the burden on the advertisers? You put the increased cost of white print paper on them, you put the increased cost of ink on them, and you put the increased cost of labor on them, so that when it comes to getting a little money for the Government why do not put that on them, too?

Mr. McANENY. I said a while ago that the advertiser will pay less and not more in the future, because you are going to reduce his circulation.

The CHAIRMAN. You do not know that?

Mr. McANENY. We know it mighty well.

The CHAIRMAN. I do not think you would lose any subscribers by the method I suggest.

Mr. McANENY. But your reasoning is not the reasoning of the newspaper publishers.

The CHAIRMAN. In my judgment, if you do what I suggest you will not lose a subscriber, because you will not charge all of the burden to him.

Mr. McANENY. But we lose the advertiser instead; instead of losing our one-third we would lose two-thirds.

The CHAIRMAN. You would have the same number of subscribers and keep your advertisers, too. Do you believe a man who was advertising with you at any length would stop advertising in your most valuable paper if you increased the rate 5 per cent?

Mr. McANENY. No; but he would cut the space he takes; he would tell his story in shorter space.

The CHAIRMAN. But could you not get another advertiser?

Mr. McANENY. That would never be dreamed of in a newspaper office.

The CHAIRMAN. Let us see whether you could not get additional advertisers and whether you have not gotten additional advertisers. How many columns of advertisements did you have in 1914?

Mr. McANENY. I can not give you that figure.

The CHAIRMAN. I am going to ask you to put that in the record, because you can ascertain from your office. Please give us the number of columns of advertising matter in your issue of June 1, 1914, June 1, 1915, June 1, 1916, June 1, 1917, and June 1, 1918, and let us see whether you have not been increasing your columns and have not gotten more advertisements.

Mr. McANENY. Of course we have.

The CHAIRMAN. And you have increased your number of advertisers?

Mr. McANENY. But other gentlemen have not.

The CHAIRMAN. You say you have increased the number of your advertisers?

Mr. McANENY. Of course we have, and that is why I say our case is of no value to you.

The CHAIRMAN. Please include in the information I have asked for the rate you charged on June 1, 1914, for a column of advertising, the rate you charged on June 1, 1915, June 1, 1916, and June 1, 1917, and let us see whether you have not increased your rates. You say you have increased the number of advertisers and the number of columns, and if you have been able to do it in the past, why not in the future under this zone system?

Mr. McANENY. I will gladly send you copies of our printed rate cards for these three or four years, but we never vary them. I will gladly do that, but I repeat that they will only confuse any consideration of this subject. On this point—and I want to use this same memorandum later on another point—I hand you a statement of the advertising experience in New York for the first two months of this year: that is, the gains and losses, in which you will find a loss of \$17,425,000 in 1917, and that out of that has been cut a loss of \$2,258,000, and that those losses are distributed through every newspaper in the city of New York, except the New York Times, which showed a gain of \$40,550. Then I ask you whether there is any fairness in using that case as typical of the whole?

The CHAIRMAN. It is not a question of fairness, but it is a question of getting at the facts



Mr. McANENY. I am giving you the facts, but I think the facts about the newspaper publishing industry as a whole and not the facts about the New York Times are what the committee really needs.

The CHAIRMAN. It is because the Times has been one of the greatest kickers and protesters against our revenue bill and its provisions.

Mr. McANENY. The Times has frankly spoken its mind as a public servant.

The CHAIRMAN. I see you have in this statement the American, the Telegram, the Post, the Sun, the Tribune, and the World. When they come before us, or any one representing them, we will try to find out the facts from them just as we have from you.

Mr. McANENY. But I did not come here representing the New York Times. May I ask this question as a matter of privilege? Do you deny my presence here as the representative of the American Newspaper Publishers' Association?

The CHAIRMAN. No; and I am glad you come as their representative.

Mr. McANENY. I ask that I be not used as a means of gaining information about one particular newspaper because of the incidental fact that I am related to it.

The CHAIRMAN. You are now acting as the president of the Newspaper Publishers' Association.

Mr. McANENY. Vice president.

The CHAIRMAN. In the president's absence you are acting for him.

Mr. McANENY. No; I am here as the chairman of the committee on postage.

The CHAIRMAN. Then you represent in that capacity the American, the Brooklyn Eagle, and all the other papers whose names you have given me?

Mr. McANENY. The papers which are members of our association.

The CHAIRMAN. If you are not the special representative of the Times, have I not the right to ask you about these other papers?

Mr. McANENY. But you are devoting this matter almost exclusively to the New York Times.

Mr. STERLING. He does that because he assumes you know about that paper.

Mr. McANENY. I know about the rest, too, in a general sense.

The CHAIRMAN. How much poundage did we haul last year for the American?

Mr. McANENY. Of course, I do not know, and I do not recall how much poundage you carried for us.

The CHAIRMAN. How much did the American pay the Government in postage last year?

Mr. McANENY. I would refer you to the Post Office Department for that.

The CHAIRMAN. You do not know?

Mr. McANENY. Of course not.

The CHAIRMAN. Do you know how many mail subscribers it had last year?

Mr. McANENY. I do not.

The CHAIRMAN. Do you know how many it had in the city?

Mr. McANENY. I do not.

The CHAIRMAN. Do you know how much it paid for its print paper in 1915?

Mr. McANENY. Oh, yes; I have pretty fair information about that.

The CHAIRMAN. Do you know how much the American paid for print paper last year?

Mr. McANENY. It is rumored they came off pretty well in 1917 under an old contract.

The CHAIRMAN. How much did they pay this year?

Mr. McANENY. For their print paper?

The CHAIRMAN. Yes.

Mr. McANENY. I could not give that exactly.

The CHAIRMAN. How much last year?

Mr. McANENY. I can not give you any of that information as to any one of these newspapers.

The CHAIRMAN. You say you do not know how many subscribers it had?

Mr. McANENY. No.

The CHAIRMAN. I want to show you why I did not ask you about these other papers, but have asked you about the Times.

Mr. McANENY. My objection to your line of questions is not because they are annoying personally, I assure you, but because of their extreme irrelevancy. I could not give you any of that information, and I doubt whether any of these gentlemen here could do so.

The CHAIRMAN. When Mr. Wortham and these other gentlemen come before us we are going to ask them about their papers, because they know. I knew you did not know about these other papers, and that is my reason for not asking you about them. Do you not think that the questions I have asked about the Times are perfectly natural questions?

Mr. McANENY. I do not, Mr. Chairman. I can not undertake, and I do not think they could undertake in the case of their own papers, to come here and give you the minute and detail of the business offices.

The CHAIRMAN. Do you not know something about the details of the New York Times, the New York World, Post, Sun, Brooklyn Eagle, and the other papers? Of course you do.

Mr. McANENY. Of course I do, but those are not the questions at stake in this issue.

The CHAIRMAN. I think we know what is at stake in the issue. I have my ideas and you have your ideas.

Mr. McANENY. I have my idea about the relevancy and purpose of this sort of a cross-examination.

The CHAIRMAN. I am going to a general proposition now. I suppose the New York Times pays the same express rate as is paid by all the other papers, and that there is no special privilege?

Mr. McANENY. No; it has no special privilege, and I do not think it would take any.

The CHAIRMAN. You send your papers to Philadelphia by express, do you not?

Mr. McANENY. We send them by express; yes.

The CHAIRMAN. You send them to Washington by express, do you not?

Mr. McANENY. All except those that go in wrappers.

The CHAIRMAN. But most of them are sent by express.

Mr. McANENY. Yes, sir.

The CHAIRMAN. How much do you pay per pound from New York to Philadelphia?

Mr. McANENY. I can not tell you how much exactly.

The CHAIRMAN. How much do you pay from New York to Washington by express?

Mr. McANENY. I can not recall the exact figures.

The CHAIRMAN. What is the farthest point to which you send papers, as a rule, by express?

Mr. McANENY. I think Chicago—part of the Chicago papers go by express and part by mail.

The CHAIRMAN. Do you know what you pay to Chicago?

Mr. McANENY. I do not know exactly.

The CHAIRMAN. What is the express rate to Denver?

Mr. McANENY. I do not know, but I do not think we use it.

The CHAIRMAN. How much is the express rate from New York to San Francisco—something like \$5 or \$6, is it not?

Mr. McANENY. I do not know.

The CHAIRMAN. Now, you have some subscribers in Denver, have you not?

Mr. McANENY. I have no doubt of it.

The CHAIRMAN. Why do you not send papers to Denver by express, and have them delivered by the express company at Denver?

Mr. McANENY. Because we can not afford to have papers delivered at Denver at that rate.

The CHAIRMAN. That is because the express company bases its charges upon a zone rate, is it not?

Mr. McANENY. Yes, sir.

The CHAIRMAN. While the Government only charges you a flat rate. But whenever the express rate is less than 1 cent per pound, you use the express service?

Mr. McANENY. Yes, sir.

The CHAIRMAN. And whenever the express rate, on account of the distance, is more than 1 cent per pound; you have your papers handled by the Government through the mails, because you make more money that way.

Mr. McANENY. No, sir.

The CHAIRMAN. Then, why do you do it?

Mr. McANENY. You said it was because we make more money out of it, but it is not that way.

The CHAIRMAN. Then, why did you say awhile ago that when it was more than 1 cent you sent it by mail, but when it was less than that you did not?

Mr. McANENY. I will explain that. At the point where the newspaper, for economic reasons, can not send the papers farther by express, the Government comes in and carries them at this so-called rate of loss.

The CHAIRMAN. It is a cheaper rate.

Mr. McANENY. The Government does that in order to take the paper that the newspaper or the newspaper company can not send to the subscriber, and the Government itself carries it to the subscriber. That is where the Government's function comes in.

The CHAIRMAN. You send papers to Philadelphia for 25 cents per hundred or to Washington for 40 cents per hundred; or four-tenths of a cent per pound, while you send them to my town in North Caro-

lina at the Government rate of 1 cent per pound. You send your papers to Washington at six-tenths of a cent cheaper per pound than you can send them to my town. Now, do you let your subscribers in Washington have the paper for less than they pay for it in North Carolina, or do they get it at the same price?

Mr. McANENY. I have given you those figures.

The CHAIRMAN. Is it the same price?

Mr. McANENY. The average is a little higher than the Washington rate.

The CHAIRMAN. It is a little higher than the Washington rate?

Mr. McANENY. Yes, sir.

The CHAIRMAN. Then, you have a zone rate now?

Mr. McANENY. No, sir.

The CHAIRMAN. You send your paper from New York to Philadelphia for 25 cents per hundred and to Washington at 40 cents per hundred, because the express companies carry it cheaper between those points than the Government, and then the Government carries it to North Carolina at a rate of 1 cent per pound, while the express rate to Washington is four-tenths of a cent per pound. Now, have you not three zone rates in there?

Mr. McANENY. No, sir. We do not send our paper by express to you.

The CHAIRMAN. That is because it costs too much.

Mr. McANENY. No, sir. We send our papers to the dealer by express, and then the dealer takes care of them at his own expense.

The CHAIRMAN. You do not send it to me down in North Carolina by express, because it costs you too much.

Mr. McANENY. It would cost you too much.

The CHAIRMAN. But you are selling the paper to me in North Carolina at the same price that you are selling it to the man in Philadelphia and Washington, and yet it costs you three-fourths of a cent per pound more to send it to me than to Philadelphia, and 50 per cent more than it costs you to send it here to Washington.

Mr. McANENY. I am perfectly willing to reread those figures to you.

The CHAIRMAN. Now, if you sent all of your papers by express, let us see how many zones you would have. You would have a zone at Philadelphia, at 25 cents per hundred; one at Washington, at 40 cents per hundred; and if you went as far as Denver it would be \$2 and something.

Mr. McANENY. To California the cost would be about \$5.

The CHAIRMAN. You use the zone rate because you have two people competing with the Government. You use the zone rate when it is to your peculiar interest to do it; but whenever the zone rate or distance rate is greater than the Government's flat rate, you use the mails.

Mr. McANENY. I have explained that the rate by express here to Washington means simply bringing the package to the local dealer here, who does the rest.

The CHAIRMAN. Why don't you send them by express to a local dealer in Denver?

Mr. McANENY. It could not be done.

The CHAIRMAN. It would cost you too much?

Mr. McANENY. It would cost the Denver man too much.

The CHAIRMAN. Have you figured what the cost would be?

Mr. McANENY. Would you pay that much? We could not sell them at that price.

The CHAIRMAN. At what price does your paper sell in Denver? You have subscribers in Denver, and what does your subscriber in Denver pay you where the papers are sent in packages?

Mr. McANENY. You say the subscriber—

The CHAIRMAN (interposing). What do you charge him for the paper delivered by mail?

Mr. McANENY. \$10 a year.

The CHAIRMAN. What do you charge me in North Carolina, which is one-fifth the distance?

Mr. McANENY. \$10 per year.

The CHAIRMAN. So you have charged the same. Both subscribers get the paper for the same price.

Mr. McANENY. Yes, sir; through the grace of the Government.

The CHAIRMAN. What do you charge a man in Washington?

Mr. McANENY. If he takes the paper by mail?

The CHAIRMAN. Yes.

Mr. McANENY. A man who gets his paper in an individual wrapper pays \$10 per annum, wherever he lives.

The CHAIRMAN. What does the man who buys his paper in Philadelphia pay for it?

Mr. McANENY. He pays the rate that the local dealer charges him.

The CHAIRMAN. What is that rate? Is it the same rate in Philadelphia, Raleigh, N. C., and Washington?

Mr. McANENY. The rate is 3 cents for the daily paper and 7 cents for the Sunday paper.

The CHAIRMAN. It sells for 3 cents in Washington, 3 cents in Philadelphia, and 3 cents in Raleigh, N. C., does it not?

Mr. McANENY. Yes, sir.

The CHAIRMAN. So there you have three zones rates, but the subscribers get it at the same rate, because you strike an average. You have three zone rates, and therefore you strike an average.

Mr. McANENY. I can not follow you, Mr. Chairman.

The CHAIRMAN. Let us go to another phase of it: There are three or four ways in which you can send your paper; for instance, you can send it by automobile and have men to deliver it. It might take a little longer—

Mr. McANENY (interposing). We could take it ourselves, but it would cost more.

The CHAIRMAN. You could send them by fast freight, but you do not do that. You send them by express.

Mr. McANENY. We can not send them by fast freight.

The CHAIRMAN. There are two ways: You can send them by mail or send them by express. The other ways cost too much. Now, when this zone rate goes into effect will it not be cheaper, and a great deal cheaper, for you to send them by the Government agency than by any other agency outside of the Government that will carry the papers for you? Is not that so?

Mr. McANENY. We will not do it unless the subscriber pays the difference.

The CHAIRMAN. It will be cheaper to handle them in that way than any other way?

Mr. McANENY. You can put any rate on them. Suppose you have a higher zone rate, or anticipate a higher express rate, and add it on the subscription price, there would be no appreciable difference in the result.

The CHAIRMAN. You do that in the first instance.

Mr. McANENY. We collect it.

The CHAIRMAN. You pay it to the Government.

Mr. McANENY. Yes, sir; we collect it from the subscriber.

The CHAIRMAN. You collect it from the subscriber—

Mr. McANENY (interposing). At the Government's request some years ago.

The CHAIRMAN. I think I asked you this before, but don't you know that it will be the business of your paper and other papers to strike an average and charge all of the subscribers the same rate when this zone rate goes into effect?

Mr. McANENY. No, sir; I do not. May I give you some figures that bear on your line of questioning?

Mr. GARNER. Mr. McAneny, I believe that the second-class matter patrons of the Post Office Department ought to pay what it costs to transact their business through the Post Office Department, just as we believe now that first-class, third-class, and fourth-class matter should pay its way. That is my opinion.

Mr. McANENY. Then you are reconciled to your \$10 increase.

Mr. GARNER. Yes. I believe that, and I believe that the American people want that done. I do not hesitate to say that I would like to try that out in any congressional district that has as many as three or four or five counties in it. I would like for you and your association—because I know that your association does represent the newspaper industry of the country, and as to the magazines, we will hear their side of it—I would like for your association, not agreeing with that theory, although I think a great many of them do, to suggest a method. I have talked with a number of them, and they have agreed that we ought to be fair and just, the only question being as to how much the rate should be. As I say, I would like for your association to suggest a method that will carry into effect that idea. I would like to have your association suggest the best method that we could adopt that would disturb your business the least. Whether you agree with my view or not, I think that we have a large number of Members of Congress who have to deal with this question who take that viewpoint, and you gentlemen who know this business better than anybody else, because you and the Post Office Department have all of the knowledge, ought to at least advise us as to what is the best method of getting this amount of money from second-class matter, whether you agree with my viewpoint, or not.

Mr. McANENY. Mr. Garner, at the hearing before the Senate committee on May 14 and 15, 1917, just a little over a year ago, Mr. Seitz, who was then the chairman of our post-office committee, used this language:

We do not object to a zone system where the rates are laid with some regard to the value of the service performed and the cost of the article transported. In making such a schedule we will be glad to aid.

Now, a year afterwards that is still our position. We are willing to help in any way we can. We are willing to cooperate, and it is

because we are ready to do that and anxious to do that that we ask for this suspension to enable us to do it; but if you let this go into effect on the 1st of July, with all of its inequalities and difficulties, it is going to be extremely hard to go back to another plan.

Mr. GARNER. Let me see if I get your association's viewpoint: If you accept the premise that this matter should pay its way through the post office then you believe that a zone system worked out as Mr. Seitz stated would be the equitable method of levying this tax?

Mr. McANENY. If there must be an increase, the great majority of our association are of the opinion that the zone principle or plan would be the better method.

Mr. GARNER. Then, it is only a question of judgment as to whether there should be an increase, or not.

Mr. McANENY. And it is a question of how the rate shall be graduated, as to what proportion the publisher shall pay; what the subscriber should pay, and what the Government should pay.

Mr. GARNER. Well, taking my viewpoint—

Mr. McANENY (interposing). Of course, eliminating this distinction between reading matter and advertising—

Mr. GARNER (interposing). As a matter of public policy, you do not think that we ought to increase it at all?

Mr. McANENY. Not at this moment. This is the most inopportune time at which it could possibly be done.

Mr. GARNER. But you do not undertake to say that we should not do it at some time.

Mr. McANENY. No, sir.

Mr. GARNER. You do admit the proposition, then, that you should pay your way through the mails?

Mr. McANENY. On the cost findings of the Government, that would be absolutely impossible.

Mr. GARNER. I am not talking about that—

Mr. McANENY. When you pay your way, that usually means paying the cost. If you mean paying our way in the sense of contributing toward the cost a reasonable proportion of it, by all means, yes.

Mr. GARNER. When we do put it into effect, the zone system should be the method employed?

Mr. McANENY. Yes, sir.

The CHAIRMAN. Returning to the express service, when you send your papers by express to Chicago or Washington, the express companies have no people to distribute them or to deliver them to your patrons? They do not perform that service for you?

Mr. McANENY. No, sir; they go right to the dealer, and that is what the post office does with the bulk of our mail.

The CHAIRMAN. When you send your papers by mail to Raleigh, N. C., they go through the mail to the post office to be distributed, do they not? They are delivered by the city carriers, are they not?

Mr. McANENY. That applies only to the wrapper stuff. The bulk of the newspapers going into the mail are handled substantially as the express companies handle them to-day and with no greater trouble than the express companies have.

The CHAIRMAN. If you sent 25 of your papers to Raleigh, N. C., they would come in one bundle, would they not? The postmaster or

clerk would open up that one bundle and distribute the papers into the boxes or among the carriers, would he not?

Mr. McANENY. No, sir; the bulk matter would be taken off the train at the station by the news dealer. The postmaster would not touch it.

The CHAIRMAN. At places where you do not have news dealers, the postmasters do handle them and distribute them, do they not?

Mr. McANENY. When they are sent to local rural offices, they are put in the boxes.

The CHAIRMAN. If you did not have a news dealer in Raleigh, N. C., and had 200 subscribers in Raleigh, you would then have a separate wrapper for each paper sent there, would you?

Mr. McANENY. Yes, sir; if they were individual subscribers. But in Raleigh, N. C., there are undoubtedly news dealers.

The CHAIRMAN. You would wrap up each one?

Mr. McANENY. The paper of each individual subscriber would require a separate wrapper.

The CHAIRMAN. You would not send 250 in one bundle?

Mr. McANENY. No, sir. That makes the difference I referred to in the case of one going in packages and the other in wrappers.

The CHAIRMAN. I know that in the case of weekly papers the name is marked on the paper, but they do not wrap each one separately. Those papers will go to the postmaster in a bundle to be distributed in the boxes, and if it is an office with city delivery, the city carriers take them out and deliver them. Now, as I understand it, you do not handle yours that way.

Mr. McANENY. No, sir; not in the carrier offices.

The CHAIRMAN. You spoke yesterday about this matter and said that it should be delayed, postponed, or suspended in its operation for a year: Are you acquainted with the history of this agitation during the last 20 years on the subject of increased postage for second-class matter?

Mr. McANENY. I have read the current discussions.

The CHAIRMAN. Is it not a fact that every time it has been before the committees of Congress the newspapers and magazines have said, "This is not the time, or this is not the opportune time, and the matter should be delayed, or you should have a commission or committee appointed"? Has not that been their plea and defense every time?

Mr. McANENY. No, sir; I do not recall that that has been the fact.

The CHAIRMAN. I do recall it.

Mr. McANENY. Moreover, at the previous hearings upon the previous propositions, you have never had a proposition like this before you.

The CHAIRMAN. I am talking about increased rates.

Mr. McANENY. We have said that we will accept any proper increase in rates when we are sure of its propriety, but this plan does a great deal more than that.

The CHAIRMAN. You think your association is absolutely sincere—and I do not doubt it—in simply asking for a postponement of the operation of this law for a year? Now, then, if that be true, and you do not want to get another hold to fight the whole thing, would your association and the other publishers be willing to enter into a gentlemen's agreement with Congress that if we postpone it this year



you will accept the law as it is as a full and final agreement between the publishers and the Government?

Mr. McANENY. Do you mean to enter into an agreement never to come back, no matter in what form of unrighteousness it might be put upon us?

The CHAIRMAN. If we suspended its operation, you would not be willing to take it as it is and let it operate for five or six years?

Mr. McANENY. Do you think that would be a reasonable agreement?

The CHAIRMAN. If you are not willing to do that, then you are not after a postponement, but you are after fighting the proposition and after another year of agitation.

Mr. McANENY. No, sir; we are after an opportunity to understand what it is proposed to do; we are after an opportunity to study the effect of it, and we are after an opportunity to be present during the discussions of it, and we have never yet had that opportunity.

The CHAIRMAN. Have you not had since last October to find about it?

Mr. McANENY. We have spent a large part of that time trying to get light upon it.

The CHAIRMAN. Do I understand now that your purpose in asking a postponement is to fight the bill in the future, or do you simply ask a postponement of its operations for a time and then have it to go into effect?

Mr. McANENY. Our purpose in requesting a postponement is to afford an opportunity to investigate this matter in a proper way, and to devise a correct system, or a system that is not going to injure the country—a system that will work fairly and equitably. Our second and greater reason for asking it is that at this time the country is at war and when it needs every day all the propaganda it can get through the circulation of newspapers, it is almost vicious to depress and reduce the volume of newspapers circulation.

The CHAIRMAN. Everybody who comes before us says that. That is everybody's plea.

Mr. McANENY. The newspaper people?

The CHAIRMAN. Everybody who is taxed.

Mr. McANENY. This is not a tax.

The CHAIRMAN. They do not want any increase of their taxes.

Mr. McANENY. This is not a tax. The newspapers are not objecting to the taxation of their business.

The CHAIRMAN. Let us see about the postponement of its operation for a year, or if we were to postpone its operation, as you say. You say you want it postponed so an investigation can be had to see whether it is a just and equitable provision. Do you think, if we should postpone it for a year and should begin an investigation of it, that we would ever be able to convince the Newspaper Publishers' Association that this system we have is a just one?

Mr. McANENY. Yes, sir; if your plan is a just one.

The CHAIRMAN. Nobody could convince you of that, could he?

Mr. McANENY. Certainly it could be done.

The CHAIRMAN. If the experts of the Post Office Department who have given 25 or 30 years of their lives to a study of the question and in gathering data upon it, and knowing, as they do, everything about the mail that is possible to be known—if they say now that this

is a just and equitable system, how much more light could the Government ever hope to get on the subject?

Mr. McANENY. It could get the testimony of the experts who are within the newspaper industry; they could get testimony from people who are in touch with the fraternities, the agricultural fields, teachers, etc.

The CHAIRMAN. Do you think that those teachers and newspaper men know more about it than the Postmaster General and his experts, some of them having given 20 years' study to it—men who have given study to the question of how much they have to pay; how much they have to pay postmasters; how much they have to pay for postal cards; how much they have to pay for stamps; how much they have to pay for railway mail service; how much they have to pay for rural-delivery service; and how much has to be paid for the actual transportation in the postal cars? Newspaper and magazine publishers do not know how much it costs to transport third-class matter and fourth-class matter. Could they give these Post Office Department experts any information on that?

Mr. McANENY. Certainly not. You are going back there to your post-office experts—

The CHAIRMAN (interposing). You want men who never knew anything about postal matters to get up this postal system.

Mr. McANENY. We are contending that the Postal Service is not an express business. It is the function of the Post Office Department to serve the people in the circulation of news, literature, and educational material. I contend that when you come to the newspaper end of it you have got a side that is quite as important as that of the Government, and you ought to consult those who are expertly familiar with the newspaper industry, and then go to those who are to be affected by depressed circulation and understand how it will affect their industry and how it will affect the institutions of the country. I think that all of those things have a proper place in a postal investigation.

The CHAIRMAN. This advertising and reading matter proposition now in the bill has been practically worked out in dollars and cents. It is the regular provision which passed the House. Now, the administrative feature of separating the reading matter and the advertising matter is a question to be worked out by the administrative officers of the Post Office Department. Let me give you some few statistics gotten up by the Post Office Department experts, and not by me. Have you any idea how much poundage per year is sent through the mails by the New York Times? Do you know how much it was in 1914?

Mr. McANENY. Yes, sir; something like 12,000,000 pounds.

The CHAIRMAN. It was 4,600,000 pounds in 1914, and you paid \$46,000 of postage. They increased that poundage during the war from 4,600,000 to 11,902,000 for the fiscal year 1917. Now, according to the figures—and you say these are wrong, because you say they are based upon a calculation of the cost of transporting, handling, and delivery—but, according to the figures that the experts of the department give, let me tell you how much the Government lost on you during that time: In 1914, the Government in handling and delivering that 4,600,000 pounds of matter lost \$184,000 and it would lose that much each year with that same poundage. In 1917, that

loss had increased to \$534,000, so that last year, instead of losing, as in the year when the war broke out in Europe, \$184,000, in the handling, transportation and delivery of the New York Times the Government lost \$534,000, or an increase in the annual loss of \$350,000. That increase took place in three years. Now, the provisions of this bill will not pay back within \$350,000 the annual loss to the Government in handling the New York Times based upon the same poundage, and your poundage is increasing all the time. But based upon the same poundage, it will lack that much of paying back to the Government the cost of rendering you that service. If there is a subsidy now, you will still have a subsidy of over \$350,000 after this law goes into force and effect.

Mr. McANENY. Now, Mr. Kitchin, you speak of that as a loss.

The CHAIRMAN. I speak of that as a loss, because according to these figures it cost the Government that much more to render the service than the New York Times paid back to the Government for the service. If the Government is rendering that service and there is a loss, somebody on the outside gains.

Mr. McANENY. Who gains that money?

The CHAIRMAN. I say that according to your testimony you gain it, the advertisers gain it, and the subscribers gain it.

Mr. McANENY. How do we gain it?

The CHAIRMAN. How do you gain it? You said a while ago, and that was the sole argument upon the point, that the higher you put the subscription price, the fewer subscribers to the paper you would naturally get, and if you got this reduced rate, would it not enable you to give a reduced subscription price, thus increasing your subscription list, and by increasing your subscription list would you not be able to increase your advertising rate, the number of advertisers, and the amount of space given to advertisements? That is the full argument of the Association of Newspaper Publishers.

Mr. McANENY. The differences in the volume of circulation affected either by this bill or by these anticipated rates are hardly appreciable. That advertising would be carried, anyway. The only possible basis for ascertaining whether a newspaper receives the benefit directly in cash of any of the money that you are talking about is an examination of what its net receipts are from the sales of its paper. I have showed over and over again—

The CHAIRMAN (interposing). I wanted you to give us those receipts, but you objected to doing that.

Mr. McANENY. No; I did not.

The CHAIRMAN. Yes; you said you would not do it unless the others did it.

Mr. McANENY. You are talking about another thing. I have shown over and over again that our net receipts upon the mail matter are less than on the others, and yet you still say that we are gaining a great deal out of it. How do we do it?

The CHAIRMAN. Are not the newspapers gaining by this low rate?

Mr. McANENY. Of course not.

The CHAIRMAN. If the newspapers are not gaining by this low rate, why do you need to have this low rate?

Mr. McANENY. They gain some outlying circulation, to be sure, but do you suppose that is not offset in any degree?

The CHAIRMAN. Let us see who gains that.

Mr. McANENY. I want to finish my statement, because I have some other things to say. In return for that it carries that advertising into the outside zones at a lower rate of profit than it does inside. That is an offset right there at the start.

The CHAIRMAN. If you had to pay 5 cents instead of 1 cent, or paid the same rate the express companies charge, you would lose more.

Mr. McANENY. No; we would not lose anything.

The CHAIRMAN. You would have to give up your business or lose?

Mr. McANENY. Certainly.

The CHAIRMAN. Suppose the Government were to compel the express companies to charge only a cent a pound to carry hats to any point in the United States, but to charge every other commodity a zone rate from 5 to 14 cents. Would you not say that that was a subsidy and special favoritism to the manufacturers and sellers of hats?

Mr. McANENY. Yes, Mr. Chairman.

The CHAIRMAN. All right.

Mr. McANENY. But there is no analogy between hats and newspapers. Hats are not in the Constitution of the United States, while newspapers are.

The CHAIRMAN. If the Government charges for the use of its mails from 5 to 14 cents on every other class of article that goes through the mails, and from 8 to 14 cents on every other kind of reading matter, whether it is history, geography, spelling books, or President Wilson's history or histories, and charges the newspapers and magazines only 1 cent for their stuff, would you not call that favoritism and a subsidy to the newspapers and magazines?

Mr. McANENY. I should say that when you come to carrying those things through the mail you strike an entirely different field, and that there are no analogies there, so that I can not answer your question for that reason.

The CHAIRMAN. This flat rate of 1 cent a pound for transporting and handling that stuff you think is in the interest of the intelligence and information of the general community?

Mr. McANENY. I have no doubt about that.

The CHAIRMAN. Then any further increase would really be a tax upon information and intelligence, you think?

Mr. McANENY. It would be an increased charge for getting it.

The CHAIRMAN. Why not remove this 1 cent then, in the interest of the general welfare and of intelligence? Why should not the Government pay your total transportation charges, which it practically does, according to your testimony, because 1 cent is certainly not enough to cover their overhead charges, and therefore your transportation is free; that being so, why should not the Government transport free and pay the freight on your print paper before it goes through the presses as well as after it goes through the presses? Would it not all be in the interest of intelligence and information?

Mr. McANENY. No; because the print paper is a commercial product until it reaches the press room. However, we do not ask for these extreme things that you suggest.

The CHAIRMAN. If they are sending out the newspapers for nothing, after it is printed, in the interest of intelligence and information, why should they not pay the freight on your linotypes and on all of your

other materials—send them to your office free? Why would not that be in the interest of intelligence and information?

Mr. McANENY. You might add the clothes of the editor. I see no analogy, Mr. Chairman, in any of your suggestions.

The CHAIRMAN. I know you do not, but I want to get them in the record. Yesterday you mentioned the Hughes Commission's report and said you had it before you. You said that report declared it had no data from which it could estimate the cost of handling and transporting newspapers and magazines.

Mr. McANENY. The subdivisions, the units of the second-class matter. Of course, they could get the bulk figures.

The CHAIRMAN. Wait one minute. It declared it had sufficient data from which to find the cost of the transportation service, did it not?

Mr. McANENY. Yes; that is very easy.

The CHAIRMAN. And that the cost of the transportation service was between 5 and 6 cents, and that with proper economies that could be reduced to a little over 5 cents? The report stated that, did it not?

Mr. McANENY. I think it did.

The CHAIRMAN. So the Hughes Commission, to which you have several times referred, is on record as saying that it costs the Government to transport your newspapers and magazines, on an average, 5½ cents.

Mr. McANENY. That was the simplest kind of arithmetic at the time, and it did not require a Supreme Court Justice to determine that.

The CHAIRMAN. Is that same kind of arithmetic right now?

Mr. McANENY. As to the cost of transportation, yes; and that is about the only thing that can be determined definitely.

The CHAIRMAN. The Hughes Commission's report showed that it costs the Government, on an average, 5½ cents to carry the newspapers and magazines—just the transportation; and yet you gentlemen are down here insisting that they be carried for 1 cent and delivered, too. Now, you spoke of Canada and stated that Canada had reduced her newspaper rate for the war. Are you not mistaken about that? Well, I know you are; and let us look into the reasons why Canada gave a flat rate of a quarter of a cent.

Mr. McANENY. I have no information beyond the bald statement that she had done so.

The CHAIRMAN. And why she made the magazine rate so grossly low. Let me read you something from the greatest English expert on postal matters and postal rates. He is A. D. Smith, of the secretary's office, General Post Office, London, and the introduction was by Hon. Herbert Samuel, postmaster general, 1910-1914 and 1915-1916. This book was first published in 1917, and speaks of the Canadian law. I want to see if you gentlemen have suspected that the same means and methods could be used as this gentleman says were used in Canada:

But in well-informed quarters it is held that, in general, the leniency shown to newspapers is not due solely to the acceptance by Parliament of the arguments usually advanced in their favor, plausible and convincing as they probably are to many minds, but has always been dictated more or less by fear of the political power wielded by them; or, what is really the same thing, as a result of direct pressure at Ottawa by the newspaper proprietors, based on their influence with the electors or the chiefs of parties, and exercised in their own interests.

I have sometimes wondered, especially since reading that, whether any newspapers or magazines ever dreamed about bringing pressure in Washington on Members of the House or Members of the Senate, as is suggested here, that perhaps their criticism in the papers might intimidate some and their flattery in the papers might influence others. I want to know whether that ever crossed the minds of these publishers?

Mr. McANENY. Do you know of any newspaper publisher who has ever done it?

The CHAIRMAN. I will not say, but I just wanted to ask you what you think about that..

Mr. McANENY. I certainly do not recall any that ever did it.

The CHAIRMAN. I won't admit recalling a single newspaper that ever criticized a single Member of the House or Senate for voting in favor of putting in the law the establishment of this zone system.

Mr. McANENY. I am not talking about newspaper criticism, but I am talking about newspaper pressure, as you call it. Do you recall any instance of that sort?

The CHAIRMAN. You said that this thing was going to hurt the subscribers, and that your fight is in the interest of the subscribers; that you have given them notice and that they have had notice of it ever since October 3. How many letters have you gotten from subscribers protesting against this and saying that it ought not to be done, and that they protest against it because it is going to be a burden on them?

Mr. McANENY. I do not know.

The CHAIRMAN. Suppose when you go back you find out.

Mr. McANENY. I do not think that would necessarily be the criterion of their opinion. Their protests would not come to us, but I dare say you have had a few.

The CHAIRMAN. I will give you a little illustration of my experience in the matter. A very important agricultural paper in the South, which claims to have 175,000 or 185,000 subscribers, and published in my State, and in Birmingham, had several severe criticisms of myself about this postal zone rate; I think they had a page or two. Then in that paper, and in several other papers, they suggested that the readers—about 40,000 or 50,000 in North Carolina and 10,000 or 15,000 in my district—I do not know exactly how many—should write to me insisting on my voting to repeal it, and to change my views. Out of the 185,000 subscribers, and 40,000 or 50,000 in North Carolina, I received two letters from two subscribers.

Mr. McANENY. What paper was this?

The CHAIRMAN. A paper in my State.

Mr. McANENY. A daily newspaper?

The CHAIRMAN. No; not a daily newspaper.

Mr. McANENY. Oh, well—

The CHAIRMAN (interposing). They wrote to me, and then I wrote back to them giving them the facts, and both of them wrote to me saying that Congress was right and that I was right, and saying that it was a mistake not to make the newspapers and magazines pay more. So, you see, the subscribers to this paper, who are, according to your statement and according to the statement contained in the

paper published in my State, going to bear the whole burden of this increase, do not mind it. If that is a fair sample—

Mr. McANENY (interposing). That is quite possible; but their opinions may change during the coming year.

The CHAIRMAN. Do you know anything about Great Britain's postal laws as to newspapers?

Mr. McANENY. They have been changed rather recently, but I am not up to date on those changes.

The CHAIRMAN. They have increased the rates during this war for war purposes.

Mr. McANENY. But their problem is very different from our problem.

The CHAIRMAN. I want to correct a mistake that has appeared in every paper and practically every magazine in the country about the British postal laws, as regards newspapers and magazines. Their rate for a paper like Mr. Woodson's or Mr. Wortham's, that averages about 2 ounces to the paper, is 8 cents a pound, and they carry it less than 200 miles, which makes the rate three or four times higher than it is here. The big papers, like the London papers, which are similar to the New York Times, go for 1 cent a copy and some of those copies weigh a pound. According to statistics in the department the daily papers will weigh about two and a third ounces, and at the rate, if we had the English system here, the rate would be greater; and, as I have said, they carry papers a shorter distance than we carry them here. So it would appear that in Great Britain they have increased the rates for war purposes.

Mr. McANENY. But the British problem is an entirely different one from ours. They have very little mail circulation of newspapers.

The CHAIRMAN. Your paper and every paper I have ever seen—and I have watched this closely—as well as the magazines and periodicals of the country have stated that in Great Britain they can send a pound of paper at a half penny anywhere in the United Kingdom.

Mr. McANENY. I think that referred to Canada.

The CHAIRMAN. No, to Great Britain. I have just read to you the statement of an Englishman, Mr. A. D. Smith, as to why the Canadian rate was so low.

Mr. McANENY. I would like to have the Ottawa opinion alongside of his.

The CHAIRMAN. He is very much interested in Ottawa, and was secretary of the post office department for years.

Mr. McANENY. You spoke of a statement that had been made with relation to several other postal services. The only one I can recall referred to Canada and to the quarter-cent rate—the fact that for a quarter of a cent mail from Canada will go to any part of the British Empire. That is a fact, no matter when the rate was fixed. As to Great Britain, the problem is absolutely different. There is very little news matter carried in the mails in Great Britain. It is a small, compact country and their circulation is almost entirely within the big municipalities and whatever they send outside goes, in the main, by express.

The CHAIRMAN. You are discussing daily newspapers now?

Mr. McANENY. I am discussing only daily newspapers.

The CHAIRMAN. Their average haul, according to the findings of the Hughes Commission, was 255 miles, so that you are well within the third zone.

Mr. McANENY. I should say that the average haul in Great Britain is from 10 to 30 miles, and there is very little of it. It does not amount to anything.

The CHAIRMAN. Do you recall the deficit in Canada on account of carrying the newspapers and magazines?

Mr. McANENY. I do not, but I imagine the Government cheerfully carries it.

The CHAIRMAN. This book states that in a year it was from \$50,000 to \$75,000, while here it is from \$75,000,000 to \$90,000,000.

Mr. McANENY. If the figures that the Post Office Department used in 1908 are still good, it is a pretty severe indictment of that department.

The CHAIRMAN. The Hughes Commission said that the cost of transportation was about 6 cents, but that by the introduction of certain economies it might be reduced to 5½ cents.

Mr. McANENY. But I am talking about their overhead mainly, and the Hughes Commission did not go into the question of their overhead charges. The transportation question was one that was very easily arrived at.

The CHAIRMAN. Do not your overhead charges advance in proportion to the number of your subscribers, and are they not greater than they were 10 years ago? That is one of the reasons you gentlemen want this thing postponed, because your overhead charges, your materials, and everything else, have gone up.

Mr. McANENY. I dare say that it is the experience of every big newspaper that as the circulation has increased and the receipts have increased that the overhead charges have decreased accordingly, and so it ought to be in the case of the Post Office Department.

The CHAIRMAN. You pay your labor a great deal more than you did 10 years ago, do you not?

Mr. McANENY. Oh, yes, but I am not calling that an overhead charge.

The CHAIRMAN. And the salaries of your officers are greater?

Mr. McANENY. The whole expense of getting out the paper is the overhead charge.

The CHAIRMAN. What they call the overhead charge is the proportionate charge that the second class mail matter bears to all of the clerks in the department here, to the postal clerks, the railway mail clerks, the rural delivery service and the carrier service. Those are the charges they say should be taken into consideration when considering the overhead charges.

Mr. McANENY. Surely, but those are charges that fix the cost, the ultimate cost of carrying various kinds of second class matter, but they do not know what they are.

The CHAIRMAN. Do you not think they ought to be increased in proportion to all of the increases that have naturally taken place?

Mr. McANENY. But who can tell whether they have increased or not. Let me read this brief paragraph from the report of the Hughes Commission:

Seventh. That to obtain the total cost of transporting and handling the subclasses of second class mail known as paid-at-pound-rate, free in-county and transient matter, it would be necessary to add to the ascertained cost for the services above mentioned



the shares of these subclasses respectively in the general post office expenses, and miscellaneous outlays not directly assignable for the proper apportionment of which the commission is without adequate data.

And they could not get it.

The CHAIRMAN. They had enough data on the question of transportation to find it was five or six cents.

Mr. McANENY. They could have gotten those charges from the books of the Post Office Department in a day.

The CHAIRMAN. I do not think they could get them in a day.

Mr. McANENY. It would not have taken much longer.

The CHAIRMAN. They might have gotten them in a day but it would have taken weeks to figure it out.

Mr. McANENY. That was a trifling part of their work.

The CHAIRMAN. I might give you what they figured it to be, although you read it yesterday, just exactly what they considered it cost.

Mr. McANENY. The Post Office Department figured out those charges upon their cost, based on what they gave to the Hughes Commission, but the Hughes Commission said it was not able to do the big thing, because it could not get the data, and nobody has had it since.

The CHAIRMAN. The big thing was the transportation charge; they wanted to find out the cost.

Mr. McANENY. I am talking about the function of an investigating committee. They could get that from the books, but their function was to get the other thing.

The CHAIRMAN. These experts have investigated it and they have ascertained almost to the cent.

Mr. McANENY. Which experts?

The CHAIRMAN. Of the Post Office Department.

Mr. McANENY. The transportation and overhead charges.

The CHAIRMAN. No; they have not estimated the overhead charges.

Mr. McANENY. They say now it is \$3.86. That is what they say.

The CHAIRMAN. And they have subdivided it for you.

Mr. McANENY. Subdivided it how?

The CHAIRMAN. According to the various classes of second-class matter, and they say that some of it costs twice as much to carry.

Mr. McANENY. But they do not show what it costs to take one piece of mail to any one place; they have merely lumped everything together, and they charge us for the service to other people.

The CHAIRMAN. Does not the Government, in transporting your mail, pay more to the railroads for carrying it from New York to San Francisco than from New York to Philadelphia?

Mr. McANENY. I really do not know that it does, but I know that they figured out once that it would cost \$3.20 to send the New York times out there.

Mr. DICKINSON. In charging your advertisers do you increase the amount of your charge by reason of the fact that you deliver your paper beyond and outside of New York City?

Mr. McANENY. There are a few classes of advertisers who may pay a slightly increased rate because they get to a greater number of people at a remote distance from the city, but that is a very slight proportion of the advertising in the paper; the advertising in the

main is intended to reach not only the metropolitan district, which comes first, but the great cities of the country, the reading public generally, to be sure.

Mr. DICKINSON. The charge made to the advertiser is largely by reason of your large circulation ?

Mr. McANENY. Well, it is affected in some degree by it.

Mr. DICKINSON. If your circulation were confined to the city of New York your charge to the advertiser would be less than if it extended to distant points to any perceptible degree, would it not ?

Mr. McANENY. Yes; and the business of that advertiser would be less, too.

Mr. DICKINSON. I understand that. Is not the charge made to the advertiser due alone to the extent of your circulation or is it due in part to the cost of sending that advertisement and the paper to distant points, to points outside of New York City ?

Mr. McANENY. I beg your pardon. I am afraid I did not catch the question. Will you kindly repeat it ?

Mr. DICKINSON. Does it cost your paper more to send it outside of New York, to Philadelphia, to Denver, or to various points, than it does simply to deliver it in New York City ?

Mr. McANENY. Yes; very considerably more.

Mr. DICKINSON. By reason of that do you increase the charge to your advertisers, or do you make it solely by reason of your increased circulation ?

Mr. McANENY. No; we have fixed annual rates for different classes of advertising, and there is no variation in those rates, and they are flat rates.

If what you are after is this—that is, how many advertisers might be affected and the prices they are willing to pay by the drop of circulation through this new law—I will put it in this way, that in the first place our mail subscribers are really scarcely more than 26,000 that go through the mail with wrappers—about 6 per cent of the circulation—and I should say that out of this 6 per cent of circulation we will lose very little—somewhat less than 3 per cent. I do not think that the reduction of that 3 per cent would materially affect the willingness of the advertiser to pay the current rates.

Mr. DICKINSON. When an advertiser makes a contract with you for a given amount he pays more to you by reason of the fact that you take his advertisements beyond the territory of the city of New York ?

Mr. McANENY. That may be a consideration in the minds of a very few that would be benefited by going so far away from the metropolis, but it does not amount to much.

Mr. DICKINSON. The question of additional cost does not cut any figure ?

Mr. McANENY. No, no; I mean that the question of a slight difference in circulation in the remote parts of the country will make very little difference in the advertiser as to his willingness to pay the rate that is fixed. We do not look for any material change there at all.

Mr. DICKINSON. But under this law now, it would cost more to get your paper to the distant points than it does now. Now, would it be fair for the advertiser to pay more by reason of the increased cost of getting his advertisement there ?

Mr. McANENY. Well, if he felt that there was an added advantage in getting it farther by making up this loss, he undoubtedly will do it; but he is not likely for one moment to have that view. He will not pay more than he is paying now.

Mr. DICKINSON. That is natural

Mr. McANENY. His only expense for advertising is on account of the fixed disbursements of his business. This has to be included in his accounting, and when his profits come he has got to regard it, and they have got down to that point now where they can't do more advertising, and they won't.

Mr. DICKINSON. With the increased cost, you expect to put that cost upon the purchaser of the paper at remote points?

Mr. McANENY. Yes.

Mr. DICKINSON. Well, now, if your circulation were to be materially decreased, would the advertiser be likely to say to you that he did not want your advertising?

Mr. McANENY. Where it is materially decreased it will be affected.

Mr. DICKINSON. And the advertiser won't want to pay as much because he did not get it out to remote parts?

Mr. McANENY. He won't pay the higher rate. The only effect will be to decrease the income of the publisher, and, of course, the matter of the tax that will be paid to the Government.

Mr. DICKINSON. And to the extent that the man who has been purchasing the paper declines to purchase it further the newspaper loses, and also the man who advertises loses by reason of the fact that he does not get his advertisement sent out.

Mr. McANENY. In whatever degree that would be the effect, yes. That would vary with different papers and different classes of advertisers.

Mr. DICKINSON. Your newspaper, I think you said, through the grace of the Government which bears the expense, you are able to sell your newspapers in Denver for \$10, and also at a near point in North Carolina for the same amount?

Mr. McANENY. Yes.

Mr. DICKINSON. You sell your Sunday paper, I believe, in New York at 5 cents and the same in Washington at 7 cents?

Mr. McANENY. Yes.

Mr. DICKINSON. What do you sell your daily paper for at these points?

Mr. McANENY. 2 cents in New York and 3 cents here.

Mr. DICKINSON. You sell for the additional amount here because of the additional cost of getting it here?

Mr. McANENY. Partly for that and partly for the reason that in every newspaper office the nearby sales and the out-of-town sales have been held in the balance, the one recouping the other. I mean there has been a larger rate for the out-of-town class, and except for it, the in-the-town class would hardly be able to get along. That has nothing to do with postal rates at all.

Mr. DICKINSON. You don't think the advertiser would bear any of the increase due to the putting into effect of this law?

Mr. McANENY. I don't think he will bear any appreciable part of it.

Mr. DICKINSON. And you will not be able to make a contract easily with him because he will refuse to pay?

Mr. McANENY. I should say quite certain that where he has interests that will be affected by the reduction of circulation in the remote districts he would ask for a lower rate and not offer to pay a higher one.

Mr. DICKINSON. He is interested in having his advertising carried to these remote points, and when he discovers that the purchaser pays more for your paper to carry this advertisement don't you think that the man who wants to get the advertisement for the purpose of selling his goods would be willing to bear a portion of the increase so as not to reduce circulation?

Mr. McANENY. No; I think he would regard only the reduction of circulation and ask for a decrease in rate. He would not want to adjust it by paying part of the decrease.

Mr. GREEN. Mr. McAneny, this is a matter that I do not inquire into, because it seems to me that if this law goes into effect, you would have a right to put those charges where you want to, and if the subscriber did not want to pay the rate, he would not have to take the paper. But I want to get at this matter fairly and my views in some respects may not accord with some of the other members of the committee. You speak about this overhead not being determined definitely, but being merely an estimate on the part of the postal authorities, as I think it is.

Mr. McANENY. Of the total second class?

Mr. GREEN. Yes.

Mr. McANENY. They have not even in their estimates attempted to subdivide their estimates according to the subdivisions of the second class.

Mr. GREEN. What part of the second-class matter would have a smaller overhead than the newspapers?

Mr. McANENY. Well, I think there would be very few. I think there are a number on which there would be a higher overhead charge than the newspapers.

Mr. GREEN. Can you specify some?

Mr. McANENY. I am afraid I can not with much safety. It is a very involved question, but the Hughes Commission points out in various parts of its report the distinctions that exist, and admits its inability to deal with them.

Mr. GREEN. Undoubtedly, but I would have thought that you, coming before us at this time, if the overhead was less on the newspapers, would be able to show us why.

Mr. McANENY. It is part of my plea that we ought to have an opportunity to have an inquiry that will bring out the facts. We can not show you why because we do not know.

Mr. GREEN. If you do not, who does?

Mr. McANENY. It has been stated by various commissions in various terms that there are various distinctions, but the Post Office Department has not yet undertaken, or been able to apportion these charges between the several classes, and the only way to do that would be to determine what they are.

Mr. GREEN. Yes. Well, now, you people have had a year, and you come in here and don't have anything?

Mr. McANENY. We can't find it.

Mr. GREEN. Can't you?

Mr. McANENY. Of course not. The experts of the Post Office Department, to whom the chairman refers, must find it, and I think they ought to be aided by experts from the outside.

Mr. GREEN. They won't give you information?

Mr. McANENY. The Hughes commission had Mr. Waterhouse.

Mr. GREEN. These experts won't give you any information about it? Did any of you go to these postal experts and try to look up these matters?

Mr. McANENY. Yes.

Mr. GREEN. To whom.

Mr. McANENY. We have asked the Postmaster General to give the subdivisions of cost of second-class mail, and he says it can not be done at the moment because it has not been ascertained. He said it would cost a lot of money to ascertain it. Personally, I think it would be worth the outlay.

Mr. GREEN. There is a question whether it could be ascertained with any great degree of accuracy. I hardly see how it could be.

Mr. McANENY. Judge Hughes thought it could be, and suggested the establishment of a system of cost accounting that would show that. That was 10 years ago and it has not been done yet.

Mr. GREEN. I know what he said, but now with reference to another statement of yours that I hardly understood. Possibly I did not understand your talk. But I thought you said that these present rates resulted in no gain to the newspapers.

Mr. McANENY. Resulted in no financial gain to the newspapers. They do result in some increased circulation, and in the satisfaction of their being able to serve that circulation, but that circulation does not turn in any profits to the newspapers.

Mr. GREEN. Then, if the rates had remained at the higher point that they were before these reduced rates were made, the newspapers would have suffered no financial loss?

Mr. McANENY. If they had remained at the higher rates?

Mr. GREEN. Yes; that were established a long time ago before these reduced rates went into effect.

Mr. McANENY. That was 33 years ago. I am afraid I can't tell you what the conditions were then, or how they would have been affected by one policy or the other. I know that the cheapening of the rates, from the date of the cheapening of the rates in 1885, the business of the newspapers has gone bounding, and that it began from that year to increase its revenues from all sources.

Mr. GREEN. Pardon me, when I ask a question; it seems to me sometimes you start to ask something else.

Mr. McANENY. No; you asked me what I thought the effect would be, and I answered at that time when the rate was reduced—

Mr. GREEN (interposing). Let us drop that, and then get it into some form so that there won't be any trouble about it.

Mr. McANENY. Go ahead.

Mr. GREEN. If there is no gain to the papers by reason of these rates, then there would be a loss by reason of their being advanced?

Mr. McANENY. There would be no direct loss to the papers, so long as the subscriber pays the rate, as he does to-day.

Mr. GREEN. I just wanted to get your view about it, because most of the newspaper men that have spoken to me about it have considered that there would be a very considerable financial loss to them by reason of this proposition.

Mr. McANENY. I think that those publishers who in the early consideration of this matter thought of attempting to carry the loss them-

selves may very well have told you that that would have resulted disastrously to them. I think that as the effect has become more clearly understood there is an almost universal recognition among publishers of the fact that they have got to take the other course and put the increase upon the subscription, that it would be almost impossible for them to carry it themselves. There will be individual exceptions, possibly, to that rule, but they are few.

Mr. GREEN. But the point is that on the whole those that talked with me thought that they were going to suffer financial loss.

Mr. McANENY. Well, they had the alternative, I mean it is optional to them as to which course they will take. My understanding is that almost universally they take the course of losing circulation rather than assuming a tremendous loss of revenue.

Mr. GREEN. That loss of circulation results in a financial loss?

Mr. McANENY. Not compared to the loss that will result from consumption of these charges.

Mr. GREEN. Can you answer these questions directly?

Mr. McANENY. Well, I trust so. What ailed that answer?

Mr. GREEN. Why, it was not a direct answer.

Mr. McANENY. Try again once more.

Mr. GREEN, No; I think I will stop.

Mr. McANENY. Seriously, I wish you would.

Mr. HAWLEY. Mr. McAneny, do you know why the Hughes Commission, who found certain difficulties in the matter, did not proceed to solve those difficulties to a final conclusion?

Mr. McANENY. Well, they were appointed for a temporary purpose, of course, to investigate and report, and when they reached the end of their ability they reported that fact.

Mr. HAWLEY. They did not have the necessary authority to go further?

Mr. McANENY. Simply an investigating body.

The CHAIRMAN. Is Mr. Walters present? If not, do you other gentlemen of the newspaper association wish to be heard. If so, we will come back here in the afternoon, or if you prefer we will put it off until Monday.

Mr. McANENY. I would not take more than 5 or 10 minutes to finish what I have to say.

The CHAIRMAN. Pardon me, I thought you had finished. Go right ahead.

Mr. McANENY. In view of the length of the hearing and the multitude of things that we have covered, perhaps you will pardon me a brief word by way of conclusion.

After all, our final word, Mr. Chairman, is the repetition of our urgent request that for all the reasons that have been brought out here this matter be held in suspension until a more fortunate time. I trust that you will pardon me if I will put it that the newspaper press of the country feels that it is entitled to make that request. The conclusion can not be avoided by anyone concerned that these increasing prices must be borne by the individual newspaper subscriber. It will be an inevitable result that corresponding decreases of circulation will occur. The loss of that circulation at this time will be a thing so injurious to the Government and to the country and to the people that we protest it should not be seriously permitted. The Government is asking for large sums of money, asking for more

than this bill would yield in the first year from the newspapers for the purpose of a publicity bureau. It is preparing material through other bureaus. It is using all these agencies to get material before the people through the final agency of the press. We submit that at such a time that it is a thing that will actually hurt us, hurt our war activities, and reduce the circulation of the press.

We come back frequently, we have certainly here, to that question of a subsidy to some one. We feel we have shown you in the analysis of figures that there is no gain to the newspapers through these rates in money; that on the contrary it costs us more to carry this circulation in the districts served in the mail than it does in the district served by the carrier and the usual city methods.

I am going to read these figures by way of final illustration of that fact. We used Mr. Garner yesterday as a sample, but proceeding beyond his zone to the next farthest where the present net receipts a year upon each subscription that we serve is \$7.12, the net rate proposed for the first year would reduce that if carried by the paper to \$4.76, in other words, more than \$2 less than we receive in New York City for the same commodity. The new rate in the second year would reduce the net receipts to the paper from that subscription to \$2.50. The net receipts of the third year would be 42 cents, and in the fourth year there would be a minus amount of \$1.66. Now, when we have shown that the present receipts are all the newspaper can afford to take for that service, can it be argued for a moment that any paper could accept a scale like that and continue to carry the cost of postage itself. It can not be done. These figures and demonstration can be amplified. It is sufficient to say that the newspaper publishers themselves have examined it, and they find no other course, and naturally they will announce, the great majority of them, certainly all of the larger papers, that this must pass to the subscriber. We do not think that the committee should fail to recognize for a moment that it is there that the loss must fall, that it is there that the loss of service must fall, and that that is a matter between the Government and the newspaper reading public, necessarily more than it is between the Government and the newspaper publishers.

May I repeat what is, of course, the obvious fact, set forth in the report of the Postmaster General, that this is not a war tax, but that it is an increased charge of service, and that, of course, it will have no place definitely in the plans for the raising of war revenue. May I repeat that the increased profits that the Post Office Department has estimated which in turn will be subject to the reductions of the greater cost to them, would be one four-thousandths of the amount that you set out to raise in a new revenue bill.

May I repeat, or assert, as I have not previously referred to it, that the reduction of the output of newspapers entailing, as it will, a considerable reduction in the amount of labor that is performed within their plants will mean very serious losses to labor, which I understand labor itself has recently recognized in the statement made a few days ago by Mr. Gompers.

May I ask again whether in view of the complete derangement of the newspaper industry, so far as its mail service is concerned, this will involve these losses of service that are of national consequence and innumerable other by-results that I have mentioned but

which I will not tire you with. Is it worth while to do this in exchange for the theoretical return of \$2,000,000?

And finally, may I respectfully at least refer, Mr. Chairman, to the fact that when this bill was passed in October, and was received in the Senate from the conference committee, that the chairman of the Finance Committee, Senator Simmons, as we supposed at the time representing in effect Congress itself, used this language:

I do not believe that we ought to tax these facilities for the purpose of defraying the expenses of the war. That has been my view all the time. Entertaining that opinion about it, I felt that the adjustment of postal rates was not a matter for the Finance Committee, but was a matter for the Post Office Committee. I was glad, therefore, when in conference we were able to write into the terms a provision now under discussion—the provision that the tax now imposed should not take effect until July, 1918. I trust, Mr. President, that before that time arrives, the Post Office Committee will work this matter out in a more satisfactory way than your committee or the conferees have been able to work it out.

That assurance given to the newspapers has never been contradicted, but the effort of the publishers to secure attention for their proposed changes in the plans, for their proposed corrections of what they considered to be unjust or unfair or unworkable, have been up to this time practically without result. The hearings given in the Senate brought out in the main only the fact that while the committee favored suspension and while the majority of the Senate apparently did, for parliamentary reasons an amendment carrying suspensions could not be brought to a vote, as you know, and as I stated in opening yesterday, it is for that reason that we are here first having brought the matter to the attention of the Postal Committee on the assumption that it would resume its functions in this matter when permanent changes are in question. We were advised that it would be better to present it to the Ways and Means Committee, and upon receipt of that advice we cheerfully came here.

Therefore, gentlemen, the fact that it is late in the day that this plea is made to you is a matter due to circumstances that we could not control, and there still remains time in which to order this suspension, and we urge upon you with all vehemence, gentlemen, that the suspension shall be ordered. I have in response to Mr. Garner's questions given repeated assurances on behalf of the publishers that they would cooperate in the framing of any plan that is to be put in place of this and that they will recognize promptly the reasonable character of any such plan. Upon that assurance we leave the matter with you.

The CHAIRMAN. When you have concluded, I would like to make a statement. It was not the understanding of the House conferees on the present revenue act, nor do we understand that it was the understanding of the Senate conferees that this provision of the postal rate would be simply temporary and put in there just to get a bill, and that it was going to be reconsidered at the succeeding session before July 1, 1918. The House conferees understood it very thoroughly and it was never asserted to the contrary, that that was a well-worked-out proposition of the experts in the Post Office Department. We discussed it for two days. We had Mr. Kuhns, and I think Mr. Stewart—I am not certain of Mr. Stewart—before us, and that proposition went into the bill as a settlement of the question, in so far as we thought was to be a permanent proposition, so far as going into operation, and after it went into operation and the matter



was tested, it was for future Congresses to repeal, amend, modify, or do what it pleased with it. It was not the understanding that it was temporary so that the bill should become a law, and that in the meantime, from April 3 until July 1, 1918, on which it was to begin to operate, Congress would reconsider it again.

Mr. McANENY. In other words, Senator Simmons's understanding of the matter was not your understanding?

The CHAIRMAN. No.

Do any of your gentlemen want to be heard this afternoon or Monday? I think Mr. McAneny has covered the ground for everybody.

Mr. McANENY. The most of the committee have been obliged to leave before this.

The CHAIRMAN. Suppose we come back this afternoon, or would you prefer Monday morning? Do you prefer this afternoon or Monday?

Mr. MOONEY. Whatever is the pleasure of the committee. If you can get the committee together, this afternoon would be preferable.

Mr. McANENY. I want to add this brief word for the record, that while we have appeared here in favor of a suspension of the provisions of the present act, we have made no representations with regard to your new revenue bill. That has not been our purpose. We have been discussing the present situation. But if in any way measures are considered in connection with the new bill that do affect our interests, we shall naturally wish to be heard again. We have nothing ourselves to propose. We are here in this matter as an established bit of postal legislation.

The CHAIRMAN. Mr. Palmer, let us correct this right now. It leaves a very wrong impression. The stenographic report is that Mr. Palmer said there was an assessment of 20 per cent authorized on paper tonnage. He meant 20 cents a ton.

Mr. McANENY. How much has been realized from its assessment?

Mr. PALMER. I do not know. The request was sent out only a short time ago, and checks have been coming in.

Mr. McANENY. As high as \$10,000 or \$15,000?

Mr. PALMER. I think it was \$17,000.

The CHAIRMAN. It appears here that it was about \$6 a ton.

Mr. McANENY. It is a third of 1 per cent of the value of the tonnage.

The CHAIRMAN. We will be back at 2 o'clock.

(Thereupon, at 12.45 p. m., the committee took a recess until 2 p. m.)

#### AFTER RECESS.

(The committee met at 2 p. m., pursuant to adjournment.)

#### STATEMENT OF MR. L. T. WORTHAM, STAR-TELEGRAM, FORT WORTH, TEX.

Mr. WORTHAM. Mr. Chairman and gentlemen of the committee, I really did not anticipate appearing before you at all. I have no statement to make that would be of value to you further than what may be embraced in the following statement, namely, that I represent the Southern Publishers' Association and others here, and along with the Southern Publishers' Association, the Inland Publishers' Association.

- I want to state that we have all the time been for the zone method, and we have been ab initio for that method, and that we are for that method now. The only difference between us and the committee consists of the fact that the committee has a narrower limit to its zones than we have been contending for. I presume that all of you are familiar with the McKellar amendment, which has often been referred to and sometimes discussed by you. We stand for the 300-mile zone; the 250-mile zone as a compromise.

We are all opposed to the tax on advertising matter, because we think we know that any attempt to segregate advertising matter from reading matter would prove not only vastly annoying but impractical.

Mr. GREEN. Will it disturb you if I ask questions?

Mr. WORTHAM. No, sir; just go right ahead.

Mr. GREEN. I just wanted to get at your idea. Then, as I understand you, you favor the zone system, but with no distinction between the advertising and the reading matter?

Mr. WORTHAM. Yes, sir.

Mr. GREEN. And the first zone you would want to have commence where?

Mr. WORTHAM. We would like to have it extended, because we believe—

Mr. MOORE (interposing). Well, I think it ought to be myself.

Mr. WORTHAM. We insist on its extension for the reason that we think that the Government can transport our product well within 1 cent a pound. We may be mistaken about it. If convinced that we are mistaken, we are willing to abide by the consequences of our mistake.

Mr. GREEN. The reason why I think it ought to be extended—and I do not know just how that would commend itself to you—but the reason why I think it ought to be extended is that a very large part in the first zone, and even the second zone, as we have it now, is overhead, and as applied to those zones—and possibly further—it would seem to me that it would not be advisable to make the distinction between advertising matter on the one hand and reading matter on the other, because this would be just the same without advertising as with the reading matter.

Mr. WORTHAM. To be sure.

Mr. GREEN. And so far as that is concerned it is the same, the overhead is just the same; that is to say, if you are delivering a paper to a particular individual and another one there, it will cost just as much for that delivery whether there is advertising in it or whether there is not.

Mr. WORTHAM. Exactly. We predicate our advertising receipts on circulation almost wholly. No other element enters into the taxation of our advertising rates save and except the number of subscribers to whom the advertising is carried. It is measured obviously by our circulation.

Mr. GARNER. Mr. Wortham, you say your association believes in the zone method of collecting revenue for second-class matter?

Mr. WORTHAM. We do.

Mr. GARNER. Are you perfectly willing to adjust the rates according to the cost of doing the business?

Mr. WORTHAM. Yes.

Mr. GARNER. Your only contention with reference to the first, second, and third zones—that is to say, 300 miles—is because your association believes that 1 cent a pound will cover the cost for the first 250 miles?

Mr. WORTHAM. That is true; that is our case.

Mr. GARNER. If a thorough investigation should arrive at a different conclusion, you would be willing, your association would be willing, for Congress to levy the rate that that information might reveal?

Mr. WORTHAM. Yes, sir; with this proviso, our association would look upon the figures that have already been submitted from high-ups with some degree of reluctance. If the Government can show in good faith that it costs more, then we are willing to pay more.

Mr. GARNER. But I assumed that they arrive at a correct conclusion. As to what it costs to handle the second-class matter, and based upon the zone system, your association is perfectly willing that that rate should be applied by Congress?

Mr. WORTHAM. I think so.

Mr. GARNER. Your other criticism of the present law is that it is impractical to fix a zone system on the advertising and a flat rate on the reading matter?

Mr. WORTHAM. For this reason. Let me give you an illustration. My paper has a circulation of 67,000, according to the last report. That paper circulates; a pound rate would carry it to practically the limit of its circulation. I want to deal fair and square with this committee about that. Now, we get out eight editions a day of that paper. We have adopted a method of adjusting our editions to our mail schedule. We were one of the first newspapers, and the only paper in Texas for a long time, to abide by that system of adjustment. It is not necessary to go into why we did it. That is not interesting for you. But if we had to segregate the percentage of reading matter from advertising matter, or vice versa, on each and every one of those editions, we would have to have a very thoroughly organized and numerous auditing department.

Mr. GARNER. Do you recall the provisions of the bill that was reported to the House by this committee?

Mr. WORTHAM. Yes, sir.

Mr. GARNER. The only objection that I understood you to have at that time as to that bill was the question of the charges on the first 300 miles.

Mr. WORTHAM. Yes.

Mr. GARNER. And if that had been adjusted, it would have been satisfactory to your association?

Mr. WORTHAM. Yes.

Unless some member of the committee desires to ask me further questions I am through.

Mr. SLOAN. I was very much interested in this legislation. A year ago there was proposed a flat rate, I mean an increased flat rate, which I did not think should have been done, and I understood the newspapers were favoring the zone system. For that reason, among others, I took a great deal of interest in the work of the committee, and the work on the floor with reference to establishing the zone system, understanding that the newspapers were in favor of that system as against the increased flat rate. Is that correct?

Mr. WORTHAM. Yes, sir.

Mr. SLOAN. I understood that they continued in that frame of mind until the magazine folks became very much interested in it.

Mr. WORTHAM. Why, my dear sir, neither the Inland Publishers Association nor the Southern Publishers Association ever changed its mind one jot or tittle on that proposition.

Mr. SLOAN. The newspapers of the United States generally are in favor of the zone system?

Mr. WORTHAM. Yes.

Mr. SLOAN. This opposition that we are hearing so much about through propaganda is the opposition of the magazines, is it not, instead of the newspapers of this country?

Mr. WORTHAM. I have no opposition.

Mr. SLOAN. I mean to the zone system.

Mr. WORTHAM. Opposition to the zone system? Yes, sir.

Mr. SLOAN. And so I am correct in understanding that this deluge of protests that we are receiving from all sources condemning generally the zone system is not sanctioned by the newspapers in the country?

Mr. WORTHAM. I think you are entirely correct. Of course we know how that propaganda has been brought about by these magazine publishers. I would not hesitate to call their names.

Mr. SLOAN. I wish you would, just tell us something about that. I want to tell you first that I was opposed to increasing these newspaper rates—I am not claiming any credit for it—but after the committee had concluded that they were going to raise these rates, I tried as far as I could to temper the wind to the shorn lamb, and then was somewhat chagrined after two or three months of work to find out that that for which we sought was being turned over and repudiated.

We would be pleased to have you go ahead and make the statement you said you desired to make.

Mr. WORTHAM. I will tell you a case that came under my own observation, and I do not care to discuss any other. There is a very enterprising little woman in Trinity County very actively connected with the war charities that is working for the circulation of publications in Europe among our soldiers at the front. She showed me a lot of correspondence the other day from several magazines—I do not remember all their names. I know that the Saturday Evening Post was one of them. I just happened to recollect that—

Mr. GREEN. We would assume that.

Mr. WORTHAM (continuing). In which they claimed that they could not furnish the club rates any longer because the zone system had imposed a burden upon them that was exceedingly and extremely hard for them to struggle along under. The Ladies' Home Journal has been writing its subscribers, and very actively, to protest to Members of Congress. Those facts are notorious. I have no quarrel with the magazines, nor have I any quarrel with the periodicals.

Mr. SLOAN. You may not have a quarrel with them, but I would be glad to know if you have any agreement with them.

Mr. WORTHAM. No, sir; we haven't any agreement and we are not going to have an agreement with them.

Mr. GARNER. The real opposition to the zone system in this country is coming from the magazines and periodicals?

Mr. WORTHAM. Undoubtedly. When the magazines cease to be carried at the flat rate of 1 cent a pound they are going to be small.

The CHAIRMAN. One question on this advertising proposition. believe that we can work it out by an administrative feature, so that it would not be so objectionable. Suppose that the department would just let you take a blank and state just what the average advertisement rate and your reading rate would be. You would not have to go over these seven or eight editions, would not have to count them, but you could keep copies of papers, and three or four days before the expiration of the month you could just run over and see the average for the month, the columns that went into advertising matter and the columns that went into reading matter. You know the weight of the paper to start with.

Mr. WORTHAM. I do not see any very practical way to get the average, because the advertising varies in quantity so much.

The CHAIRMAN. I know you would not go to mathematical precision to see, but say you had 10 columns to-day and to-morrow you had 15 columns, and then you could get your general average a few days before the expiration of the month, your average for the 30 days.

Mr. WORTHAM. I think that would be possible.

The CHAIRMAN. I have talked with a gentleman, a Member of Congress, who was a newspaper man. He said that he had no objection to that, but he understands that the present regulation requires that you would have to do what you said.

Mr. GARNER. The administrative features would remedy that.

The CHAIRMAN. I told him that if we did not remedy it by regulations, we could by provision in the bill, which would eliminate the very objectionable feature that you called attention to.

Mr. WORTHAM. Speaking for myself individually, I would not be disposed to be contentious in the matter if it would be practical to arrive at a general average in a thing that varies so widely from day to day as the volume of advertising.

Mr. SLOAN. Could not the Postmaster General at the end of each month ask you to arrive at your average, he selecting the days, the 5th, the 11th, and 28th of May and the next month, as your representative days the 1st, the 15th, and the 30th, and so on, so that they would arrive at something like what would be an average. The Government does not want to split pennies with you gentlemen any more than you want to split pennies with the Government.

Mr. WORTHAM. If you have dealt with the Government you know the Government stands by its own construction. I am not adverse I would not be adverse individually to some such deviation as that.

Mr. SLOAN. That suggests just a little amendment; that is all.

Mr. HAWLEY. What was the radius you suggested for the first zone?

Mr. WORTHAM. 300 miles.

Mr. HAWLEY. And for the second zone?

Mr. WORTHAM. I do not know. It is suggested in our amendment I have forgotten the distance.

Mr. HAWLEY. Are the distances for the zones greater than in the existing law?

Mr. WORTHAM. I think so; yes.

Mr. SLOAN. Would you have a less number of zones?

Mr. WORTHAM. I think the ultimate was 6 cents and something more. Mr. Woodson, what was our last zone rate?

Mr. WOODSON. Six cents under the McKellar amendment.

Mr. WORTHAM. And what was the last?

Mr. WOODSON. The eighth zone, over 2,000 miles.

Mr. HAWLEY. Are these zones just to be for newspapers or for magazines and other periodicals.

Mr. WORTHAM. All second-class matter.

Mr. HAWLEY. It makes no distinction between newspapers and other periodical publications?

Mr. WORTHAM. No, sir.

Mr. GREEN. With the permission of the chairman, I would like to make an observation here. The gentleman who has last spoken has answered so fully and frankly all questions of the committee, and has been so fair with the committee, that I feel very much like commending his statement.

#### STATEMENT OF MR. C. T. J. MOONEY, MEMPHIS COMMERCIAL-APPEAL, MEMPHIS, TENN.

Mr. MOONEY. Gentlemen, I would be glad if the condition of the New York Times were representative of the condition of all the papers of this association, but unfortunately for the other papers it is not. Now, the paper that I represent is probably more fortunate than other southern newspapers, and the condition of that paper would not be a fair index of the condition of papers generally, but I want to make this general statement about the papers, as I understand it. It is not a fact that the papers of the United States in 1917 were more prosperous than they were in 1916. It is a fact that the papers of the United States now are less prosperous than they have been at any time since the beginning of the war, and we are now running into a very serious condition. I believe that if things keep on as they are started, the tax on advertising in one year will be an academic question. There is all over the country a marked decline in advertising. That decline is first in automobile advertising, it is in department-store advertising, and it is in male-clothing advertising, furnishing goods and things of that sort, for the reason, for instance, in my town because there are 7,000 young men gone out of Memphis and out of Shelby County in the Army and Navy. The clothing stores are beginning to feel that, and they are cutting down. The volume of advertising in the American newspapers generally during the last three months was lower than it was during the same months in 1917. The volume of advertising in the American newspapers for the first three months of the year was much lower, but I think that was because of the extraordinary bad-weather conditions.

Now, it is fact that to the papers generally the price of white paper has been advancing during the last three or four years. Owing to confusion and to lack of organization for a certain period last year, to those papers who did not have any contracts, the price was extraordinarily high. During that time you hear of 5 and 6 cent prices.

Now, the price that our paper has paid for white paper during the last three or four years is probably representative of the prices generally paid by those papers, except the paper of extraordinary size in New York City.

Now, in 1914, the Commercial Appeal paid for white paper delivered in its cellar \$2.23 a hundred pounds. That contract ran for four years, but during 1916, the paper people came to us and informed us

that they would live up to their contract, but they would lose a large amount of money—no, that contract expired in January, 1917. During 1916 we made a new contract and canceled this contract and gave them an advance from that time on with the result that during 1917 we got the paper in our office at \$2.45. That contract expired on the 1st of January, and we made a new contract with the same firm, and we are now paying for paper delivered in our office \$3.35 a hundred, with a proviso that if there are advances in labor and advances in freight rates, that we will have to stand that advance. There will be an advance in freight rates in a few days, affecting southern papers, and you must remember that freights on paper, the average rate in the South runs about 35 cents a hundred.

Mr. SLOAN. Do you have paper mills in your vicinity?

Mr. MOONEY. There are no paper mills in the South. The paper used throughout the South and Southwest is manufactured in Maine or Canada, New England States, northern New York, Canada, or Wisconsin. There is not a newspaper paper mill in the South. Added freight rates would be about 25 per cent yearly on paper throughout the country.

Mr. SLOAN. It is not perhaps entirely relevant, but I ask you this question: Haven't you a great deal of paper material in the South, forests?

Mr. MOONEY. Not of the sort that the finer grades of paper, and even newspaper paper, is made out of. There is a bit of strawboard and heavy board that is made from fiber in the South, but the pulp that is ground in the South is ground out of cottonwood, and that pulp is used for making powder.

Now, the Federal Trades Commission the other day fixed a price on white paper at \$3.10 at the mill. Now, that is a figure higher than the publishers thought it would be. That price of \$3.10 in the mill would run to the publishers in the South and West about \$3.50 in their buildings.

Mr. SLOAN. That would apply only to new contracts, or would it apply to existing contracts?

Mr. MOONEY. This price fixing is done by the Federal Trade Commission, and I think there were certain conditions as to awards that I am not familiar with.

Mr. WOODSON. It went back to April 1.

Mr. MOONEY. It was to go back to April 1. Now, gentlemen, what is true of white paper is true of ink and labor. Contracts are expiring, and we are running into new labor contracts, so that it is a fact that papers throughout the United States are beginning to feel very heavily the added burdens of publication, and there is also a decline in advertising.

Mr. HAWLEY. Does this price that you just referred to compel you to pay advances in labor costs that the contractors require?

Mr. MOONEY. The paper situation is like this, as I understand it: This award was made by the Federal Trade Commission between publishers having contracts with the International Paper Co., which is one of the big companies, and a group of other companies. The company that we have to deal with, and some of the publishers deal with, is another company, called the Great Northern, which is not a party to that agreement or award. The fact is that the Great Northern Paper Co. has been one of the companies that has attempted

to deal as easily as possible with their customers. Our relations with them have been very satisfactory; so much so that we voluntarily gave up a contract that we might have held for about three years and three months.

Mr. HAWLEY. The award does not affect the entire newspaper situation?

Mr. MOONEY. The award affects probably 65 per cent of the consumption of newspapers. The changes that are true as to white paper are true as to ink and labor.

There are some other things about subscription conditions of the papers, the representative papers outside of New York, which are entirely different from those which were outlined to you as applicable to the Times. For instance, the price of our paper in the city of Memphis is 15 cents a week, or \$7.80 a year.

The CHAIRMAN. That includes your Sunday issue?

Mr. MOONEY. Yes, sir. For \$7.80 a resident of Memphis gets his paper delivered into his house. The price of our paper to the mail subscriber who orders his paper direct from the office is \$7.50 a year. It happens to be 30 cents cheaper; the daily without the Sunday correspondingly a little lower. Now, we have another rate on the paper, and that rate is probably applicable to a great many other southern papers and papers not printed in Chicago or New York. A great many papers have what is known as a rural free-delivery rate. Our rural free-delivery rate for the paper is about \$4.20, exclusive of the Sunday. Those are about the rates that apply to the morning paper subscriptions generally throughout the country.

Now, as to the division of circulation: Our paper has 90,000 daily and 130,000 Sunday. Of the dailies, I think, probably about 22,000 are delivered within the city of Memphis. The remainder go throughout the country. I think probably 35,000 of the remainder—yes, 40,000 of the remainder—go thorough the mails. The balance go by express.

Of the Sunday circulation of 130,000, about 30,000 are in the city, about 10,000 go by mail, and about 40,000 by express.

Mr. COLLIER. There is a train which leaves Memphis which goes down through Jackson and New Orleans and gets into Jackson about 8 o'clock or 8.30 which carries your paper.

Mr. MOONEY. Yes, sir.

Mr. COLLIER. Now, does that paper go to places like Winona and Grenada? Does that go by mail there or by express to Jackson and Vicksburg?

Mr. MOONEY. It goes by mail to Jackson; it goes by mail to Vicksburg; it goes by mail to Winona. It might on that particular train. Most of the papers go by mail, because it is a night train, and the deliveries are only made at stopping points.

Mr. COLLIER. Your paper sells on the streets at Memphis for how much?

Mr. MOONEY. For 5 cents a copy.

Mr. COLLIER. Just the same as Vicksburg?

Mr. MOONEY. But we have no street sales to amount to anything. We do not sell 300 papers a day by newsboys. They all go into the homes, hotels, and news stands. The paper is sold to dealers, who sell it for 5 cents, for 2½ cents.

Mr. COLLIER. You have the same sale on the streets of Memphis as in Vicksburg or Jackson?



Mr. MOONEY. Just the same. Our situation is a little bit different than it is with other papers. As you know, we have two trains we subsidized. At the outbreak of the war the Southern Railway took off a train which we have had for 25 years running from Memphis to Huntsville, Ala. We have secured that train to go from Memphis to Sheffield, for which we pay \$1,200 a month to the Southern. Now, we are paying for that train and we are furnishing that train to the United States and to ourselves, and we are also paying the Government postage on that train for hauling our papers.

The CHAIRMAN. How much do you pay?

Mr. MOONEY. \$1,200 a month to the Southern Railway. It was estimated that the train would cost a certain figure. The Southern Railway said it would run at a deficit, if it depended only on its passengers. So we made a contract by which we agreed to make that deficit good, of about \$1,200.

Mr. COLLIER. How about the I. C. trains that run down there?

Mr. MOONEY. We made a contract, guaranteeing them as to loss running from Memphis to Jackson. It didn't lose anything.

Mr. RAINEY. How much have you paid under that guaranty?

Mr. MOONEY. Nothing; we just guaranteed them against loss.

Now, gentlemen, we also have a weekly newspaper that has a circulation of about 100,000. That paper circulates all over Texas and Mississippi and that country down there.

Now, just one more thing and I am through. All of our papers, save a thousand single wrappers, are handled by the office itself. The only thing the United States does for us in the handling of our papers is to haul them. We load the papers into the car, and for about three-fourths of our mail subscribers we load into cars in bundles, and they are unloaded at distribution points and do not go through the post-office, and I submit that with a paper such as ours; 1 cent a pound within the limit of 150 or 200 miles, is certainly remunerative, when the fact is that the only thing the Government does is to haul those papers in a car. We do everything but weigh them. We route them; we deliver them by our own wagons, and our men get them at the end of the route. We could take those papers to the post office and post them one hour before train time and the Government itself would have to haul those papers from the post office to the station.

Mr. GREEN. I am not sure that I quite understand. These papers are not distributed by the Government on their arrival?

Mr. MOONEY. I said that about two-thirds of our daily mail circulation is handled in that way. For instance, Grenada, Miss., it may be, has 300 circulation. Three hundred papers are put in a bundle and are sent by mail to the agent at Grenada. The agent for the paper is there and he takes them out of the car and they do not go through the post office at either end. All the Government does is to transport on the train.

Mr. GREEN. Transport them in a bundle?

Mr. MOONEY. Yes, sir; they are not addressed at all. The agent at Grenada, Miss., has an order with us for 300 papers and we send them by mail.

Mr. GREEN. I think that 1 cent a pound is enough for that, or perhaps too much, for that particular distance, shipping them in bundles.

Mr. MOONEY. For the distance, I believe seriously that the average daily paper which has a circulation within a radius of 100 miles of the city of publication, handled as our paper is handled, is not a loss to the Government.

Mr. SLOAN. You would favor the zone system, then, would you not, as applied to your system of distribution?

Mr. MOONEY. Well, I think if it is the feeling of the Government that the newspapers are not paying enough postage, that a zone system is the most logical and the fairest. I do think this about it, that the question of the services rendered by newspapers should apply to the extreme zones, and I believe what Mr. McAneny says about services, etc., and about the advantages that come to the Government and to our educational advantages, etc., might be argued to bringing down the far zones. I submit that probably a 5-cent postage on a paper to San Francisco is a little high, and deprives San Francisco of the illuminating influence of New York.

The CHAIRMAN. How much would you think would be a fair rate from New York to San Francisco?

Mr. MOONEY. I do not know.

The CHAIRMAN. It really ought to be more than is charged within a radius of 150 miles.

Mr. MOONEY. Once you get a zone system, certainly it ought to be. But I do think this: You take in telegraphing, the telegraph companies on their message tolls will sometimes send a message cheaper we will say, from New York to Chicago, than I might send a message from New York to Scranton. There are more trunk wires to Chicago and the facilities are better, and the wire conditions are better, and once the loading is done, and once the overhead is cared for, probably the added 1,000 miles of the 3,000 to San Francisco could be much cheaper done than the first 1,000 miles.

Mr. SLOAN. The zone system, whether it is in this bill or is in the parcels post, does carry that feature. The further the zone the greater the radius.

Mr. MOONEY. I know; true, but you take your zones in your zone system, your advertising in that San Francisco zone would be pretty heavy. Of course, it will not affect us because our circulation is all within a radius of 400 or 500 miles, except we have some circulation in England. Our paper is peculiar because it is a cotton paper, and wherever there is a cotton spinner in Europe he gets our paper.

Mr. COLLIER. The biggest part is within 400 or 500 miles?

Mr. MOONEY. Yes; within 400 or 500 miles, or thereabouts.

Mr. COLLIER. Mississippi?

Mr. MOONEY. Through Mississippi, north Alabama, west Kentucky, west Tennessee, and Arkansas. We have some very distinguished citizens within our circulation.

Mr. GARNER. I don't want you to appear from a selfish standpoint in your defense of what is known as the McKellar amendment. If a thorough and accurate investigation of the cost of transporting your paper 300 miles or 150 miles should show that the present rate ought to be increased, you as a patriotic American citizen would say, I take it, that that rate ought to be levied.

Mr. MOONEY. Ought to be raised, certainly.

Mr. GARNER. And your only object in suggesting the McKellar amendment was to have a thorough investigation to arrive at a correct conclusion that the rate suggested in that would pay the cost of handling your paper through the post office.

Mr. MOONEY. So far as my particular paper is concerned I rather believe that it is not at a loss to the Government, but generally, yes.

Mr. GARNER. I want to get your viewpoint. If I get it it is——

Mr. MOONEY (interposing). We southerners are a little different from our friends in the East. We are a little sensitive about this intimation that we wanted, or are enjoying, a subsidy. We are greatly against subsidies. I have heard many a speech down South about that.

But now, just one more suggestion, and then——

Mr. SLOAN (interposing). Right there would you state what the McKellar amendment was? You are familiar with it? It has been spoken about a number of times.

Mr. MOONEY. It was one of the bills in the Senate.

Mr. SLOAN. Yes, I remember; but I would like to have it go into the record; but if you are not ready, I will withdraw the request. The chairman will furnish it for the record.

Mr. MOONEY. I do insist, gentlemen, that as to the handling of the daily newspapers, the daily newspaper's relations to the post office, is entirely different from the relation of any other sort of publication, that is, in the second-class rate, but as much of the initial work, much of the work at the beginning of the transportation, that is done entirely by the newspapers. For instance, it is a fact that our paper, and about nine-tenths of the other papers throughout the South, are delivered for the most part to the trains themselves out of the newspaper office, and the Government never sees these papers at all.

Mr. GARNER. After a thorough investigation, if we should arrive at the exact cost of transporting the daily newspapers, if we should arrive at the exact cost of transporting magazines, and another cost for trade papers, then as a public policy would you think that Congress ought to levy a tax or rate of postage that would remunerate the Government to the extent of its expenditure?

Mr. MOONEY. Well, no, because I do believe—of course, everyone thinks his own chicken is the whitest, you know—but I do believe, and I do submit that there is a certain service that the American daily newspaper performs, I believe that it discharges certain citizen or policy obligations to the Government, and that if the circulation in breadth of that paper is stopped, that the Government ought to take into consideration how much of a burden can that paper stand in its circulation being materially reduced. Now, I have no sympathy with those who say that they do not want the postage increased because they want to keep their money. We do not want to make any money out of the saving, understand, but I do submit that the American newspaper to-day is doing a work, and I do submit that the American press has always done a work, that entitles it, for the benefit of the Government itself, that would warrant the Government itself in making it so that those papers should have a reasonably wide circulation, so that if they are of any educational use and any intelligence use, the citizen may get the benefit thereof.

Now, as to the tax on advertising. The fundamental objection to the tax on advertising on the part of the newspaper publisher is this, that you have taken a branch of our business, which we hold to be as legitimate a business as the business of selling hams or meat or meal or flour or any other sort of business that is dealing in a necessity, and you set that aside in a class by itself along maybe with cigarettes, and cigars and liquor, perfumery and things of that sort, and levy a tax upon it. Now, it is our contention that the newspaper advertising is a business as legitimate, a business entirely necessary in the development and the carrying on of the commerce of this country. We hold that a newspaper advertisement is simply a salesman, a drummer, as we call them down South, in type. Now, it is a fact, as you gentlemen who are lawyers know, that 25 or 30 years ago there was an attempt in a great many cities to tax drummers, to give drummers a license you know. That case finally went up to the Supreme Court of the United States, I think from Memphis. It was decided that you could not tax a drummer, you could not put a tax on a traveling salesman, that his business was just as much a business as any other, and we very properly feel that the newspaper advertising has been singled out and that the frame of mind in which you singled it out was one in which you did not regard it as a necessary or a useful business. Now, so far as we are concerned, and the other papers are concerned, of course, they all say it, but we have proven our faith by our work. Our income tax returns—I happened to see it the other day—amounted to \$43,000, and then there is our corporation tax and the other taxes that the Government levies. We would be entirely willing—this postage the first year will go about \$12,000. I would rather for the principle of it give the Government \$80,000 through the income tax than have to the advertising taxed this amount of money, and put it as a tax upon advertising. Slap a tax on picture shows, etc.

Mr. SLOAN. You do not say that it would be unconstitutional to tax advertising?

Mr. MOONEY. I am not saying that it will. I am not raising that point, with our printed salesmen.

Mr. SLOAN. I am not in favor of the advertising tax, but I think it is constitutional.

Mr. MOONEY. I am not a lawyer and only a layman as to the Constitution. But I say, though, that the advertisement is merely a traveling salesman in type. As to the advertising itself, gentlemen, in about a year, if we keep on as we are going, we won't be worrying much about advertising, though we will be worrying because we do not get it.

The CHAIRMAN. I think your illustration is pretty good about printed matter being like a traveling salesman, but now that the Government has got control of the railroads, would it be principle or policy to require every traveling salesman to pay one-fifth of what it would charge me to go on the train?

Mr. MOONEY. No.

The CHAIRMAN. And take your illustration about meat, hams, etc.; do you think the Government should, if a man sent a ham by parcel post, take the ham at a flat rate all over the United States, and all other articles should pay the parcel-post rate from 5 to 13 or 14 cents a pound?

Mr. MOONEY. No; but there is another phase of the newspaper. You do not regard it as a business, but regarding it as a business, I think it is a legitimate business. And there is another function about advertising, also, that I wanted to say a word about. I intended to come to it. That is, that the advertisement itself has a news value and enters into the life of the paper itself, and for that particular reason we feel that to make this distinction is an attitude toward advertising that certainly the newspapers do not have, and what we think our representatives ought not to have.

The CHAIRMAN. What rate would you favor? You get in the first, second, and third zones, 1 cent; in the fourth, 2 cents; fifth, 3 cents; sixth, 4 cents; seventh, 5 cents; and the eighth, 6 cents. Take the sixth zone, 4 cents. Suppose a paper was going to this zone and had 50 per cent advertising and 50 per cent reading matter. This would be 2 cents for the advertising and 2 cents for the reading.

Mr. MOONEY. It would depend upon the amount of reading matter as compared with advertising.

The CHAIRMAN. I say 50 per cent reading matter and 50 per cent advertising matter. It would be 2 cents for advertising matter, and 2 cents for reading matter. Or suppose that you had 60 per cent reading matter and 40 per cent advertising matter, then the advertising matter would be 1.6 cents and the other at 2.4 cents. We are asking simply that the man pay a tax on the advertisement. If the proposition were to levy a tax on the receipts that the paper gets for the advertisement, I am with you. I don't believe that is right.

Mr. MOONEY. But, Mr. Chairman, even when you have made a differentiation between advertising and news in a paper, isn't it a fact that it was a tax?

The CHAIRMAN. Just as an increase in postage. I assume that one of the reasons for that was to answer the argument that the magazines and newspapers have made that these were instruments to sway intelligence and carry information and general welfare, and I think that was one of the reasons why it was finally decided in conference to put a flat rate on matters of intelligence and information, and to apply the zone rate to the commercial portion of the paper, the advertising portion. I think that was one of the arguments that was presented to Congress at that time.

Mr. MOONEY. At the same time, coming back to your working proposition, it would not cost any more to haul the advertising section.

The CHAIRMAN. Personally, I preferred not to separate them, and the House conferees preferred not to separate them, but to carry out your idea that there should be one charge for the paper regardless of whether it was advertising matter or reading matter.

Mr. MOONEY. It doesn't cost any more to haul this section with the reading matter, and our position is that one is necessary to the other, and that the whole newspaper itself is in these days of cheap circulation necessary.

The CHAIRMAN. Here are seven or eight pages of advertisements in the New York Times. Now, you take all the pages of advertising and put them together separately and it would cost to send them out from 8 to 14 cents a pound, but when you take that same advertising, that same ink, that same reading matter, and put it with the reading matter, it goes out for 1 cent a pound. There is your proposition.

Why should these same advertisements, on the same paper, the same columns, and the same print, and everything, standing alone cost 8 cents a pound to go through the mail, when you connect it up with a few pages of reading matter, that same advertisement should take a rate of 1 cent a pound. Here is the Saturday Evening Post, with 60 per cent advertising. You give that Post a stamp, and you have the same wrapper and the same paper and the same advertisements, and the same print, and everything, and let either their advertiser send that through the mail it will cost from 8 to 14 cents, but when you just take that same thing and put it together with the reading matter of the Saturday Evening Post, it goes through the mails for 1 cent. That is what bothered the conference.

Mr. MOONEY. I do not see why it should have bothered them, because I submit I know little about the Saturday Evening Post, except as any other reader knows, but even with 60 per cent advertising and 40 per cent reading matter, the Saturday Evening Post itself would not get that advertising if it did not have that reading matter; and the whole thing must be considered as one. If the Saturday Evening Post did not send out good reading matter it would not have any advertising at all, and it is a fact that the advertising in the United States is based on the character of the paper itself, and the character of news the paper carries, and the amount of circulation that the paper has.

The CHAIRMAN. Take the Saturday Evening Post or Collier's Magazine. They can take a 2-page advertisement of an automobile, and they can say, "If you send that out, it is going to cost you 8 to 14 cents a pound just like it is; but if you will pay me a good price I will send it out for you for 1 cent a pound."

Mr. MOONEY. I know the advertiser would not send it out in a circular if he could get it for nothing, because it is settled that circular or dodger advertising has relatively small pulling value; that the value of an advertisement depends principally upon the paper, upon the publication which it is in.

The CHAIRMAN. And the number of subscriptions in the territory in which they live.

Mr. MOONEY. Yes. In the small towns you will find merchants who will send out dodgers that the Red Hot Store is going to have a bargain sale Monday. They will pay \$5 a thousand for those dodgers; but if the same merchant would put a \$5 advertisement in the small town paper he would get more returns from the dodger.

The CHAIRMAN. Let me tell you what advertisers are doing under this flat rate. There is a certain periodical that is going through the mails, and they get out a catalogue of the same size, same paper, and everything as the magazine, and it is sent out, 24 pages, as a circular, printed between the covers of the magazine, and they pay from 8 to 14 cents, while the next issue of the magazine takes that catalogue and incloses it and gets it sent out for 1 cent a pound.

Mr. GARNER. The original print?

The CHAIRMAN. The original print; and everything was for 1 cent. I know you do not indorse that.

Mr. MOONEY. That is a police condition which the post office ought to remove.

Mr. GARNER. They could remedy it in the second class.

Mr. MOONEY. You spoke about advertising itself. If we could operate under the same conditions as to the zone system that the larger magazines and the general weeklies can operate under, it would make no difference to us. As you know, under the law passed now they can ship by freight to Denver, say, and mail them out from there.

The CHAIRMAN. Only every week or month.

Mr. MOONEY. We can not do anything like that.

The CHAIRMAN. Therefore there is a higher rate for the magazines. The average haul of newspapers, according to your estimation, is 255 miles. The average haul of the Chicago Tribune and the New York Times is 300 miles. The average haul of the weekly papers is 400 miles. The average haul of what we call periodicals, like the Saturday Evening Post and Collier's is from 800 to 900 miles. The Saturday Evening Post, Ladies' Home Journal, and Collier's Weekly are 1,200 miles. They are going to two or three times more than your paper.

Mr. MOONEY. But you see, after all, after you discuss this thing and go into it, don't you see the immense difference between the daily papers and the other publications, and don't you see in your zone rulings, etc., that while really attempting to equalize things with certain publications that you are putting a prohibitive tax on us. I don't want to throw it off on them.

The CHAIRMAN. I will tell you the difference. The increase in your paper will be just about 1 cent, perhaps  $1\frac{1}{4}$  cents. The increase in Collier's Weekly and the Saturday Evening Post will be about  $4\frac{1}{4}$  cents. So you see the increase is three or four times what it will be for you. Under the flat rate the Government makes you pay just as much for sending your paper an average of 255 miles as Collier's Weekly 1,200 miles, and it costs the Government more, and for that reason we favor the zone system.

Mr. MOONEY. I do not favor the zone system for myself and my paper. You were speaking about the Southern Publishers' Association. But let me make this point about one paper, the New York Times. Now, I hold no brief for that paper. Some things about it I do not like. But it is a great national newspaper, and I believe, Mr. Chairman, that it will be a most unfortunate thing for this country if there are not a few copies of the New York Times in California, and if there are not a few copies of the San Francisco Chronicle, for instance, in Philadelphia, and if there are not a few copies of my paper down South as a representative southern newspaper in New York and in Michigan. Because through the newspapers the New Yorker and the Frisco fellow and the North Dakota man will understand one another a little better. I really believe, Mr. Chairman, that if we had had a circulation of the daily newspapers that we have now from 1856 to 1860, I do not believe that we would have had the Civil War. I think that there is a value in the catholicity of thought that comes throughout the country by the wide circulation of daily newspapers from one section to the other. It breaks down provincialism. And it breaks down local prejudice, etc., and causes each section to have a little better understanding of the others.

And as to the daily papers, I think you are doing the New York Times and other great papers a great wrong when you make it impossible for that paper to circulate in San Francisco.

Another thing: In sending our papers to Europe, for the soldiers over there, we have to pay about \$15 or \$20 a year to get them there; and we pay that.

The CHAIRMAN. Do you think it would destroy those papers to keep them from going to San Francisco? I do not think it will.

Mr. MOONEY. It will not destroy the New York Times, or papers like that.

The CHAIRMAN. I mean the other papers.

Mr. MOONEY. But it will deprive the citizenship of the two sections from having a close communion and great appreciation and understanding of each other.

The CHAIRMAN. Do you think that these rates and existing law will prevent the San Francisco Chronicle, for instance, from going to New York, and the New York Times from going to San Francisco, and will prevent your paper from going to the uttermost parts of Texas with their editorials? Now, I do not think so. But suppose it does. I tell you how you can get the thought of a great newspaper to other sections. Suppose the New York Times reads a good thing in the San Francisco Chronicle; it will just quote that editorial and thus let the people in New York get the benefit of it; and if the San Francisco Chronicle sees a good thing in the New York Times it will copy it and thus let all of its readers read it. And would that not do more good than sending the papers out there, for the reason that the San Francisco Chronicle has 50 times as many subscribers in California as the New York Times has there, and therefore the Chronicle could take the editorial from the New York Times and give it 50 times as much publicity in California as the Times itself could. Could they not do that?

Mr. MOONEY. No; for this reason, that is as far as it goes. Here is what has already happened in the American newspaper offices.

I was interested the other day in the statement of Mr. Creel, the distinguished publicity chief of the Government. Some witness testified that the small weekly papers and the small daily papers, instead of gathering their war news and their governmental information from Mr. Creel's slips which he sends out—and which, by the way, are fairly useful; I do not think we have been exactly fair to Mr. Creel, but that is a horse of another color—instead of getting the news that way, the weekly papers get their information and news from the dailies, that they do not get it from these slips.

Now, it is a fact that the larger dailies, and the city dailies themselves under this new arrangement, are fast cutting out their exchange lists with the country weekly newspapers; those country papers are not getting them any more.

Now, the country editors are men of fine intelligence; they have splendid influence in their communities. The country editor in one of your counties of North Carolina, Mr. Chairman, can not afford to subscribe for the Chicago Tribune or the New York Times, or even the Louisville Courier Journal, under these new conditions. If Mr. Bryan himself turned the Commoner into a daily paper he could not afford to do that.

The CHAIRMAN. I thought you exchanged paper through courtesy!

Mr. MOONEY. We formerly exchanged papers through courtesy, you understand, but this condition is doing away with that. We formerly had an exchange list with 250 Texas papers, most of them



weeklies. That exchange was made because we wanted to get from the weekly papers the reports of cotton crop conditions; we run a cotton statistics department for the benefit of the grower. Now, we can hardly afford to send them to our daily under this increased postage rate.

There is one other consideration. You speak about passing it on to the consumer. We do not intend to pass it on to the consumer until we are losing money on our investment, because we feel this way about our subscribers, that they have been loyal to us in the past and we are going to stand by them as long as we have got a dollar left, and we will raise the price only when we are forced to do it by necessity.

As to meeting these losses by increasing advertising rates, we and probably other papers like us have a bill for white paper which is \$100,000 a year more than it was two years ago on the same tonnage. Our income tax is \$43,000, and we figured that we would get part of that back by raising the advertising rate. We raised the advertising rate, and we got \$24,000 of it back, and that is all. So we have finished raising prices on the advertiser. We do not intend to raise prices on the subscriber.

The CHAIRMAN. You made that increase on the advertiser, but did not get back the \$43,000?

Mr. MOONEY. We had an added expense of \$100,000 for white paper, and we had \$43,000 income tax, which is all right; and we had other added expenses running to about \$25,000, as near as we could figure them; and the only raise we could put on was a 3 per cent raise on our advertising, which yielded us about \$24,000; and we put that on six months ago.

So that we are at the end of our row in raising prices. And the other papers throughout the South. They can not raise the price of their daily papers and hold. We probably will have to do just as other southern papers will have to do.

For instance, it costs \$100,000 a month to print our paper. We buy Phillip Gibbs's cables from the New York Times; we buy foreign cables from the New York World; we have our own man in Europe. We have got to cut that off. And this thing will be particularly hard on the paper printed in a town of 150,000 or 200,000 population.

If this were the only thing, it would be a bagatelle. We are willing to give you 5 cents out of every dollar we take across the counter or anything like that.

And another thing is that we are protesting against this measure only for the reason that this is an accumulation; it is one of the various things that have run along, and run along; and we do submit that the tax on advertising is, we think, a tax that is a little bit unfair.

When it comes to adding a tax on business, if you want to raise \$8,000,000,000 by taxation—and I think you ought to raise half the expenses by taxation. You can not go along on your bond issues alone. You can not leave it all to posterity to pay—we have got to, in part, pay for this war by taking a dish off of the table; eat turnips instead of porterhouse steak, and it will carry us along just as well. But when it comes to adding a tax on business, get your tax out of the earnings; keep the business going and then tax the life out of it—or not quite tax the life out—

The CHAIRMAN (interposing). All the traffic will bear?

Mr. MOONEY. Yes; all the traffic will bear; but do not put us into such a condition that we can not function, because then your golden goose is dead. Whenever you get ready, tax all business in some way—and you may come to it, and say that “every time a dollar passes Uncle Sam is going to sweat 5 cents out of it.” We are perfectly willing for you to do that. We are willing to be taxed on our gross receipts, no matter if we are losing money.

We are not seeking to evade anything. If these advertisements yielded you \$10,000,000 or \$15,000,000, it would be a different question; but they will yield you only about \$2,000,000.

The CHAIRMAN. Do you mean \$2,000,000 on the daily newspapers?

Mr. MOONEY. On the daily newspapers.

The CHAIRMAN. For the first year?

Mr. MOONEY. For the first year. Mr. Chairman, they can say what they want at the Post Office Department, but it will take \$1,000,000 worth of bookkeeping to get that \$2,000,000—that is, unless we do it ourselves. And if we have to pay the added clerk hire to do it, then you are putting another tax on us of another \$100 a month, or something like that.

If it yielded you a revenue it would be different. But that is what we can not understand, Mr. Chairman, that here we are put to this trouble of having to come up here to this beautiful city. It is a beautiful city, but I do not like to come to Washington except for the intellectual pleasure of meeting you, gentlemen.

But here we are. We have been hammering at this thing for a year and a half, and the net result, in dollars and cents, is \$2,000,000; and I believe it is going to cost you 50-50 to collect it.

As a taxation proposition it is a bagatelle. It is a bad principle of taxation. As to increasing revenues of the Post Office, I do not think there is much in it.

Another thing, Mr. Chairman, with regard to weekly newspapers. You know there are a great many dailies in the South that print weeklies. The Louisville Courier-Journal used to have a weekly with 100,000 circulation. In 1896, when I was a little boy, Henry Watterson could not see the free and unlimited coinage of silver, you know, and the circulation of the weekly edition of his paper suddenly dropped.

The CHAIRMAN. That was the time that the Memphis Commercial Appeal began to build up its circulation, was it not? You took some of his subscribers from him, did you not? You ushered into a hole that he had just rushed out of?

Mr. MOONEY. No; we have built it up in this way: The way to build up a newspaper is to buy the news and sell it; and the more news you buy the more circulation you will have. Now, we have more daily circulation than any paper in the South, and there is only one reason for it—we buy more news and give it to our readers.

But as to weekly papers: The Atlanta Constitution has one with a circulation of 150,000 to 200,000; the Atlanta Journal has 100,000; we have one with 100,000; the Kansas City Star has one of 200,000 or 300,000. We sell our weekly at 50 cents a year to the subscriber. We get out of that weekly—I am entirely frank with you in this, and our books are there to show it—we get about 30 cents a year. The postage on those weeklies when the zone system goes into effect. I am afraid, will put those southern weeklies out of business.

The CHAIRMAN. The weekly of the Kansas City Star sells for 50 cents, does it not?

Mr. MOONEY. I think they sell it for 25 cents. It is about a 6 or 8 page paper. The Kansas City Star and the Atlanta Constitution and other weekly papers of that sort are papers of tremendous educational value, and they are the papers that you should not destroy, but which you will destroy by this system. Those are the papers that go into the home of the share-cropper, or the one-mule farmer, or the cabin of the "one-gallus" man; and it is about the only literature those people get. Those people can get our paper for 50 cents a year, or 5 pounds of cotton in normal times. They get the Kansas City Star for 25 cents. And the quality of the matter in those papers is high; there is a little Sunday-school lesson in them; there is a splendid farming page in most of them. I think we have the best farming paper in the South, if you will pardon my lack of modesty in saying so.

The CHAIRMAN. And you sell that for 50 cents a year?

Mr. MOONEY. Yes; 50 cents.

The CHAIRMAN. And you have about 100,000 circulation?

Mr. MOONEY. Yes; for the weekly.

The CHAIRMAN. I would not be at all surprised if it is the best farming paper in the South—except the North Carolina farm papers, whatever they are. [Laughter.]

Mr. MOONEY. The Progressive Farmer is a good paper.

The CHAIRMAN. Yes; it is a very fine paper; I know it.

Mr. MOONEY. They print it in Memphis; that is the reason it is so good.

The CHAIRMAN. Do you think that, in order to pay the increased cost of sending your farm paper through the mail under this zone system, if you would only increase your subscription price 5 cents, a single one of your subscribers would stop that fine agricultural paper rather than pay 5 cents additional? It is a fine paper; I have read it.

Mr. MOONEY. I expect he would.

The CHAIRMAN. Well, I do not believe he would.

Mr. MOONEY. You know the average man does not like the principle of it—this thing of passing it on to the consumer. I resent it myself. I am in it now up to the neck.

The CHAIRMAN. Suppose you would say something like this to your readers: "The Postmaster General under the present administration says that there is an annual deficit of seventy or eighty million dollars by reason of carrying newspapers and magazines throughout the country in the mails. The Curtis Publishing Co., of Philadelphia, for instance, which is the owner of three or four periodicals, pays the Government only about \$700,000 for the mail service for those papers, while it costs the Government over \$5,000,000 for that service; and they and their patrons and advertisers and subscribers are making out of the Government every year \$4,000,000 or \$5,000,000 clear, over and above what they pay the Government for the cost of the service. Now, we are in favor of a zone system in order to stop that annual deficit and stop great big concerns like the Curtis Publishing Co. from being subsidized \$4,000,000 or \$5,000,000 a year"——

Mr. McANENY (interposing). Why not separate the newspapers and magazines in this respect?

The CHAIRMAN. Wait a minute; let me finish. And suppose you say, "We want our readers to pay 5 cents extra for the best farming paper in the South," I believe under those circumstances they are patriotic enough to sustain this zone system, in order to enable the Government to recoup a few million dollars a year of these tremendous losses sustained on the second-class mail. Do you think you would lose any of your subscribers under those circumstances?

Mr. MOONEY. I think we would lose half of them the first round.

The CHAIRMAN. I do not believe it; I believe they would pay the 5 cents extra.

Mr. MOONEY. You can not handle such a small transaction in that way; you could not add that 5 cents; you could charge 25 cents, or 50 cents, but not 30 cents or 55 cents. You could get more subscribers at a dollar a year than at 75 cents, for example.

The CHAIRMAN. What proportion of the matter in the Kansas City Star consists of advertisements?

Mr. MOONEY. I suppose 8 or 10 columns. For instance, in our paper we run 10 pages, a 70-column paper, you understand, and there will not be over 10 columns of advertising in that paper.

The CHAIRMAN. In your whole paper?

Mr. MOONEY. In the weekly.

The CHAIRMAN. Yes; I understand.

Mr. MOONEY. That is during the summer time, and during the wintertime there may be 20 columns of advertising; but if there are 20 columns, we run the issue up to 12 pages.

The CHAIRMAN. So that 75 per cent of the contents of your weekly is reading matter?

Mr. MOONEY. Probably; yes.

The CHAIRMAN. That would not take more than 3 cents extra then, to pay for your advertising; I was figuring on a 50-50 division; it would take only 3 cents extra to pay the increased postage on that paper. I think it would do you good.

Mr. MOONEY. You will see how much trouble it is making when you come to consider the net revenues you get for the Government out of this infernal revenue tax; you will see then how vain it all is.

The CHAIRMAN. Well, they have calculated it for the four years; you have to have one year to start; and then they estimate that after the 1st of July, 1920, they will get in \$25,000,000 to \$30,000,000 extra. That will still leave a loss to the Government on account of serving the newspapers and magazines of \$60,000,000 a year.

Do you think, as a fair-minded man, between man and man, that Congress, in the face of these facts and the figures which the Post Office Department gives us, is pretty moderate now in those rates, and gave sufficient time to the publishers to adjust their subscribers and their advertisers to the increased rates?

Mr. MOONEY. I do not, for this reason, Mr. Chairman: In the first place, with all respect to the statistical department of the Post Office Department, there is none. In the next place, we ourselves, in seeking a basis, in seeking arguments, etc., in this matter, we ourselves in seeking to find out whether the Post Office Department view was correct or our view was correct, can not get any information at the Post Office Department. The whole thing, Mr. Chairman, is a shot in the dark.

The CHAIRMAN. But you must admit that the Government is transporting newspapers and magazines for nothing—free.

Mr. MOONEY. I do not. I make a distinction between newspapers and magazines. Of course, the magazine people are smarter than we are. Somebody said newspapers have a wide influence. They have not; newspapers, when they work together, are the frailest force; they have less influence than any other association that you know of. We have no influence. We can hardly get together; it is the hardest thing in the world for us to get a delegation to come to Washington.

The CHAIRMAN. When you do get together, you have almost as much influence as the newspapers in Canada.

Mr. MOONEY. Even the newspapers in one town will not get together on any proposition.

The CHAIRMAN. Not on anything except to oppose increasing their costs.

Mr. MOONEY. They will not even get together on the main chance.

The CHAIRMAN. When you want to get together to oppose a rate which would give a little money to the Government, it is pretty easy to get them together.

Mr. MOONEY. We are not all together on this proposition.

The CHAIRMAN. Yes; you are all together in not wanting any increase; some are for a zone system and some are for a flat rate; but all of you are together on opposing the rate just at this time. That is true, is it not?

Mr. MOONEY. That is true, but it is true with this addition: Mr. Chairman, we are not seeking to avoid any tax; we are not seeking to avoid any burden that has been put on us. I submit that the American newspaper publishers have been under a greater burden during this war than any other instrumentality in this country.

Now, I do not say this boastingly; but my paper itself, if it had charged advertising rates for matter that was legitimate advertising, would have charged the United States Government last year for free advertising—not free news, you understand, but for stuff that they sent us that we would properly classify as advertising—what do you suppose our bill would have been, Mr. Chairman, at the current card rates? It would have been \$178,000. Now, if it had not been for the fact that the United States sent us that stuff, we would not have printed it at all.

The CHAIRMAN. I think you could have charged the Government—and all the newspapers and magazines could have charged the Government—the same rates that anybody else would be charged, and still they would not have charged as much as the \$70,000,000 that the Government is losing on handling their papers. And after this zone rate goes into effect, you are going to cost the Government, according to the statistics of the department, about \$60,000,000 more than it gets from you; and does it not seem as if that \$60,000,000 the Government will give you every year will really pay for some of this free advertising you are giving the Government in advertising liberty bonds, and all of that sort of thing?

Mr. MOONEY. That is not the point, I submit most respectfully.

The CHAIRMAN. Well, I just make that suggestion.

Mr. MOONEY. But we have never regarded our relation to our Government as a dollar-and-cent thing, you see. The fact is now

that the United States Government in the city of Washington has 70 agencies attempting to get free space in American newspapers. There is one particular part of the Government that I must make an exception of, because they have not been particularly avaricious—I do not mean avaricious, but greedy—and that is the Marine Corps.

The newspapers during this war have been printing this matter, or as much as they could. They have practically responded to every demand the Government has made, at a heavy expense; some of the newspapers, because of the very demands of the Government, have had to put on additional men. On one occasion I have had to print two extra pages of white paper in order to print Government publicity—which was my duty, as a prosperous newspaper; I ought to have printed it.

The CHAIRMAN. Let me ask you this: Approximately how much more was the net income of your paper, or your publishing company, in 1917, than in 1914?

Mr. MOONEY. 1914 was the year of the outbreak of the war, was it not?

The CHAIRMAN. Yes.

Mr. MOONEY. 1914 was very little more; perhaps \$20,000 more net income.

The CHAIRMAN. Was it more in 1917 than in 1916?

Mr. MOONEY. No, it was not; 1916 was a better year than 1917.

The CHAIRMAN. It was better than in 1915, was it not?

Mr. MOONEY. I do not think so; I think our bad years—

The CHAIRMAN (interposing). When you revise your remarks will you get from the Treasury Department—they would give the information to you, although they would not give it to me—the figures as to your income tax for 1914, 1915, 1916, and 1917, and insert in the record a statement as to how they would run? And I believe they will show that you have made more money in 1917, more net income, than you have at any time since 1908, 1909, or 1910, or somewhere along there.

Mr. MOONEY. I think you will find that is not correct.

The CHAIRMAN. I hope you are making more money, because then we will get more tax out of you, and I think you deserve it; I think your paper is one of the most remarkable papers I know, and its success has been remarkable.

Mr. MOONEY. I will say this, that our condition was unique and differed from that of most other Southern papers, because we had a paper contract that ran us nearly into 1918; but let me also say that our profits this year will not be one-half what they were last year.

The CHAIRMAN. Do you mean after paying excess-profits taxes and income tax—

Mr. MOONEY (interposing). They will not be one-half before the next taxes are paid, because of conditions as to white paper. Now, we made last year a profit of about \$170,000; between that and \$180,000, but part of that was doubtful stuff. Say, a profit of about \$170,000.

Now, Mr. Chairman, that was on \$1,100,000 worth of business; that was not an enormous profit on that much business.

If we had charged off our income tax from that \$170,000, we would have cut our profits down to \$130,000.

This year, our paper, as things are running now, will not make more than the amount it paid last year in income tax, to wit, \$40,000, because our white paper alone is \$10,000 more a month now than it was this time last year, and there is \$120,000 gone, you see.

And what is true of the Memphis Commercial Appeal is, unfortunately, more true of most of the other papers in the South.

The CHAIRMAN. Just for our information, can you get now a contract with the paper companies extending over two or three years, as you formerly could?

Mr. MOONEY. No, Mr. Chairman, that is a thing that is very nebulous; I do not understand it much. That is a thing the the American Newspaper Publishers Association has been concerned in more vitally than anything else, because that trouble began three years ago and pressed us and pressed us, and last year it was not a question of paying 5 cents a pound more for paper; it was a question of the supply.

Mr. GARNER. It was a question of whether you could get it at all?

Mr. MOONEY. Of whether we could get it at all. If they did not like you, if they did not like the color of your eyes, they would stop doing business with you.

The CHAIRMAN. You know that this Congress and several of the last preceding Congresses has done all it could, constitutionally, to help you out as to your white paper; has it not?

Mr. MOONEY. Mr. Chairman, I want to be respectful; but I would like to get a bill of particulars of how you have helped us.

The CHAIRMAN. I remember when you gentlemen came here and asked us for free print paper; and Congress gave it to you.

Mr. MOONEY. That is true.

The CHAIRMAN. Wait a minute; that is what your association went on record for; you demanded that?

Mr. MOONEY. Yes.

The CHAIRMAN. And I remember that Herman Ridder was chairman of your committee which worked on that; and I remember that in the Sixty-first Congress they were talking themselves hoarse to the effect that all of your newspapers would be ruined because these monopolies were gouging you and robbing you, and you had to have free print paper and wood pulp. And we gave it to you. Then, in 1916, you came back here and said that the price had been increased from 3½ cents to 4 cents; and we gave you the relief you asked then. But I said on the floor of the House both times that I doubted whether the legislation would give you very much relief. So that those are some of the things this committee has done; I think it has done pretty well by you.

Mr. MOONEY. Mr. Chairman, I do not think I can say anything further.

The CHAIRMAN. You have made a very interesting statement.

Mr. MOONEY. I shall be very glad to answer any questions.

The CHAIRMAN. I have no more. Does any member of the committee desire to ask any questions?

Mr. RAINEY. I did not understand your statement as to only \$2,000,000 being involved in this zone proposition.

Mr. MOONEY. I understand, if I am correctly informed, that the Government will get out of the daily papers about \$2,000,000 added postal revenues; that is my understanding.

Mr. RAINEY. We understand that the entire zone proposition as it appears now in the law will bring in about \$30,000,000 after it goes into full force and effect in 1920; of course, it does not go into full force until 1920.

Mr. MOONEY. But even then the papers themselves would not——

Mr. McANENY. Pardon me, but may I quote the figures of the Post Office Department? Their estimate in the fourth year is not \$30,000,000, but \$16,000,000; and their estimate in the fourth year upon newspapers is \$6,400,000.

Mr. RAINEY. I mean the total.

Mr. MOONEY. The total is \$16,000,000 the fourth year.

Mr. RAINEY. That is what the figures show, \$16,000,000?

Mr. MOONEY. Yes, at the end of four years.

Mr. RAINEY. Then, you make a lot of fuss about it for such an amount as that.

Mr. MOONEY. That is our contention; we contend that the whole system is vicious as a system of taxation; and, after all, you do not get much revenue from it.

Mr. RAINEY. If you will only return by this law \$16,000,000 out of a loss of \$80,000,000 to the Government carrying your papers, then we have not taken all the steps we ought to take; we ought to raise the figures still more.

Mr. MOONEY. If you will pardon me, instead of raising your rates, if the Post Office Department itself will do away with some of the wastes and abuses that this second-class mail system entails, I believe that this alleged deficit will be cut down and down; and I do stand squarely upon this contention, Mr. Congressman, that the daily and weekly newspapers of the United States——

Mr. RAINEY (interposing). What wastage do you refer to in connection with the distribution through the mails by the Post Office Department of newspapers and magazines that can be remedied?

Mr. MOONEY. If the Post Office Department itself would first clearly look into certain publications that claim to be magazines and claim to be periodicals for a particular class, etc., they would find that a great number of those are not legitimate second-class publications, do you understand, and would take them out of that privilege?

Mr. RAINEY. What, for instance?

Mr. MOONEY. Well, there are certain so-called agricultural papers, for instance, they sell them to the subscriber for 10 cents a year, or something like that. There are certain publications that are published entirely for an advertising revenue, and have just enough reading matter in them to get them in. The Post Office Department ought to have the courage to keep those things out of the mail.

Mr. RAINEY. Such as the Literary Digest?

Mr. MOONEY. No; I think the Literary Digest is a very useful publication.

Mr. RAINEY. Nearly all of it is advertising matter.

Mr. MOONEY. No; I read it yesterday; and it had several very good articles in it; I read it an hour last night.

Mr. RAINEY. You have to hunt through a microscope to find anything among their numerous advertisements.

Mr. MOONEY. I read that; and then I went to sleep over Col. Harvey's Weekly.

Mr. RAINEY. Then you would exclude from the mails newspapers which contained too much advertising?



Mr. MOONEY. No; I would not state it that way. I would exclude from the mail any publication that any man of ordinary judgment would see was using barely enough news or reading matter to get by its advertising; that you yourself, as a man of common sense and of experience could say was not really printed in good faith as a magazine and had no right to the second-class mail.

Mr. RAINEY. Such as the Iron Age?

Mr. MOONEY. I never saw that publication.

Mr. RAINEY. Would it not be a most difficult proposition for any department to determine how much advertising ought to be in a newspaper in order to allow it to go through the mail as second-class matter?

Mr. MOONEY. No; when it ceases to be a newspaper it ought to be barred, not only from the second-class mail, but from all mails.

Mr. RAINEY. We would cut the newspaper circulation of the country one-half, at least, if we adopted your proposition.

Mr. MOONEY. I do not think so at all.

Mr. RAINEY. You do not?

Mr. MOONEY. No.

Mr. RAINEY. You spoke of your giving publicity for the Government in the matter of the liberty loans. Is that your reason for continuing your rates?

Mr. MOONEY. In the matter of loans?

Mr. RAINEY. Yes; Government loans and other Government publicity furnished by you.

Mr. MOONEY. No; I said this, that there were 70 departments of the Government seeking publicity through the newspapers, and that if we had charged the Government for the amount of free matter that we printed last year it would have amounted to \$170,000. But that does not include the liberty loan advertising.

Mr. RAINEY. A great many newspapers did charge for liberty loan advertising, I understand?

Mr. MOONEY. No.

Mr. RAINEY. Yes; a great many did.

Mr. MOONEY. At the time of the first liberty loan we would not accept advertising, even when it was paid for by the merchants in the city.

Mr. RAINEY. One paper that belongs to your organization, in Boston, refused to carry a liberty loan advertisement which contained extracts from speeches of the President of the United States, and violated its contract rather than publish a liberty loan advertisement, and paid \$500 as a penalty for not doing it, and that paper belongs to your association.

Mr. MOONEY. Well, the editor of that paper was very stubborn and very much out of line with the sentiment of the newspapers generally.

Mr. RAINEY. And another paper in your association refused to give any information about this last liberty loan without pay.

Mr. MOONEY. That editor was certainly shortsighted. Do you not think so? And, of course, you know there are 500 or 600 members of our association—probably 600—and they can not all be 100 per cent Americans, you know.

Mr. RAINEY. I have a certified copy of the statements to which I am referring, and if you want to see them I will produce them. postal

Mr. MOONEY. No; I am not interested in them. I am sorry there is a member of the association that is so narrow as that.

Mr. RAINEY. A great many members of your association did receive pay for carrying the advertisements of the Government in regard to the last liberty loan.

Mr. MOONEY. They received payment in this way, that certain interests in a city grouped themselves together and paid the newspapers for that advertising.

Mr. RAINEY. And they were also paid out of the Treasury of the United States, some of them.

Mr. MOONEY. I do not understand that there was any daily newspaper paid out of the Treasury of the United States; I do not see how it could have been done.

Mr. RAINEY. Well, the Secretary of the Treasury had the right to do it, and I think he did it in some cases.

Mr. MOONEY. I thought the law forbid advertising the loan in newspapers.

Mr. RAINEY. No; it did not forbid that at all. And they demanded it; papers belonging to your association carried a paid advertisement here in Washington—I have a copy of it in my office which I can produce—advocating pay for newspapers for advertising liberty loans.

Mr. MOONEY. Well, as a matter of fact, I do not see that they were outside of their rights when they did that.

Mr. RAINEY. I do not either; but when they take that position, they have no right to have you, representing them here, say that they are carrying those advertisements free and therefore they ought to go free through the mails.

Mr. MOONEY. I was only speaking for my particular paper when I spoke of the \$170,000 worth of advertising. I am not speaking for any other paper as to what it did about the loans. But I know a great many of them do about what I do as to Government war advertising. But if the Government had done all its advertising in the newspapers, the expense of floating the loans would have been about 50 per cent of what it was; and they would not have wasted their money on signboards and orators.

Mr. RAINEY. Yes; that was the argument that was used in that article.

Mr. MOONEY. The fact was that the newspapers themselves had to finally put the loan through, and without the newspapers the loan would not have been the success that it was.

Mr. RAINEY. The liberty loan information that they published in their columns was among the most interesting matter that they published; and their readers read it with greater interest even than they read the editorials.

Mr. MOONEY. I doubt it. Of course, for the average reader the editorials are a little heavy; but in the newspapers the story of the liberty loan could have been told from day to day in 100 words. The most interesting things the newspapers are publishing are the death lists that come from abroad.

Mr. RAINEY. I do not know why you should speak of that in connection with this matter.

Mr. MOONEY. I am just talking about news value.

Mr. RAINEY. You are in favor of producing catholicity of thought; and you think that is brought about by the present system?

Mr. MOONEY. I think that is helped by the present system.

Mr. RAINEY. Helped by the present system. You think that we are avoiding sectionalism in our newspaper and magazine press by the present system, do you?

Mr. MOONEY. Yes; it is one of the things that help to do away with sectionalism; they are newspapers, railroads, and telegraphs.

Mr. RAINEY. In what section are the national newspapers published that would be principally affected by the law as it stands now?

Mr. MOONEY. So far as the newspapers are concerned, they are affected all over the country; so far as the magazines are concerned, they are affected mostly in New York and New England.

Mr. RAINEY. That is where they are published?

Mr. MOONEY. That is where they are published.

Mr. RAINEY. They are published in that zone; and by perpetuating that zone of publication under the system as it existed heretofore—by perpetuating this zone system here in the East, you think we are going to abolish sectionalism, and bring about catholicity of thought? Is that your idea? In other words, they are enabled now, under the present system, to publish newspapers right next door to the paper mills, as they do—and that is the principal reason why they are published in the East and then carried all over the country from the East, disseminating the thought of this particular Eastern zone. You say that is a method of obtaining catholicity of thought in the country?

Mr. MOONEY. Let me make this distinction. In the first place, magazines and literary publications in all countries are always printed in one city. There is a center of literary thought in every country in one city.

Mr. RAINEY. Yes.

Mr. MOONEY. The center of the printing and magazine business in Germany was Leipsic, and the center of the business in France was Paris. And we will never have any general diversification of the printing of newspapers and magazines.

Mr. RAINEY. Not under this system.

Mr. MOONEY. Or any other system.

Mr. RAINEY. Your newspaper is published in the South, is it not?

Mr. MOONEY. Yes.

Mr. RAINEY. It is published in Memphis?

Mr. MOONEY. Yes.

Mr. RAINEY. Let me call your attention to what a distinguished southerner said about the system which is now in force, and has been since 1885, when it was inaugurated.

In about 1791 the question of a zone system or a flat-rate system for newspapers was discussed in the Congress of the United States. At that time Mr. Bourne was a Member of Congress from the State of Massachusetts, and he presented to the Congress the theory that newspapers and magazines ought to be carried over the entire country at a uniform rate, in order to insure catholicity of thought and to prevent a sectional press. That was the position taken by Mr. Bourne of Massachusetts; he was a very distinguished Member of Congress from that State, who had occupied other responsible positions.

In response to that, Mr. Goodenow of the State of New Jersey, presented the southern theory. At that period there was not any

West; there was just the North and the South. Mr. Goodenow presented the southern idea, and he answered Mr. Bourne. You can find all of this in the "Congressional Globe."

Mr. Goodenow said that a uniform system of postage for newspapers and magazines would result in establishing and perpetuating publishing houses in the seat of Government and in the North, and that it would give them an undue advantage over the South. That was the argument presented by Mr. Goodenow.

Mr. Goodenow's argument prevailed; and the zone rate was established, the first zone for 100 miles, and the second zone for more than that. And there were other zones established. There were fifteen changes made in the zone system, down to the time when you got the 1 cent a pound rate; and as soon as you got the 1 cent a pound rate cheap magazines sprung up, getting all of the valuable advertising that you clamor for—and that you do not get—

Mr. MOONEY (interposing). We get all we need.

Mr. RAINEY (continuing). All published here in the East, nearly all of them, and circulated all over the country. In other words, Mr. Goodenow's advanced ideas in 1791 prevented the occurrence of the thing the dangers of which he pointed out, until 1885; when we did establish a uniform rate and the sectional magazine and national newspaper press which we now have.

Mr. MOONEY. I do not care what sort of a system of postage you have, your magazines will always be printed around one center in the United States; it may pass from New York to Chicago; the fact is that it has already passed from Boston to New York; it may go somewhere else, but it will always be in one city in the United States.

Mr. RAINEY. I want to call your attention in this connection to how we came to establish the 1-cent rate:

It was not established for any such reason as you have given, or any gentleman who appeared for you has given.

The reports made in 1885 from the committee, and the speech on the floor made by Mr. Townsend, of Illinois, advocating the 1-cent rate, were to the effect that it would enable the newspapers and magazines not only to pay their own way, but to yield a large revenue besides. On account of that argument, and that presented by the committee in 1885, we adopted the 1-cent a pound rate, because it would not produce but would yield very large revenues to the Government and pay its own way. And at that time our Post Office bill amounted to only \$50,000,000 or \$60,000,000.

And for a year or two, and until this mass of advertising made its appearance in the newspapers and magazines, it did yield some revenue. After that the deficit has increased, until it is now from \$80,000,000 to \$90,000,000.

Now, that is one thing that you gentlemen never call to the attention of the readers of your papers.

I do not believe I want to ask any more questions, Mr. Chairman.

The CHAIRMAN. Does any other gentleman desire to ask Mr. Mooney any questions? If not, we are much obliged to you, Mr. Mooney.

Is there any other gentleman present representing the newspapers who desires to be heard.

Mr. MOONEY. We want Mr. Cowles, of the Des Moines Register, to speak a few minutes.

**STATEMENT OF MR. GARDNER COWLES, DES MOINES REGISTER AND TRIBUNE, DES MOINES, IOWA, REPRESENTING AMERICAN NEWSPAPER PUBLISHERS' ASSOCIATION.**

Mr. COWLES. I only want to speak very briefly.

The CHAIRMAN. Please state your full name and whom you represent.

Mr. COWLES. My name is Gardner Cowles, and my paper is the Des Moines (Iowa) Register and Tribune.

Of course, I live in the interior, in a State without large cities. Des Moines is the capital of the State and has a population of, perhaps, 110,000 to 120,000.

It has seemed to me, Mr. Chairman, that you were giving an undue amount of attention and interest to newspapers like the New York Times and too little relatively to the smaller dailies of the country.

Using Iowa as a typical State, we have, aside from the dailies in Des Moines, probably 12 or 15 other daily newspapers in Iowa that are fairly representative, that secure a fair press report, and serve a very useful purpose. I mean to say that, while I would be willing to admit that we publish a most excellent newspaper, it circulates very largely within the State of Iowa; for instance, 96 or 97 per cent of our circulation is within the State. The average haul which the Post Office Department carries our paper—and you will pardon me for simply referring to our own paper in illustration—is 75 or 80 miles. We have believed, and still believe, that in any fair arrangement, the 1-cent a pound, or dollar a hundred, rate was equitable. We may be in error about that; but I am giving the basis under which business has been built up and which we believe was fair. We do not tax the facilities of the Government to any great distance.

This law that you have enacted, which nobody seems to have been willing to take the parentage of; it seems to have just happened—

Mr. RAINEY (interposing). We take it.

The CHAIRMAN. There is such a thing as being the real father of a child, and as being the father of an adopted child. So far as I am concerned, I am willing to adopt it. I am not the real father, but I am willing to adopt it. [Laughter.]

Mr. COWLES. The law seems to me to be inequitable. Now, we print nine editions of our paper a day. The paper varies very much in size in the different editions. It becomes a very difficult matter to figure the postage under this bill; it will take a lot of accounting, either by the Post Office Department or by us, or by somebody else. I just mention that to emphasize the difficulties of the administration of this law the way it is drawn.

I doubt myself the wisdom of this indirect tax on advertising. At the present time, we have made a very careful estimate of this law—I do not know whether this will interest you or not—as to the effect of it. We have a very large mail circulation. Conditions in the West are very different from what they are in many of the eastern papers. Probably two-thirds of our circulation is outside of the city, and probably 50 per cent or more of our total circulation goes through the mail; so we have relatively a very much larger postal bill than appears in cities very much larger than Des Moines.

A careful computation here a few months ago about this bill showed that, if there is no change in our business as it is running, under the old rate we would pay the Government in postage, \$37,000 a year.

The CHAIRMAN. You do pay that now?

Mr. COWLES. That is the present rate we pay, for a haul that averages 75 or 80 miles; the computation that we make on the basis of which we run news and advertising shows that when the four years are gone through, it would add about \$29,000 to the postage.

We will, of necessity, have to pass that on to the subscriber. It means the disorganization of our business and changing the whole system under which it has been built up.

Here is a newspaper that does not normally circulate out of the State to any extent that I think serves a useful purpose or the people would not take it in the numbers that they do, and the law would injure it in that way. I do not believe—at least, some of the Congressmen have told me that they had no idea that it affected the smaller newspapers in the way in which it does; they seemed to refer to the Curtis Publishing Co., or some of those great offenders, as being the ones that they were trying to reach instead of the more moderate size daily newspapers through the West and the South. I do not know whether you are interested in this or not.

There are papers like the Washington Star that hardly use the mail at all. The Chicago Daily News hardly uses the mail at all; it is practically wholly a local proposition.

There are other publications, like the Wichita papers and those at Lincoln, Nebr., and Des Moines, Iowa, that are published in relatively not very large cities, that are using the mails very largely; and this law will entail really a complete reorganization of their business if it is not modified in some way.

The CHAIRMAN. How many subscribers have you?

Mr. COWLES. One hundred and fifteen thousand.

The CHAIRMAN. One hundred and fifteen thousand; and it circulates within 75 miles?

Mr. COWLES. I say the average, Mr. Chairman.

The CHAIRMAN. I mean the average is 75 or 80 miles?

Mr. COWLES. Yes.

The CHAIRMAN. That is, you come within the second zone?

Mr. COWLES. Between 96 and 97 per cent of our business is within the first two zones.

The CHAIRMAN? You have about as many subscribers as any paper I know of within such a short distance. You have another wonderful, unique paper. How much is your subscription price?

Mr. COWLES. The price by mail for a six-day paper varies from \$4 to \$5 a year.

The CHAIRMAN. By July 1, 1920, you would only have to raise your subscription, in order to absorb the whole increased cost, about 21 cents. Do you not think your subscribers could stand that? I mean, would they not be willing to do it?

Mr. COWLES. All I can say is that we have raised since these print-paper troubles have come on the mail subscriptions \$2; we used to sell it at \$2 a year.

The CHAIRMAN. For the daily paper?

Mr. COWLES. For the daily paper. We have already got the minimum up to \$4. Whether another increase will be possible I do not know.

The CHAIRMAN. How many more subscribers have you now than you had two years ago?

Mr. COWLES. About 30,000.

The CHAIRMAN. Thirty thousand more?

Mr. COWLES. Yes.

The CHAIRMAN. So your increasing your subscription from \$2 to \$4 did not decrease your number of subscribers, but nearly doubled it?

Mr. COWLES. I think we have been able to get where we are—I simply tell you the facts—

The CHAIRMAN (interposing). I understand. And you think that simply raising your price 20 cents would decrease your circulation, when you have three years in which to make that raise—that is 6½ cents a year?

Mr. COWLES. I think you underestimate that there are difficulties under which a newspaper using as much white paper as we do in a town of our size operates. We are paying \$100,000 more for white paper than we paid two years ago. We have had to do all the financing that was possible to meet the added cost, and I was using our case as wholly typical of what other newspapers have to meet.

The CHAIRMAN. What is the difference between your income tax return in 1917 and that in 1914?

Mr. COWLES. Well, our business is very much larger; but there are various other elements that enter into that.

The CHAIRMAN. So that your net income was considerably more in 1917 than in 1914?

Mr. COWLES. Yes, but it will be less in 1918.

The CHAIRMAN. Yes.

Mr. COWLES. That is, so far 1918 indicates that it will be. We were operating under very favorable paper conditions up until September 1 last year. We paid 2½ cents for paper at that time; that was the highest that we had paid; we had got it as low as 1.90; and now, of course, we are paying 3.10, with 60 or 70 per cent increase in freight.

The CHAIRMAN. How close are you to the paper mills?

Mr. COWLES. We buy from Canada, Sault Ste. Marie, which is a long way off; there is no mill at all close to us.

Mr. DICKINSON. What is the name of your paper?

Mr. COWLES. Des Moines Register and Tribune.

The CHAIRMAN. Does any other gentlemen desire to question Mr. Cowles?

Mr. HELVERING. As a matter of fact, the regulations carrying this zone rate into effect are what you object to, are they not?

Mr. COWLES. Well, are you asking my personal opinion about it?

Mr. HELVERING. Yes; I am asking for your opinion.

Mr. COWLES. I think in the first place that this advertising part of the law is going to be very burdensome and annoying in its application—if it is passed. Secondly, my own belief is that these papers that circulate only on an average of 75 or 80 miles—the 1-cent rate that they have heretofore enjoyed was fairly compensatory to the Government for the service.

Mr. HELVERING. Let me ask you this question: You said you had nine issues a day. But you have just one mailing issue, have you not?

Mr. COWLES. No, practically every issue goes into the mails. We

Mr. HELVERING. It would be necessary for you to figure the advertising in all the different issues of your paper, would it? That is, you would have to make up the proportion of advertising of all the issues of your paper?

Mr. COWLES. Yes.

The CHAIRMAN. But if the department should adopt a regulation that you could average it by the month, taking three or four days in the month as a basis, that would help considerably, would it not?

Mr. COWLES. That would be very much better than to attempt to calculate it on each issue every day.

The CHAIRMAN. Certainly. I do not see how they could do it on each issue; they would have to do it the other way.

Mr. DICKINSON. Do the different issues have different advertising?

Mr. COWLES. We run what we call a 24-hour newspaper. We get the day and night full press reports, and it becomes a continuous performance. We get out five issues during the night and four during the day. We give the man the last possible edition that will reach him.

The CHAIRMAN. Have you any other statement to make?

Mr. COWLES. No; I simply wanted to say to you: Do not get your mind focused on the thought that it is only the big newspapers that are affected. There are scores of the smaller daily newspapers that will be forced to seriously change their business methods if this law continues.

Mr. HELVERING. We have in my State several papers not as large as yours, but otherwise about the same. What proportion of your paper goes by mail, and what is the city circulation?

Mr. COWLES. We will say that of the 115,000, about 40,000 are in the city, or where we distribute, the city or the immediate suburbs, and 75,000 go outside, and approximately 60,000 of those go into the mail.

Mr. HELVERING. Then slightly over 50 per cent of your paper goes by mail. Well, that is about the same as the Topeka and Wichita papers. Some of them have been writing to me on the subject.

Mr. COWLES. They are similarly situated to Des Moines; that is, they have a very large mail circulation; and then there are papers like the Washington Star and the Chicago Daily News that have practically no mail circulation, so that this law does not affect them at all.

Mr. HELVERING. That is all.

The CHAIRMAN. Is there any other gentleman who would like to be heard on this subject?

**STATEMENT OF MR. THOMAS R. WILLIAMS, BUSINESS MANAGER PITTSBURGH PRESS, PITTSBURGH, PA., MEMBER AMERICAN NEWSPAPER PUBLISHERS' ASSOCIATION.**

Mr. WILLIAMS. I should like to say a few words, Mr. Chairman. My name is Thomas R. Williams. I am not here as a member of the postal committee of the American Newspaper Publishers' Association, although I am a member and director of that association, but as a substitute.

The CHAIRMAN. What paper do you represent?



Mr. WILLIAMS. I am business manager of the Pittsburgh Press. I appear as a substitute—and, I feel, a very poor one—for Mr. George S. Oliver, publisher of the Gazette-Times and the Chronicle-Telegraph of Pittsburgh. Mr. Oliver is a member of the postal committee of the American Newspaper Publishers' Association, and he fully intended to attend this hearing with the other members of that committee.

But at this time Mr. Oliver, who is president of the Pittsburgh Chamber of Commerce, is working at a power proposition with the Government, which is aimed to ultimately greatly increase the output of war materials in Pittsburgh. That is why Mr. Oliver is not here, and that is why I am here in his place.

Mr. RAINEY. Is Mr. Oliver against this zone proposition?

Mr. WILLIAMS. He is for this proposition that has been outlined by the American Newspaper Publishers' Association; he stands on that.

Mr. RAINEY. Was he not for this zone system as we have it now?

Mr. WILLIAMS. No.

The CHAIRMAN. Did not his paper take the position after it was passed that it was proper and ought not to be repealed; and did not his paper take a stand in favor of the House bill very strongly?

Mr. WILLIAMS. I can not answer for the editorial attitude or utterances of his paper, Mr. Chairman, but I can say, as a member of the American Newspaper Publishers' Association and as a member of our Pittsburgh Publishers' Association, Mr. Oliver voted in accord with the resolution of the American Newspaper Publishers' Association that we have presented here to your committee.

The CHAIRMAN. Is he the son of the former Senator from Pennsylvania?

Mr. WILLIAMS. Yes; he is the son of George T. Oliver.

The CHAIRMAN. Yes; I remember distinctly that in the House Mr. Longworth read an editorial from his paper very strongly commending the House bill, where the rates were higher than they are in this bill—in the original bill.

Mr. WILLIAMS. I can say this: I am not familiar with the editorial utterances of his papers on the subject. I am familiar with the vote of Mr. Oliver in our local publishers' association in Pittsburgh. I happen to be president of that local association at this time, and that is why, I assume, Mr. Oliver asked me to come down here in his place. Our association about a year ago, when this matter was up here, voted in favor of the zone system and sent a telegram to that effect. And it was conditioned on the ground that a thorough investigation should be made; and if the need for raising this revenue in this way was apparent, then we favored the zone system. That is identical, I take it, with the stand and view of the American Newspaper Publishers' Association.

And I feel that a citation of the case of our Pittsburgh paper, the Pittsburgh Press, or the other Pittsburgh newspapers, would add very little to the information that you gentlemen want on this subject, because it is identical with that which has already been given. The measure would affect us all in the same way.

The CHAIRMAN. How many subscribers has the Pittsburgh Press?

Mr. WILLIAMS. The daily, 125,000 to 130,000, and about 150,000 on Sunday.

The CHAIRMAN. How much do you get for it?

Mr. WILLIAMS. \$9 a year.

The CHAIRMAN. Do you know how much postage they paid the Government last year?

Mr. WILLIAMS. I do not.

The CHAIRMAN. Have you made a calculation to see how much this zone system, after it finally got into full operation July 1, 1920, would increase the cost of your postage?

Mr. WILLIAMS. We are in a peculiar position on the Pittsburgh Press; and I can say, like the New York Times, which is not materially affected by this proposition. We are not materially affected by it as it stands to-day, for this reason: We are an afternoon paper, and we have a very small mailing list. Our mailing list is so small that we are having an investigation made to ascertain whether it would be profitable to us to charge this additional postage rate to our subscriber, or bear it ourselves, for the reason that the cost of keeping tab on it from day to day and billing it out to the subscriber may be more than what it will amount to with us.

The CHAIRMAN. You say yours is an afternoon paper?

Mr. WILLIAMS. Afternoon.

The CHAIRMAN. You do not go through the mails?

Mr. WILLIAMS. Not to a great extent. That is the reason—

The CHAIRMAN (interposing). Have you put up your rate from one cent to 2 cents, or has it been two cents—the papers that you sell on the streets?

Mr. WILLIAMS. The Pittsburgh newspapers were among the first in the country to see that it was an absolute necessity to increase the rate from one to two cents.

The CHAIRMAN. Did they do that after January?

Mr. WILLIAMS. No.

The CHAIRMAN. Since October 3?

Mr. WILLIAMS. No.

The CHAIRMAN. When did they do that?

Mr. WILLIAMS. That was done December 1, 1916.

The CHAIRMAN. 1916?

Mr. WILLIAMS. Yes.

The CHAIRMAN. So that your paper, like those of the other gentlemen who have spoken, was making more net income in 1913 than it was in 1914, 1915, and 1916?

Mr. WILLIAMS. I am not prepared, Mr. Chairman, to answer that question. I know that our income this year will be very much less than last year or 1916, or 1915, on account of increased expenses that have come on since 1917.

The CHAIRMAN. When you say "this year" you mean 1918?

Mr. WILLIAMS. Yes, 1918.

The CHAIRMAN. Refreshing my memory as to what Mr. Longworth read when we had the bill under consideration, which was higher—not very much higher, but somewhat higher—on the zones than the present law, I will read from the Congressional Record of May 22, 1917, as follows:

Mr. LONGWORTH. Mr. Chairman. I want to say that all Pennsylvania statesmen are not as one upon this subject. I will send to the clerk's desk and ask to have read in my time a letter that I received this morning from a very distinguished Pennsylvania statesman, containing an editorial published in a newspaper owned by him.

(The clerk read as follows:)

PITTSBURGH, PA., *May 19, 1917.*

HON. NICHOLAS LONGWORTH,  
*House of Representatives, Washington, D. C.*

MY DEAR MR. LONGWORTH: I inclose editorial published this morning in my newspaper, the Pittsburgh Gazette Times. I wrote this editorial myself.

It would seem to me that the stand taken by most publishers against any increase in second-class rate was very selfish and narrow, that it was up to me to disclaim any sympathy with them, and to say that all newspaper publishers are not anxious to shift the burden of taxation to other shoulders.

Very sincerely, yours,

GEORGE T. OLIVER.

Then follows at some length the editorial. The page of the Congressional Record is 2766, of May 22, 1917.

Mr. WILLIAMS. Mr. Chairman, if you will permit me to make a little explanation I will show that that is not contrary to the principle that has been asked for here by the American Newspaper Publishers Association. That editorial that says the newspaper and the publisher is not opposed to paying an increased postal rate, I take it, is the stand of the American Newspaper Publishers' Association precisely.

But our point and our request, that Mr. McAneny so ably presented here, is that we feel and believe that it has been done in an improper way, and all we ask is that an investigation be made in a proper way—in a sufficient way to establish the necessity or need of this additional revenue, and then apply it along the lines of the amendment, and if such an investigation shall show that this rate that has been applied and that is to go into effect the 1st of July is too small and should be larger, it is equally true that the American Newspaper Publishers' Association will not oppose it but will willingly pay the increased rate.

Our point here is not to get out of paying something, Mr. Chairman. We do not come here and just say, "This is too high"; but we say, we believe it should not be done until a proper investigation is made.

That is why the request is made by the American Newspaper Publishers' Association to suspend the operations of it until such time as that investigation can be fully made, and then apply the rates that are found to be necessary upon that investigation.

Mr. STERLING. Have you any doubt about the question as to whether or not the newspapers are paying their way? Is there any doubt on that point in the mind of anybody? You all concede that they are not, do you not?

Mr. WILLIAMS. I have not made a particular study of this subject. I have not been on the postal committee, as I have stated. We have left that study to Mr. McAneny, and Mr. McAneny has made a thorough study of the subject, as I believe you gentlemen will agree, after listening to his presentation of the subject.

Mr. STERLING. He does not assert that the newspapers are paying their way through the mails. At no time did he say that—that they have paid the full expense to the Government. Now, conceding that that is true, do you not think that Congress ought to raise the rates?

Mr. WILLIAMS. If it should be found that that is true with everything else taken into consideration.

Mr. STERLING. I say, conceding that it is true now, will you agree that there ought to be an increase in rates?

Mr. WILLIAMS. That question was answered, I believe—exactly the same question—by Mr. McAneny—

Mr. STERLING. What did he say about it?

Mr. WILLIAMS (continuing). Who has made a real study of the subject.

Mr. STERLING. How is that?

Mr. WILLIAMS. I will answer the question in this way, if you want my personal opinion.

Mr. STERLING. Yes.

Mr. WILLIAMS. I am not speaking for the American Newspaper Publishers' Association—that if upon a real investigation, as has been requested, it is shown that the postal department needs a higher rate from second-class mail matter, I believe the newspapers will not object to paying it.

Mr. STERLING. Can you not answer the question squarely? Assuming it to be a fact that they are not paying their way, will you say that Congress ought to raise the rate?

Mr. WILLIAMS. I believe that it is improper to separate the second class from all other classes of mail, and assume that just that one class does not pay its way. If the second class were the only class of mail, and we were not paying our way, I would say yes, we ought to pay our way.

Mr. STERLING. Do you think that first-class mail is paying its way?

Mr. WILLIAMS. Yes; I do.

Mr. STERLING. And it is paying much more than its way, is it not?

Mr. WILLIAMS. Yes.

Mr. STERLING. So that that is out of the way.

Mr. WILLIAMS. Yes.

Mr. STERLING. Now, what other class of mail do you think does not pay its way?

Mr. WILLIAMS. I do not know. I have not made a study of this situation.

Mr. STERLING. There is not any other class of mail of very great importance, is there, outside of the first and second classes?

Mr. WILLIAMS. Yes; that is true. It has been pointed out, however, that the second-class mail does originate a vast amount of first-class mail that more than pays its way. That was pointed out by Mr. McAneny, and should be taken into consideration.

Mr. STERLING. Do you think that because second-class mail may originate first-class mail that is any reason the Government should carry it at a loss?

Mr. WILLIAMS. Hardly; but I believe that that should be taken into consideration in the investigation in determining what amount of increase should be placed on second-class mail.

Mr. STERLING. Were you here when Mr. Rainey questioned Mr. Fairlie about that?

Mr. WILLIAMS. No; I was not. I did not attend that hearing.

Mr. STERLING. I think he showed very clearly that the increase in the first-class matter that is induced by the second-class matter is very small compared to the loss that the Government is sustaining on the carriage of second-class matter. I think he showed that the Saturday Evening Post had probably increased first-class matter about \$400 in one week, and it was costing the Government \$70,000 to carry the mail—that is the Government had lost that. It cost the

Government \$70,000 more to carry the Saturday Evening Post than it had received.

The CHAIRMAN. Let me read what Mr. Rainey did put in the record. [Reading:]

Mr. RAINEY. Well, I will tell you what the result was. There were 118 advertisers in that particular issue of the Saturday Evening Post, and 83 replied and 35 did not.

He evidently investigated each advertisement, as to whether they replied to those advertisements.

They wrote to each one of them asking how many letters they got that week in response to their advertisements, and assuming that only one-half of them replied, they received 10,000 answers, and assuming that the other half who did not reply received the same number of answers, then that week the advertisements in the Saturday Evening Post brought a total of 20,000 replies. The Government lost that week in carrying the Saturday Evening Post through the mails \$70,000 on that one issue. Now, assuming it cost nothing at all to carry the 20,000 replies through the mail, the Government received, then, \$400 on those replies, and that is assuming that every 2-cent stamp they bought—and of course we are not figuring on 3 cents, because 1 cent goes to the Treasury—was a clear profit to the Government and that it cost nothing at all to carry and deliver those replies, that leaves a loss of \$69,600 on that one issue.

The CHAIRMAN. So that there is really not much in that. They use the argument. Now, that is no argument why the Saturday Evening Post or Collier's or any other magazine should go through the mail at a flat rate of 1 cent a pound, that they bring business to the first-class mail. Why should we let a mail-order house—why should we let Sears, Roebuck & Co., for instance, who send out a 3 or 4 pound catalogue, send that at a flat rate because every time they send out that catalogue it is going to originate an amount of first-class mail in the orders people send in? They receive ten times the amount of mail that the Saturday Evening Post or any other magazine receives.

Mr. WILLIAMS. That is true. You must understand that we have presented our case here for the daily and Sunday newspapers.

Mr. STERLING. That would apply to the advertising in the newspapers.

Mr. WILLIAMS. If that argument is to be brought in here, I would like to ask you if it would be a possible proposition to separate the newspapers and the magazines on this proposition?

The CHAIRMAN. I have never thought of a plan to separate the magazines and periodicals and the newspapers except by the zone system. It has been found by the experts, on the zone system—the House went into it, too—that the haul of the daily newspaper averaged about 255 miles.

Mr. WILLIAMS. That is true.

The CHAIRMAN. And that the haul of the weekly newspaper averaged 400 miles, while that of the magazines was about 669 miles. But the haul of periodicals like the Saturday Evening Post, the Ladies' Home Journal, and Collier's Weekly averages about 1,200 miles; so that when you increase the zone it catches those that are not newspapers.

Mr. MOONEY. Under the law, the very things you are seeking to reach will escape.

The CHAIRMAN. How will they escape?

Mr. MOONEY. They will escape, because they are going to be shipped west of Chicago as freight.

The CHAIRMAN. Do you know that the Government loses on the Saturday Evening Post before this law goes into effect—I have made that calculation, and others have made it too—two or three millions, and they would save that much if they would send it by express or whatever other way?

Mr. WILLIAMS. Mr. Chairman, this argument, if that is correct, brings us back to a part of the proposition we are laying before you, and that is that if there is need for this increased revenue, we agree that a zone system is the proper way of doing it. We need not have any discussion about that. That has been so covered by Mr. McAneny that I can not add anything further. He has made a study of the proposition.

The CHAIRMAN. About investigation. We have investigated six times at the request of the publishers of magazines and papers.

Mr. WILLIAMS. The last time, 10 years ago.

The CHAIRMAN. And some way or other they have always had enough influence with Congress, or Congress took their view of it, that there should be a postponement. Now, they have had experts in the department that have been there 20 years and for years have gone into this cost proposition, and these overhead charges, men who have given their lives to that very study, and if there are any men who should be experts on it, it is those gentlemen. Now, they have made their report as to the cost of overhead charges and mileage, and why should we have another investigation of outside people who know nothing about the postal proposition. If another set of people were to make a study of the proposition and the experts were to investigate again, they would find just like it has been found before. It has been investigated, and we have the results of the investigation.

Mr. WILLIAMS. Mr. Chairman, that is a point upon which the opinion of the American Newspaper Publishers' Association differs from yours. We believe that this bill has been passed upon the investigation, as Mr. McAneny pointed out, of 10 years ago, and subsequently to that there have been changes. Probably the cost has been increased since then. Probably the rates may be higher. Ten years ago they did not make an investigation as to the overhead charges. There is no trouble about what the transportation charges are, because they know how much they pay the railroads, and they know what the railroad and the letter-carrier service costs, because they have to make appropriations for that every year. I think that Congress or any other body would be very remiss in their duty if they should propose to act upon such legislation as we have without the investigation of experts; but they have felt that they had it, and they have been investigating and verifying their conclusions ever since this bill was passed. It has been investigated so far as the Government men, who have been in the business and have no financial interests to serve and only the purpose to serve their Government and find the true relations between their Government and the Post Office Department on the one hand and the publishers on the other; and that is what they found.

Mr. RAINEY. And to show that there is nothing partisan about it, the present Postmaster General and his predecessor have both called attention to the dangers of this system, and where it is leading us; the economic danger to the country; and they have both recommended that some steps be taken so as to eliminate this situation which you gentlemen want to project still further into the future.

The CHAIRMAN. And I want to add that not only the last two Postmasters General, but Postmasters General ever since the administration of Grover Cleveland, including his Postmaster Generals, both Mr. Bissell and Mr. William L. Wilson, called attention to the enormous loss to the Government in hauling and handling and distributing the second-class mail matter, and showed how each year it was increasing the loss to the Government as the poundage of the second-class mail would increase, and asked Congress to pass some act to remedy that. I think that probably every Postmaster General, except the man who served just a few months under Mr. Roosevelt, who was first assistant and then was appointed Postmaster General, Mr. Robert J. Wynne, recommended it.

Mr. Hitchcock called attention to it for four consecutive years. Two under Roosevelt called attention to it. Under the McKinley administration it was called attention to, and under Cleveland, and it just looks like, as Mr. Oliver said here, the time has come when we must increase the charge some way, and the only question is how to increase it equitably and fairly.

Mr. RAINEY. And notwithstanding all that, you gentlemen charge that this legislation is hasty and ill-considered and extortionate.

Mr. WILLIAMS. While we agree that this deficit has existed here, and there have been these reports as you state, yet it does not necessarily follow that this bill is the best remedy that could be devised.

The CHAIRMAN. No; that does not follow.

Mr. WILLIAMS. No; it does not follow.

The CHAIRMAN. But it is the judgment of the experts in the United States Post Office Department that it is the best and most equitable way to solve this problem.

Mr. RAINEY. No remedy has ever been suggested that meets with your approval except the remedy provided for it by the McKellar bill, which gives large zones in which your papers circulate. Therefore you stand for the proposition which would make it impossible for you to contribute anything toward paying this deficit, but would make it necessary for everybody else to do it.

Mr. WILLIAMS. Granted. There is one feature of this bearing on your argument that this was not done hastily, the feature as to advertising that was gotten in late. That is a point that was not discussed.

Mr. RAINEY. Yes.

Mr. WILLIAMS. You admit that that was hasty?

The CHAIRMAN. That was not discussed in the House. It was discussed in the Senate, and—

Mr. WILLIAMS. You remember that is one feature that we bring up when we say we would like to have it considered further.

The CHAIRMAN. It was considered several days in the Senate.

Mr. STERLING. The advertisers generally know when a newspaper goes to press?

Mr. WILLIAMS. Yes.

Mr. STERLING. And they know they have got to get their material there by a certain time. That is true, is it not?

Mr. WILLIAMS. Yes.

Mr. STERLING. Now, if you said "You must have it here two hours earlier," they could get it there just as well, could they not?

Mr. WILLIAMS. No, sir.

Mr. STERLING. There is not a thing in that idea.

Mr. WILLIAMS. What do you mean?

Mr. STERLING. Because the newspapers permit the stuff to come in at the last moment.

The CHAIRMAN. What is that?

Mr. STERLING. Advertising.

Mr. WILLIAMS. There is nothing, without taking this into consideration at all, that we would like better in our Pittsburgh newspapers than to have the advertising matter laid down in our composing room 24 hours ahead of the date of publication, or if we could not get it 24 hours ahead we would like to have it 12 hours ahead; and especially at the present time, when the question of labor is crowding and cramping us so that we can hardly get out, as it is; there is nothing we would like better than to have the advertising matter 24 hours or 12 hours ahead of the date of publication; but it is impossible for the stores to furnish it. Why? Because they in many cases do not definitely fix their prices before 10 or 11 o'clock in the morning, and it is very often five minutes before the time of publication when those advertisements are corrected and put in the press.

Mr. STERLING. Why do they wait until that time? Because they know that they have until that time to get it in that day's paper. If they found out that they did not have that much time to get it into the day's paper, they would not wait so long.

Mr. WILLIAMS. If we could accomplish that, I think it would be a strong reason for our turning around and looking with favor on the proposition, because it would help our papers so much.

Mr. COWLES. We require the advertisement to be in the office the day before it comes out.

Mr. STERLING. And if you do not get it then you do not publish it?

Mr. COWLES. It is the news that holds up the paper, it is not the advertising. It is waiting for the late news.

Mr. WILLIAMS. As far as the working out of this postal law lay with the Pittsburgh newspapers, I do not think it would cause a great deal of difficulty.

Mr. RAINEY. What is that?

Mr. WILLIAMS. I say I think there will not be much difficulty about it. The Post Office Department has sent out these regulations as to what they want us to do, and we are making provisions for it.

Mr. RAINEY. You said that if we wanted more revenue you could not object to it?

Mr. WILLIAMS. No; I say that the fact that more revenue is needed by the Postal Department is no argument that this bill is the best possible method of raising your revenue; any more than if you say that it is possible for a newspaper to pay this extra postage, and so on, and still make money, that that is any justification of the principle of the revenue.

Mr. RAINEY. Now, let me call your attention to something that you already know. We have increased, by bills that have passed the House, the compensation of rural carriers \$20,000,000. We have increased the compensation of field employees of the Post Office Department, ultimately, at least \$70,000,000. In other words, we have already added to the expense of the Post Office Department—and you gentlemen have all favored it in the newspapers, not one of



you has ever objected to it. A few of us have made objection to it on the floor, but you never did. We have increased the expenses of the Post Office Department \$80,000,000 at least, perhaps a good deal more than that.

We now know just how much an increase of 1 cent a pound in postage will yield a year. It will yield \$60,000,000. That is all it will yield, because people are economizing on their letter postage. One cent of that is paid for the expense of carrying the letter to its destination and 1 cent goes into our war fund and 1 cent of it goes to you gentlemen.

Now, with those facts before us, we know that when this war is over, if we are to pay the expenses of the Post Office Department out of the Post Office Department receipts, letter mail will never be less than 3 cents as long as any of us live; and notwithstanding all that, and this situation, which you did not help to avoid at all—these are the highest paid postal employees in the world, and you never protested for a moment, in war times, which I think was most unjustifiable. In fact you encouraged it and advocated it. You contributed to a situation which will not only make impossible 1 cent postage but will make impossible anything less than 3 cent postage— notwithstanding that you are still here seeking to avoid paying the expense of carrying your newspapers through the mail.

Mr. WILLIAMS. Pardon me, we are not here trying to avoid the payment of what is just and proper.

Mr. RAINEY. That is what everybody believes.

The CHAIRMAN. You favor the zone system?

Mr. WILLIAMS. We were willing to adopt the zone system if it was necessary.

The CHAIRMAN. Your position is, and I think the position of the Pittsburgh Press is, that they will pay the cost of the service rendered by the Government if the cost can be reasonably ascertained by an investigation?

Mr. WILLIAMS. That is the idea.

The CHAIRMAN. I have understood that that is the position of the press of Pittsburgh.

Mr. WILLIAMS. That is practically the position of the American Newspaper Publishers' Association.

Mr. RAINEY. Are you willing to submit a statement to the clerk of the internal revenue as to the income of your paper for 1913, 1914, 1915, 1916, and 1917?

Mr. WILLIAMS. We will be glad to do that if that is requested of the newspapers generally. I do not believe you would pick out an isolated case, the Pittsburgh Press, and use the figures in the same way without having the figures of others to use in the same connection.

Mr. RAINEY. Of course, we can only ask those that appear before us. We could not compel the other papers to give us those figures. You will admit, of course, that your income was larger in 1917 than in 1914?

Mr. WILLIAMS. It was somewhat larger in 1917 than in 1914.

Mr. RAINEY. All of the representatives of this association who have appeared before us so far have asserted patriotically that they are not much affected by this; that their income is bigger than it ever was, but they are appearing for the other members of the association who

are going to be injured. Now, so far, nobody has appeared who is going to be injured by this legislation; no member of your organization who has made a statement before this committee has said that he was going to be injured. They seem to have picked out representatives who are not and can not be hurt. Now, if you will give us the name of anyone who is going to be injured, or who will say that his business is going to be injured, we will be awfully glad to hear him.

Mr. WILLIAMS. I appreciate your position in that, Mr. Rainey.

Mr. RAINEY. You started out with a representative of a newspaper whose earnings are fabulous—the New York Times—and who refused to deny that their income was 100 per cent more than it was four years ago. You started out with him as your principal representative. You then followed him by others, including yourself, who state you are not affected and are prepared to meet it. So that altogether you have not made a very good case, except that we have enjoyed having you all here, and you are delightful gentlemen.

Mr. WILLIAMS. Let me add to that. It is not that we have not the money and do not want to pay it, but it is the principle that is involved here.

Mr. RAINEY. The principle involved, of course, is that of the protection of the newspaper publishers in the increased revenues they now enjoy.

Mr. WILLIAMS. I wish to just make one other little reference, Mr. Chairman. This whole hearing has been devoted to a plea to hold up the putting in operation of this postal bill on the 1st of July until it can be properly investigated. Nothing has been said which applies to the new revenue bill, which you have under consideration. There has been some intimation made of taxation on advertising.

The CHAIRMAN. Yes.

Mr. WILLIAMS. We have said that if any other proposition comes up of that kind we want an opportunity to appear and present our views along that line.

In conclusion, I want to say, on behalf of the American Newspaper Publishers' Association, that I want to thank you and your colleagues for the time and patience which you have given and exhibited here to-day and yesterday in hearing this matter that we have presented to you. I want to thank you.

The CHAIRMAN. And I want to say that the committee thanks the gentlemen who have appeared, Mr. McAneny and all you gentlemen. Very much of the testimony and many of the statements made have been very interesting and instructive. We are glad you came.

Mr. WILLIAMS. Thank you.

Mr. MOONEY. Mr. Chairman and gentlemen, one more point: I want to speak about the deficit in the second class. We believe this, that the deficit in the second-class postage does not result from the daily papers, and I have got this suggestion to make: You are going to take over the express companies soon. You gentlemen will remove the deficit that the American newspapers create if you will compel the newspapers to ship all their short hauls through the post office. That will wipe it out.

Mr. RAINEY. Through the post office?

Mr. MOONEY. Yes. In other words, now we ourselves on the long routes pay the express companies from 40 to 50 cents a hundred

pounds for hauling our papers, up to a cent. They seek that business. They say it is profitable to them. Now, I believe that if all of us would give the post office all of our business, and the benefit of the short haul, this newspaper deficit in the second class would disappear.

Mr. RAINEY. Your position, then, is this, that the newspapers at this time give to the express company the only carrying business which they have which is profitable, and the express company makes money out of it; and they give to the Government the carrying business which is unprofitable, and the Government loses money on it?

Mr. MOONEY. That is not my statement.

Mr. RAINEY. That is the fact, though.

Mr. MOONEY. No; it is not a fact. There are certain places where we pay the express company just as much as we pay the Government—maybe a little bit more. The express company can get those papers to the subscriber quicker than the Government can do it. Much of the stuff which we could send by express cheaper than by the Post Office Department, we send by the Post Office Department because of the convenience, but generally, I say this, that if all the newspapers sent all of their matter through the post office, including this short-haul stuff, then there would be a profit there which would compensate the Government for the deficit we create by the long haul.

The CHAIRMAN. Not if the Post Office Department is in any way correct when it says that the overhead charges are \$3.86 a hundred pounds for handling it.

Mr. MOONEY. Yes.

The CHAIRMAN. Do you think that the express companies could carry newspapers from New York to Washington at 40 cents, and in addition to the carriage have a building and clerks in there and deliver that mail to those who called for it, and have carriers and deliver it all over the city for 3 cents. They could do it for \$3 a hundred pounds, could they?

Mr. MOONEY. These express companies take these bundles in 100 and 200 bundles, don't you see?

The CHAIRMAN. Yes.

Mr. MOONEY. And we deliver those bundles to the express company in New York, and they bring them here and the agents get them: just as we deliver similar bundles to the post office, and they get them the same way. There is no overhead in it. The only expense that the express company has to pay is the train haul from New York to Washington.

The CHAIRMAN. Have you not frequently contended years ago in your paper—many papers did—that the railroads were giving excess weight to the express companies; that is, giving rates to the Government for doing the same poundage hauling that were two or three times more than they were charging the express companies? Now, supposing that the Government is paying the railroads a good deal more than the railroads will charge the express companies for the same service—

Mr. MOONEY. Why should the Government do it?

The CHAIRMAN. Why should the Government do it?

Mr. MOONEY. Why should the Government permit the railroads to hold them up? They ought not to. They ought not to now; they ought to regulate that.

The CHAIRMAN. They say that it costs the railroads two or three times more to haul the Government's mail and cars than to haul express.

Mr. MOONEY. In the work that the express companies do for newspapers, it is all bundle work. There is no overhead to the express company attached to it. The owner of the paper hauls his papers and dumps them in the express car. The express company hauls them from one place to the other, and the agent of the newspaper comes and takes the bundles out of the car, and that is the end of it.

The CHAIRMAN. There are overhead charges attributed to everything that the express company hauls, and also everything that the Government hauls.

Mr. MOONEY. But the express companies seek that business, and go after it hard; and if they can make a profit out of it, then for that same service you would charge a cent a pound. Go ahead and charge us a cent a pound, and take over the business.

The CHAIRMAN. All that you get from your daily advertisements goes to help to pay the overhead charges as well as the labor charges.

Mr. MOONEY. That is true.

The CHAIRMAN. It does not make any difference how small or how large a rate you get, each one must contribute a part to the overhead charges; that is true, is it not?

Mr. MOONEY. Yes, but this point is well established also. After your overhead charges are arranged for you can do a great deal of business afterwards without extra charge. Now, our overhead charges between Washington and New York are already arranged, and the added expressage would increase the overhead none, and the revenues would be large.

The CHAIRMAN. But we still would be losing on every pound.

Mr. MOONEY. We would reduce your loss, then. We would cut it down.

The CHAIRMAN. You do not think that any overhead charges should be charged up to the second-class mail, because the trains are going to run just the same?

Mr. MOONEY. No; that is not the proposition. They ought to bear their proportion of it; but with the same overhead charges the same train will haul a car that will haul a half a car.

The CHAIRMAN. If you are going to keep this overhead charge fixed, if you are going to run a car from here to New York, whether you have 10 pounds or 10,000 pounds in it—of course, it is not that way—but if we did not have the handling and hauling of second-class mail matter, which is, by the way, about 60 per cent, or over 60 per cent, of the total poundage hauled of all classes, newspapers and magazines, our overhead charges would not be anything like as much. We could dispense with trains and cars and railway mail clerks, and city carriers to a large extent, and postal clerks, and your papers would not have to pay anything like as much. That is true, is it not?

Mr. MOONEY. Yes; I do not see how you could dispense with many city carriers.

The CHAIRMAN. I think you could. Many of them carry mail that is nothing but newspapers.

Mr. MOONEY. There is a great deal of the second class that carriers never touch at all.

The CHAIRMAN. Right in the street where I live I have seen a carrier many and many a time come and deliver nothing but newspapers. He has been to my house many a time two, three, and four days out of the week and has brought no letters—nothing but newspapers from our State, every morning.

(Thereupon, at 4.45 o'clock the committee adjourned until Monday.)

# REVENUE BILL

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No. 15

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## HEARINGS

BEFORE THE

## COMMITTEE ON WAYS AND MEANS

HOUSE OF REPRESENTATIVES

WITH REFERENCE TO

## THE NEW REVENUE BILL

[THIS PRINT OF THE HEARINGS IS SUBJECT TO REVISION  
BEFORE THE FINAL PRINT]

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JUNE 24, 1918



**COMMITTEE ON WAYS AND MEANS.**

**HOUSE OF REPRESENTATIVES.**

**SIXTY-FIFTH CONGRESS, SECOND SESSION.**

**CLAUDE KITCHIN, North Carolina, *Chairman.***

**HENRY T. RAINEY, Illinois.**

**LINCOLN DIXON, Indiana.**

**CORDELL HULL, Tennessee.**

**JOHN N. GARNER, Texas.**

**JAMES W. COLLIER, Mississippi.**

**CLEMENT C. DICKINSON, Missouri.**

**WILLIAM A. OLDFIELD, Arkansas.**

**CHARLES R. CRISP, Georgia.**

**GUY T. HELVERING, Kansas.**

**GEORGE F. O'SHAUNESSY, Rhode Island.**

**JOHN F. CAREW, New York.**

**GEORGE WHITE, Ohio.**

**JOSEPH W. FORDNEY, Michigan.**

**J. HAMPTON MOORE, Pennsylvania.**

**WILLIAM R. GREEN, Iowa.**

**CHARLES H. SLOAN, Nebraska.**

**NICHOLAS LONGWORTH, Ohio.**

**GEORGE W. FAIRCHILD, New York.**

**JOHN A. STERLING, Illinois.**

**WHITMELL P. MARTIN, Louisiana.**

**WILLIS C. HAWLEY, Oregon.**

**ALLEN T. TREADWAY, Massachusetts.**

**JOHN E. WALKER, *Clerk.***

## REVENUE BILL.

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COMMITTEE ON WAYS AND MEANS,  
HOUSE OF REPRESENTATIVES,  
*Monday, June 24, 1918.*

The committee met at 10 o'clock a. m., Hon. Claude Kitchin (chairman) presiding.

There were also present Representatives Rainey, Dixon, Hull, Garner, Collins, Dickinson, Oldfield, Crisp, Helvering, White, Green, Sloan, Longworth, Fairchilds, Sterling, Martin, and Hawley.

### STATEMENT OF HON. THOMAS U. SISSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSISSIPPI.

Mr. SISSON. Mr. Chairman, I do not know that there is anything I can add to the terms of the bill I have introduced, H. R. 12510. If you should decide to include this tax in the proposed revenue bill it would not be necessary, perhaps, to carry all of its administrative features which I have in this bill, because they could be provided for in your general law.

When I presented this matter to a subcommittee of the Committee on Ways and Means, a year or two ago, the Census Bureau stated that there was something like 1,000,000 of these firearms and weapons sold during each year. I can not, nor can the Census Bureau, tell with any degree of accuracy at this time how the war has affected the sale of deadly weapons. I take it that the higher-grade pistols are not manufactured for the trade to any large extent now because the Government, perhaps, has taken over all of those factories.

I have fixed the tax in this bill at \$5 on the manufacture and sale of each pistol, dirk knife, sword cane, and so on.

There is one feature about this character of legislation to which I wish to call the attention of the committee. When this bill was first introduced, the police authorities of a good many cities became very much interested in it. They stated that if in the administration of this law a register could be kept of all the firearms sold, and they were sold in their States and their cities, they could then get that end of it and could keep up with the purchasers of firearms, the carrying of which concealed is a violation of the law of the State, and that if they were in a position to know who the possessors of firearms were, it would help a great deal, and thus the police authorities would know the criminals, who are usually spotted in a city, who own deadly weapons. That feature of it had not occurred to me at the time, because I introduced the bill purely as a revenue measure. Therefore I incidentally mention that the bill would be of advantage to the police authorities throughout the country.



Unless the sale of these deadly weapons has been very much curtailed—as it perhaps has by reason of the war—you would raise something like \$3,000,000 or \$4,000,000 a year by the levying of this kind of a tax. The administration of this law would be very simple because the regulations could require that those engaged in manufacturing any of these firearms should enter into a bond, of reasonable amount, to properly list all of the firearms and deadly weapons enumerated in the bill, and upon those returns the tax could be very easily collected.

If there are any questions that any member of the committee desires to ask, I shall be glad to answer them.

Mr. HAWLEY. You propose a specific tax of \$5 rather than an ad valorem tax.

Mr. SISSON. I provide both. I provide a \$5 tax on every weapon mentioned in the bill and 25 per cent ad valorem. I do that because the higher-grade weapons should bear a considerably greater tax than the others. Personally I would not object to the tax being so high on this character of weapons as to absolutely prevent the sale of them.

Mr. HAWLEY. I was wondering whether this would tax them out of existence.

Mr. SISSON. I would not object to that, but from my viewpoint I do not believe the Federal Government is authorized, under the taxing power, to destroy an industry. I do not think that under the guise of the taxing power the Federal Government ought to destroy an industry by a tax, although the end obtained might be very desirable. I think that would be a perversion of the taxing power of the Federal Government. For that reason I would place a tax such as is mentioned in my bill.

With a tax of \$5 and a 25 per cent ad valorem upon the manufacture and sale of the weapons the amount would be, we will say for argument sake, \$10 for the manufacture of the weapons and the 25 per cent ad valorem would be \$2.50, which would be \$12.50, and the addition of the \$5 specific tax would be \$17.50. That price, with a profit added, would, in my judgment, deter some of the purchasers of these weapons. At this particular time, of course, there can be no objection to resorting to any means to raise revenue, when we are looking for things to tax in order to raise money to pay the expenses of the war.

Mr. HAWLEY. Along the same line of this tax, why not tax shotgun shells?

Mr. SISSON. I introduced a bill, along with this, to tax pistol cartridges and shells, but there was considerable protest from the sporting world to a tax on shells at that time, and I did not reintroduce that bill. But I see no reason now, in war times, why you should not put a reasonable tax upon shells used in shotguns, and certainly there ought to be a very heavy tax placed upon pistol cartridges.

Mr. HAWLEY. How much would be raised by a tax of that sort?

Mr. SISSON. I made an investigation of that at the time I first introduced these bills and I think you can raise more money by a reasonable tax on shells—although the consumption of shells may not be as great in times of war as in times of peace—than you can raise under this particular sort of a tax, and I think that since we are in war you could put a pretty heavy tax upon shells used in shotguns

and get a considerable revenue. Then you might put an enormous tax upon pistol cartridges—you might put a 100 per cent tax on pistol cartridges—and then you would raise considerable revenue.

Mr. HAWLEY. You would place that tax so that it would be collected by the manufacturer and passed on by him to the consumer?

Mr. SISSON. Absolutely; so that the manufacturer would attach the tax, by means of a stamp, to each box of shells and each box of cartridges manufactured and sold. Of course, there would be an opportunity to evade the tax on broken packages of shells—that is, by refilling them—but if the manufacturer is honest that can not be done. That was the trouble they had with the collection of the tax on tobacco in boxes. They first tried to have the tax paid by the manufacturer, without having a stamp attached, but they found that was subject to a great deal of fraud. They then changed the law so that every manufacturer had to attach a revenue stamp to each box of tobacco before he offered it for sale. Even, then, of course, after the box was opened, it might be refilled, but that was an extremely difficult thing to do, because the manufacturer would have to be in league with the man operating a retail store in order to have the box refilled.

I would urge upon the committee that they not only adopt the idea contained in the bill (H. R. 12510), but that in the same section of the revenue bill they put a tax upon pistol cartridges and, for war purposes, put a tax upon the manufacture and sale of shells for hunting purposes. I would be glad if each member of the committee would get a copy of the bill, because I do not think it needs any further explanation.

The CHAIRMAN. I think the suggestion is a very valuable one, and the committee will be very glad to consider the proposition.

Mr. SISSON. I am very much obliged to you gentlemen for this hearing.

#### STATEMENT OF HON. OSCAR W. SWIFT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK.

Mr. SWIFT. Mr. Chairman and gentlemen of the committee, I have assumed that you would insert in the new bill some provisions governing postal rates and, therefore, that section 1100 in the last public revenue act, which was approved October 3, 1917, will undoubtedly appear in the new bill. This section provides, among other things, "that the rate of postage on drop letters of the first class shall be two cents an ounce or fraction thereof."

The practical effect of this section is that it results, we believe, in a discriminatory manner against the city of New York. The effect of the section is that in every city of the United States, with the exception of the city of New York, a drop letter can be mailed for 2 cents within its entire territorial limits, but in the city of New York a large proportion of our letters require 3 cents postage, even though they are mailed within and are for delivery within the city of New York.

This fact results from the incorporation, under the consolidation act of 1898, of very large communities of population. The average city, of course, has a normal growth of population, but in 1898, under our consolidation act, the borough of Brooklyn, for example, was incorporated, and it had at that time a population exceeding 1,000,000;

to-day it has a population of over 2,000,000, and if it were a separate city it would be to-day the third largest city in the United States. If a letter is mailed from the general post office in the lower end of Manhattan to the city hall of the borough of Brooklyn, which is a distance of a mile and a half, a rate of 3 cents is required; whereas in the city of Philadelphia, from Hog Island to Somerton, which is the most northerly postal substation, the rate is only 2 cents.

The CHAIRMAN. Why is that? Why is the rate on a drop letter in Philadelphia different than it is in the city of New York?

Mr. SWIFT. That arises in this way: At the time the city of Brooklyn was incorporated into the greater city of New York it had a separate postmaster, and that separate office exists to-day and discharges its functions just as independently as the post office in Philadelphia or in Boston.

The CHAIRMAN. They are regarded as two separate post offices?

Mr. SWIFT. Yes, sir.

Mr. HAWLEY. You have a post-office building in Brooklyn?

Mr. SWIFT. Yes, sir. We have in the greater city of New York six such postal districts, and it is practically the unanimous opinion of the citizens of New York that it is absolutely necessary that these separate post offices should be maintained to insure efficiency in the Postal Service. I desire to say in that connection that the service rendered by the present postmasters is of the very highest order; they are men of large business experience, and, of course, we do not want these post offices abolished. It would be very detrimental to the interests of the city of New York if any such action were contemplated, but I believe no such action is contemplated.

Mr. HAWLEY. Do I understand that a letter mailed in any one of the six postal districts to the other five is charged for at the rate of 3 cents?

Mr. SWIFT. Yes, sir. What I desire to bring to the attention of the committee particularly is this, that if this section is enacted in the new bill, and I believe it should be with a modification, that after the words "that the rate of postage on drop letters of the first class shall be 2 cents an ounce or fraction thereof," this should be inserted as a new paragraph:

The term "drop letter of the first class," as used in this section, means any letter of the first class mailed within, and for delivery within, the same postal district, or within any part of the territorial limits of any incorporated city of the United States.

A section of that character, of course, would be general in its application, and in proposing a section framed in such language I have been mindful of the fact that we want to avoid any legislation which would be regarded as special in character, and by making it apply to the territorial limits of any incorporated city of the United States I feel that legislative objection would be eliminated.

I have talked with the chairman on this proposition, and with several members of the committee, and it is my feeling that it is the intention of the committee to deal fairly and justly in this matter, not because it is the city of New York, but because it is a matter of simple justice.

I might add in this connection that as far as I have been able to ascertain the city of New York turns over to the Federal Government a net sum of \$20,000,000 in postal revenues. We have there an average mail of about 17,000,000 letters per diem, drop letters, but

of course, you realize that only a portion of these would be subject to the 3-cent rate, because the greatest number of these letters are mailed in the Borough of Manhattan, that is, the old city of New York, and also in the city of Brooklyn, and such letters only require 2 cents, because they are for delivery in the same postal district. As far as I have been able to ascertain this additional 1 cent rate probably affects about 750,000 or 1,000,000 letters per diem.

I have also ascertained that there is a feeling throughout the country in many of these cities—having gathered that information from representative men with whom I have talked on this same proposition—that the drop letter rate should be uniform throughout the United States.

I thank the committee for its attention.

The CHAIRMAN. Have you introduced a bill covering the matter referred to?

Mr. SWIFT. Yes, sir.

The CHAIRMAN. Please file a copy for the record.

(Said copy follows.)

[H. R. 7920, Sixty-fifth Congress, second session.]

A BILL To amend an act entitled "An act to increase the revenue, and for other purposes," approved October third, nineteen hundred and seventeen.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section eleven hundred of the act entitled "An act to increase the revenue, and for other purposes," approved October third, nineteen hundred and seventeen, which reads as follows:

"That the rate of postage on all mail matter of the first class, except postal cards, shall, thirty days after the passage of this act, be, in addition to the existing rate, 1 cent for each ounce or fraction thereof: *Provided,* That the rate of postage on drop letters of the first class shall be 2 cents an ounce or fraction thereof. Postal cards and private mailing or post cards when complying with the requirements of existing law shall be transmitted through the mails at 1 cent each in addition to the existing rate.

"That letters written and mailed by soldiers, sailors, and marines assigned to duty in a foreign country engaged in the present war may be mailed free of postage, subject to such rules and regulations as may be prescribed by the Postmaster General," be, and is hereby, amended so as to read:

"That the rate of postage on all mail matter of the first class, except postal cards, shall, thirty days after the passage of this act, be, in addition to the existing rate, 1 cent for each ounce or fraction thereof: *Provided,* That the rate of postage on drop letters of the first class shall be 2 cents an ounce or fraction thereof. Postal cards and private mailing or post cards when complying with the requirements of existing law, shall be transmitted through the mails at 1 cent each in addition to the existing rate.

"The term 'drop letter of the first class' as used in this section means any letter of the first class mailed within, and for delivery within the same postal district, or within any part of the territorial limits of any incorporated city of the United States.

"That letters written and mailed by soldiers, sailors, and marines assigned to duty in a foreign country engaged in the present war may be mailed free of postage, subject to such rules and regulations as may be prescribed by the Postmaster General."

Mr. HAWLEY. Do I understand that this would affect about 300,000,000 letters in the course of a year?

Mr. SWIFT. I should think so, although that may be a little high. Of course, that is purely guesswork on my part because it is very difficult to get from the Post Office Department any accurate statements, as they do not keep a separate account of drop letters that are mailed between different postal districts.

**STATEMENT OF HON. WILLIAM A. AYRES, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF KANSAS.**

Mr. AYRES. Mr. Chairman and gentlemen of the committee, I want to say at the beginning that I am not an experienced oil man by any means. My interest in the oil business from the financial standpoint or in the oil game, is that I have invested a few hundred dollars in what are called wildcat ventures, none of which indicate that I should have any worry at all on the score of income or excess-profits taxes. However, I am interested in this matter because it is one of the industries of my State and particularly of my district. The new field that was developed and that is known as the Augusta, Eldorado, or Butler County oil field, is in my district, and I understand that it is one of the best oilfields in the West or the Middle West. I am also told that, like all other oil fields, or practically all of them, it was discovered by what is generally known as a wildcatter. In fact, I know that this field was, because I happen to know personally the party who made the discovery. In other words, this man had the nerve to bet all that he had, all that he could get together, and all that his freinds could get together, that there was a pool of oil under those broad prairies. My information is that those men who are ready to exhibit such nerve, make a good bet about three or four times in one hundred, and that they make a bad bet about ninety-six or ninety-seven times out of a hundred.

Now, for the most part, after these men have made their investment, have undertaken to discover the oil deposits, and after they have gone "busted," and also have taken along with them the money of their friends, some one will come along, about a year afterwards, with better luck and succeed in finding oil within a reasonable radius of the place where they have failed. This will, of course, make the lease of the prospector valuable, but, in the meantime, he has blown in all of his funds and those of his friends, and he is unable to develop his lease, and he can not sell it. That is to say, if some one wants to buy the lease, he can not afford to sell it. If he could get \$100,000 profit for his lease—he has already probably blown in that much money—or anywhere from \$75,000 to \$100,000 in drilling dry holes; if he should sell his lease at a profit of \$100,000, the Government would step in and take that, or a the major part of it, in the way of income tax and excess-profits tax, and therefore he holds on to his lease, hoping that something will happen by which he will not be compelled to give up the major part of his profits in the way of excess profits and income taxes. Of course, it is understood that if the amount that he has expended in drilling these dry holes was expended in past years, he can not deduct it from the profits, and, therefore, he would have to give up practically the major part of his profits in the way of taxes. By this means the Government is not only deprived of the oil, of which it is badly in need, because of the failure of the party to either develop it or sell it to others who can develop it, but the Government is also deprived of the revenue. Therefore, the Government is losing at both ends.

I am also reliably informed that by this method the little fellow is practically driven out of the business in which he was the pioneer. My understanding is that such institutions as the Standard Oil Co. and the larger companies seldom prospect, or, at least, they have

not done so until within recent years. They wait until the wildcatter or the pioneer makes the discovery. After the wildcatter or pioneer has made the discovery, he goes to the Standard Oil Co. or other large company and they develop the field, because they have the means with which to do it. I want to give the committee a statement of an actual case that I know of personally in my own district. That was a case where a group of men of ordinary means got together several pots, you might say, at different times, and drilled within a year or so six dry holes, which cost them in the neighborhood of \$120,000. It was a clear loss. About all that most of them had left was nerve and a little credit. They got together again about \$130,000 and made a new venture. In other words, they bought a royalty, and I was informed by one of those gentlemen that they could sell this royalty for about \$230,000, but that they can not afford to sell it for the reason that it would represent a profit of about \$100,000. The \$120,000 that they had already blown in on dry holes was expended last year, and, of course, that could not be deducted from their income tax and excess-profits tax. They could not deduct that loss by reason of its having occurred a year ago. If they should sell at a profit of \$100,000, the Government would step in and take the major part of it, and they would still be losers by anywhere from forty to fifty thousand dollars, even with that profit of \$100,000. As a result, they are not selling their royalty but they are keeping it.

If there was a provision in the present law by which in selling the royalty they would be taxed a reasonable percentage, there is no question at all but that they would sell it and gladly sell it. I do not know what would be a reasonable percentage, because I am not, as I have said, an experienced oil man by any means, but if it were anywhere from 3 or 4 to 5 or even 8 per cent on that profit of \$100,000 on the sale of the royalty, they would gladly sell it, and, as a result, the Government would reap that revenue, or whatever the percentage of revenue might be on that profit of \$100,000. Then, that same royalty, in all probability, would be sold anywhere from two to three times during next year, and the Government would again reap a revenue of a certain percentage on each one of the sales. That is a thing that the oil men are very much interested in. I think it is important that there should be some provision placed in this law whereby a reasonable percentage or rate may be charged upon the profits arising from both the sale of royalties and the sale of leases. In that way the Government would not only reap the revenue on each of those sales on which there was a profit gained, but it would also stimulate production. I have received a letter from one of the leading citizens of my city on this subject. He is not an oil man, but is simply a business man and one of the leading attorneys of the city, with no interest whatever in oil. In that letter he makes this statement:

What the Government desires is revenues to avoid bonds as much as possible. My solution of this problem, in a measure, is as follows: All sales and exchanges of real estate, oil lands, royalties, etc., should pay the amount due to the Government at once, in order that when a sale is closed it will be paid; that is to say, within 30 days, to the Internal Revenue Department, at the place of the sale or exchange. The points are: In every sale or exchange of oil lands, royalties, etc., there should be due

and payable to the Government, by payment to the officer, the sums of money herein after set out, to be payable within 30 days after the closing of a transaction to the proper internal-revenue officer:

1. Sales of real estate from \$5,000 to \$10,000, one-half of 1 per cent.
2. \$10,000 to \$20,000, three-fourths of 1 per cent.
3. \$20,000 to \$30,000, 1 per cent.
4. \$30,000 to \$40,000, 1½ per cent.
5. \$40,000 to \$50,000, 1½ per cent.
6. Then up to \$60,000, 1½ per cent.
7. Up to \$70,000, 2 per cent.
8. Up to \$80,000, 2½ per cent.
9. Up to \$90,000, 2½ per cent.
10. Up to \$100,000, 3 per cent.
11. \$100,000 to \$500,000, 4 per cent.
12. \$500,000 to \$1,000,000, 5 per cent.
13. \$1,000,000 up, 10 per cent.

This gentleman further states in his letter that at least two or three hundred sales in Kansas have not been consummated by reason of the present tax laws, and I know that to be the fact. For instance, one sale there in the city of Wichita of \$200,000 was called off because they could not agree as to who should pay the war-revenue tax, and this gentleman states in his letter, "To my knowledge, one sale of \$500,000 was called off for the same reasons." He further states, "Wichita, alone, in my judgment, on its actual sales would have paid the Government something like \$50,000." I could give you gentlemen specific instances occurring within the last few days where sales were called off on that account. I could file a statement of them with you. I do not know how many sales have been called off, but sales involving several million dollars have been called off in that field along simply because they could not arrive at the method of how they would pay the tax. They could not afford to sell even at a reasonable profit because of the way in which the present income tax and excess-profits tax would operate upon them.

Mr. SLOAN. For the purpose of obtaining revenue, would you favor an amendment to the law so that when there was a profit in the property it should be taxed by the Government whether it was sold or not?

Mr. AYRES. As to that proposition, I can not say, because I am not an experienced oil man and would not know anything about that. That is a matter that could be answered better by these gentlemen here, like Judge Shea. That could be better answered by these experienced oil men. I am only bringing to your attention these specific cases where sales were not made because of the operation of the law. It is very clear to my mind that if you are the owner of a lease and lack the means of developing it, you should be in a position where you could sell it. Now, while you may be able to sell it at a profit of \$100,000, if you have expended in prior years \$100,000 in drilling half a dozen dry holes, you could not afford to sell. If you drilled those dry holes last year, you would not be entitled to deduct that amount from your present profits. You could not do that, because the loss occurred last year. Therefore, as I say, you can not sell it. You can not afford to sell it, and you will keep it in the hope that some provision will be placed in this revenue bill, or that the war will cease, or that some other means of taxation will be devised, and that you will either be able to develop the lease

or sell it under circumstances where the Government will not take the major part of your profits.

Mr. SLOAN. If I correctly understand your statement, around in your State there is a good deal of oil profits earned, but, by reason of making no sales, the Government fails to collect a very large amount of revenue?

Mr. AYRES. What do I understand you to mean by the word "earned?" Do you mean in the selling of actual oil?

Mr. SLOAN. Not in selling it; but, for instance, if the property should be increased in value so that it could be sold at a profit of \$200,000, that would represent the profit accrued. Now, would you recommend that the Government, in raising this \$8,000,000,000 should tax that profit before the sale was consummated?

Mr. AYRES. No, sir; I would not make any recommendation at all, because, I will be frank to say, I do not know that I would be competent to pass upon a matter of that kind. I am only bringing to your attention a few specific instances where the sale of royalties and leases could not be made. I am only giving the committee in my feeble way specific instances that I know of in my own particular locality where sales could have been made and would have been made if some provision had been made whereby they could be relieved from the payment of all their profits in the way of taxes, and whereby they would know specifically what they had to pay in the way of taxes. My understanding is that at the present time they do not know that because of the various rulings that have been made and that are contemplated by the Commissioner of Internal Revenue.

Mr. STERLING. You spoke of selling royalties. By that do you mean the selling of oil on a royalty basis?

Mr. AYRES. Yes, sir. For instance, the owner's royalty is in most cases one-eighth. I think that in our country that is the royalty in most cases.

Mr. STERLING. By selling the royalty, do you mean where the owner of the land getting a certain share of the oil desires to sell it out? Is that it?

Mr. AYRES. Yes, sir; he sells that one-eighth royalty, for instance, for \$100,000, using that as a basis for my illustration. Now, those people who purchase it later on can probably sell it in many instances for from \$150,000 to \$200,000, and that would make a profit to them of from \$50,000 to \$100,000, but, under the present arrangement, of course the Government would take the major proportion of that profit in the way of excess profit and income taxes.

Mr. STERLING. I do not just see how losses in previous years would interfere with a sale of that kind. The owner of the land would not care who had the lease.

Mr. AYRES. I am not speaking about this particular owner or his sale of the royalty, but I am speaking of the case of the speculator, for instance. Using as an illustration this specific case that I know of; here were some men who had drilled six dry holes which had cost them in the neighborhood of \$120,000. They got another pot together, if you will allow the expression, and bought a royalty. Now, they could not deduct their losses of a year ago, which were incurred in drilling those six dry holes, from the profits that they could realize from the sale of this royalty at this time. They could sell the royalty for about \$230,000, which would make them a profit of \$100,000.



Mr. HAWLEY. Was the same land involved in the two transactions?

Mr. AYRES. No, sir; but the same people were involved. Now, they would be glad to sell their royalty at a reasonable profit, and that same royalty would probably be sold again and again in course of time, and if it were sold again at a profit, the Government would reap that much additional revenue.

**STATEMENT OF MR. PERCIVAL D. OVIATT, SECRETARY  
NATIONAL ASSOCIATION OF EMPLOYING LITHOGRAPHERS,  
ROCHESTER, N. Y.**

Mr. OVIATT. Mr. Chairman and gentlemen, I represent the National Association of Employing Lithographers, and I am here advocating the return to the old rate of 1 cent as the mailing rate on post cards. The purpose of the new rate was to increase the revenue from that source. The result has been, and it has been demonstrated, that the revenue from that source has been decreased. The cards in which we are interested are the cards of which you gentlemen have been handed samples, and they represent souvenir, view, picture, and fancy post cards. There are no Government statistics to show that the revenues have actually been reduced from this source, but the reports from the manufacturers would seem to indicate clearly that the Government has actually lost revenues in conjunction with the manufacture of these cards. As one illustration of that, I will say that under the old law, during the past year, the Illustrated Post Card Novelty Co., of New York, manufactured and sold 75,000,000 cards, while, under the present law, according to the estimates for this year, the output will be only 15,000,000 cards. Under the present law, at the 2-cent rate, 15,000,000 cards will bring in \$300,000 of revenue from the postage, while under the old law, 75,000,000 post cards at the 1-cent rate would bring in \$750,000, so that the loss to the Government in revenue would be \$450,000, so far as the manufacture of this particular company as it relates to that proposition is concerned.

Now, another thing: This loss in revenue to the Government represents a loss in the most profitable mail matter transported by the Government. In the matter of the transportation of the mail and in the matter of its handling, at the old rates post cards showed an overwhelming percentage of profit. For example, post cards run about 133 to the pound, and the average would be \$2.66 for postage per pound, or \$5,320 per ton carried. Under the old rate of 1 cent per card, the post card paid 133 times as much postage as second-class mail matter. Under the present law, with first-class letter postage at three cents, first-class matter would yield about 48 cents per pound, while, as I have said, the average post card yields \$2.66 per pound. Of course, the difference there is due to the difference in weight, and, as I have said, that 48 cents per pound on first-class matter is to be compared with \$2.66 per pound on post cards under the present rate. In other words, it is several times as much. We feel that the relative unfairness, regardless of its effect upon our business, which is fast going into decline, should be taken into consideration. I might say, further, that every time we lose any money on the manufacture of post cards, the Government loses several times that amount. These post cards retail on an average at 1 cent, while we sell them at wholesale at a quarter of a cent to 1 cent each. As a result of this new rate, under

these circumstances, when we lose one quarter of a cent because we do not sell the card, the Government loses 1 cent of revenue. That revenue is not the cost of carriage, but it represents a possible profit to the Government. It represents a profit which has been realized by the Government in its ability to do away with large appropriations to meet deficits. As I say, what we rely upon are the manufacturer's figures with reference to the manufacture of post cards.

Canada has done the same thing. She has had the same experience we have had. Three years ago, or nearly three years ago, she increased her rate on post cards from 1 cent to 2 cents, and her business, so far as post cards are concerned, has decreased about two-thirds. There is an absolute loss of revenue in Canada under the new rate, and the decrease occurred in the most profitable item.

Now, we have no complaint to make at all against taxation. If the injury done to us was done in such a way that the Government would get any benefit from it, we would bow to it, as every American bows to exactions made of him for war purposes. This tax imposes an injury upon us, so that our business is practically extinguished, and, at the same time, the Government is suffering a like or greater injury because of the loss of revenue from this source. We favor a return to the old rate, because a return to the old rate will permit us to go on with our business, and, at the same time, will permit the Government to realize larger revenues. We are dealing here with a thing that is not like first-class letter mail, because first-class mail matter is indispensable. In the case of post cards, if advertisers and other people choose not to spend so much money for postage on this class of matter, the Government simply loses the revenue. The Government loses the revenue because it has taxed an article the use of which can be eliminated.

You gentlemen have been handed some post cards, and you can see what they are. You will recognize the fact that they are largely used by soldiers. They are used for patriotic advertising, or just the things that the Government is seeking to accomplish through large appropriations by means of posters, etc. Therefore, for reasons of patriotism, for reasons of economy, and for the reason that it will afford greater revenue, we think that a return to the old rate would be in the interest of everybody concerned.

The CHAIRMAN. Does it cost more to manufacture these post cards this year than it cost last year or year before last?

Mr. OVIATT. I am certain that it does; but I am not prepared to say how much.

The CHAIRMAN. Do you know how much the wholesale dealer and the manufacturer of these cards got for them in 1917, or in the first part of 1917?

Mr. OVIATT. No, sir; but I will be glad to file the exact figures.

The CHAIRMAN. Do you know how much these cards were retailing for in 1917, before this act of October 3, 1917?

Mr. OVIATT. I will file with the committee the accurate figures on that.

The CHAIRMAN. Will you also file figures showing what they retail for now?

Mr. OVIATT. Yes, sir.

The CHAIRMAN. You may find, possibly, that some part of the falling off in the demand is due to the greatly increased price that the retailers charge the people who buy from them.

Mr. OVIATT. I dare say that is not quite true. I will advance this as a guess, that the sales since the new act went into effect, have been from stocks which were already largely in the hands of the retailers and jobbers, and, therefore, the increased cost of production does not affect it; but that is only a guess.

The CHAIRMAN. I know that my children bought some this year, of the same kind they bought a year ago, and they paid 100 per cent more for them than they paid last year. I was wondering if that large increase in price did not have something to do with the diminution in the manufacture of the cards.

Mr. OVIATT. I will file with you as exact information as I can obtain on all those points. I ask leave to file as a part of my remarks this rather more orderly prepared statement.

(The statement referred to is as follows:)

MEMORANDUM SUBMITTED BY NATIONAL ASSOCIATION OF EMPLOYING LITHOGRAPHERS  
IN RELATION TO THE MAILING RATE ON POST CARDS.

Before the war revenue act of October 3, 1917, the mailing rate on post cards was 1 cent each. That act made the rate 2 cents.

*Purpose of increased rate.*—The purpose of increasing the rate was to increase the revenues.

*The result of the increase.*—The result of the increase has, beyond any question of a doubt, decreased the revenues hitherto derived from the mailing of souvenir, view, picture, and fancy post cards, and in all probability has actually decreased the revenues so far as post cards generally are concerned, including Government cards. There are no Government figures to show this, but unofficial reports from certain local post offices show reductions. The decrease in volume of manufacture clearly demonstrates a loss of revenue.

*The reason for decreased revenue under new rates.*—The greater number of cards retail at 1 cent. The purchaser must pay twice as much to mail it. He isn't obliged to use it and he chooses not to use it.

The cards wholesale from a quarter of a cent to 1 cent each. The increase postage, therefore, is from 100 per cent to 400 per cent of the wholesale rate. The percentage is prohibitive. Cards used by advertisers are sold at from a quarter to a half cent each. They cost 2 cents to mail. Advertisers will not and can not increase their appropriations by any such percentage, and have largely dispensed with the article. The Government loses the revenue, its source of greatest profit, because it has unreasonably taxed an article whose use can be eliminated. That isn't good business, nor is it wise tax legislation.

*Relative unfairness of the rate.*—Post cards (according to their weight) average \$2.66 postage per pound or \$5,320 per ton carried. No other mail (not even letter mail) pays anything like the same rate, and the reductions in cards used, due to this expensive rate, cuts off that most profitable part of the mail. Even the old 1 cent rate was 133 times the rate paid for second-class mail. Letter mail at 3 cents an ounce only yields 48 cents a pound, while the average post card yields \$2.66 a pound. The post card pays as much as the drop letter.

Under the old rate the post card was the most profitable mail matter carried by the Government.

*Canada's experience.*—Canada increased its post card mailing rate from 1 cent to 2 cents about three years ago. The business has decreased over two-thirds and soon will be extinguished. Canada's revenue actually decreased, and the decrease occurred in the most profitable item.

*The results occurring in the United States.*—Unit cost of cards increase very rapidly, as volume decreases. The business can not continue on any material reduction. If wiped out, it means the loss of all revenue from this source, which represents the largest percentage profit of all mail carried by the Government. And this injury is inflicted with no resulting benefit to anyone and with a concurrent injury to the Government.

The 2 cent rate imposes no direct pecuniary loss on us. It must be assumed that our opposition to it is based on the indirect loss imposed through restriction in manufacture. Restriction in output must mean reduction in those Government receipts in which are involved its greatest profit.

Respectfully submitted.

NATIONAL ASSOCIATION OF EMPLOYING LITHOGRAPHERS.

Mr. CRISP. You understand that the duty that confronts us is to raise more revenue for the Government.

Mr. OVIATT. Yes, sir.

Mr. CRISP. I understood you to say that the Government was receiving less revenue from post cards at 2 cents postage than it would receive, in your opinion, if the old rate of 1 cent were restored.

Mr. OVIATT. I ventured that as my opinion.

Mr. CRISP. If the old rate of 1 cent on post cards were restored, what effect would that have on the total revenues to be derived from first-class matter? In other words, with a rate of 3 cents on letters and only 1 cent on post cards, would not the public use post cards more largely than they do at the present rate of 2 cents, thereby reducing the revenue that would be derived from the rate of 3 cents on letters? Have you given that phase of the matter any consideration?

Mr. OVIATT. I am very much of the opinion that it would have no effect upon it, because there you have two classes of mail that are not interchangeable. I think that the purpose accomplished by mailing a post card is so rarely the purpose that could be accomplished by mailing a letter that one would not be exchanged for the other. A man in mailing a post card is doing it for a purpose entirely different from that which he has in view in mailing a letter. So far as post cards are concerned, they to-day pay the same rate as drop letters. I think the differentiation in the use or purpose there would justify a difference of 1 cent as between the post card and the drop letter. I think that the purpose of the sealed letter is so absolutely different from the purpose of the post card as to present an entirely different proposition.

Mr. STERLING. Do you have any record by which you can determine just the falling off of revenue from post cards?

Mr. OVIATT. In my desire to be entirely accurate, I will try to give the committee the best figures I can obtain. I spent some time with the Post Office Department on that question, but I could not get the figures. I can get the figures from the Canadian Government, and they are now on the way. The best that I can do is to submit the experience of the manufacturers, and it is to be presumed that those that are manufactured are mailed.

#### **STATEMENT OF MR. JOHN J. SHEA, ATTORNEY MID-CONTINENTAL OIL AND GAS ASSOCIATION, TULSA, OKLA.**

The CHAIRMAN. Give the stenographer your full name and business and state whom you represent.

Mr. SHEA. My name is John J. Shea, and my residence is Tulsa, Okla. I am an attorney at law and am engaged in the production of oil. I represent the Mid-Continental Oil and Gas Association, composed of oil producers, refiners, marketers, and prospectors, in what is known as the Mid-Continental field, comprising the States of Kansas, Oklahoma, and north Texas. It is a voluntary association, comprising about 1,500 producers and men engaged in the oil business.

Mr. GARNER. Have you ever held any public office in Oklahoma?

Mr. SHEA. I have been on the district bench or judge of the district court in the State of Oklahoma.

Mr. GARNER. That district is similar to the judicial districts in Texas.

Mr. SHEA. Yes, sir. One member of our committee who signs this recommendation is at the present time State auditor of Oklahoma. That is Mr. Howard, but he is not present.

We come before you fully realizing that you are face to face with an extremely difficult problem, and that you will be compelled to raise a large amount of money.

While we have no concrete suggestions as to other things than our business that ought to be taxed, we desire to make the suggestion that such matters as can properly be taxed and are not now taxed be considered by the committee in raising the amount of money that it should raise, and that having placed the proper tax upon such things that the inequalities that are patent in the present law and the things of which we complain be ironed out, and that the producers oil be given an equal opportunity with other industries. Then, when you get that done, we have not a word to say about the rate of taxation and the amount of money that you want to raise. We do not care how much it is, and we are not complaining about rates at all; we are complaining about inequalities in the existing law.

I first desire to call your attention to the matter of invested capital. At the present time there are thousands of men, individuals and corporations, who have had a small nominal capital stock, except that it is not considered nominal by the terms of your law, but nominal in proportion to the amount of business they do. They have not kept accounts of invested capital; it was not necessary heretofore, and it did not enter into their transactions in any way. Take it, for instance, in the State of Oklahoma. There is a gross tax upon your production in lieu of all other State taxes, and they are not interested in making any valuation of their property for taxation. The Government collected its income tax without regard to the amount of the invested capital, and then came this law, and it found them in this situation: Many of them undercapitalized, many of them with no account of capitalization at all, and the result was great inequalities.

I can give instances where one piece of property, 160 acres of land, is owned in this way: One man, with a capitalization of \$10,000, owns an undivided one-half in 160 acres, while another concern, capitalized at \$1,500,000, owns the other one-half, both honest capitalizations, and when it came to the payment of the excess-profits tax the \$1,500,000 concern got a deduction of \$120,000 before it was subject to any tax and the other man a deduction of \$8,000, although they were both interested equally in that property, not interested in any other, and each owned an undivided half of the same property.

The CHAIRMAN. Did the \$1,500,000 concern pay on that amount?

Mr. SHEA. Yes, sir; but before this law went into effect.

Mr. LONGWORTH. And, of course, that man having made more profit ought to pay more than the other man?

Mr. SHEA. Surely, and he did, but it was based on the amount before the law went into effect. For instance, I know of one instance where \$1,000,000 was paid for a half interest in a property in November of 1916 and \$100,000 represented the other half of the same property. Now, \$100,000 was the invested capital—

Mr. LONGWORTH (interposing). If I start with \$10,000 and buy half of a certain property—

Mr. SHEA (interposing). But he did not buy it; they both developed it. He went out and wildcatted; took his chance and developed it.

Mr. LONGWORTH. He took his chance.

Mr. SHEA. Yes, sir.

Mr. LONGWORTH. And he made a tremendous profit. He might have made 10,000 per cent.

Mr. SHEA. All right.

Mr. LONGWORTH. And you only made, say, 1,000 per cent. Do you not think that if he made 10,000 per cent he ought to pay a higher tax?

Mr. SHEA. But that does not answer my question as to the distinction and discrimination there.

Mr. LONGWORTH. Mind you, I am not arguing in favor of an excess-profits tax based on capital, but the fact is that is the only basis we now have.

Mr. SHEA. No.

Mr. LONGWORTH. And the only other resort would be to adopt the English system.

Mr. SHEA. And using the valuation of the property.

Mr. LONGWORTH. Yes. So long as we have the tax based on invested capital, ought not the man who puts in the smallest amount pay the highest tax?

Mr. SHEA. He probably ought to pay a higher tax, but it ought not to take all of it away from him, which it does; he pays 60 per cent on what he has in there and the other people pay 20 per cent or 15 per cent on what they have in there.

Mr. LONGWORTH. Precisely, and they put in infinitely more.

Mr. SHEA. They have put in more money, of course. If you put \$5,000 into an enterprise and I put in \$10,000, ought you to pay more taxes than I do?

Mr. LONGWORTH. Under a tax based on invested capital, surely.

Mr. SHEA. I can not agree with you. I think there ought to be some way of ascertaining the value of the property and then treat that as capital, and I believe there is no other honest way to do it; there is no other way it can be done fairly to all concerned.

Mr. LONGWORTH. You want the value taken as of what date?

Mr. SHEA. When the tax began, the first of the year 1917.

Mr. LONGWORTH. In other words, you would have the value of the property based on an estimate of the value at the time the tax began?

Mr. SHEA. Not an estimate, but a sworn appraisal, the same as you make a return of your property in the States for taxation, by sworn appraisals and subject to inspection, revision, and correction by the Treasury Department.

The CHAIRMAN. You mean based on the net value—

Mr. SHEA (interposing). Of each share, when your tax went into effect; yes, sir.

Mr. STERLING. How would you determine that question? By the earning power of the property?

Mr. SHEA. That would be one of the things that would enter into it.

Mr. STERLING. If you did that would you consider 8 per cent as a fair estimate of the earning power?

Mr. SHEA. Not in the oil business.

Mr. STERLING. Then how much?

Mr. SHEA. At least 15 per cent.

Mr. LONGWORTH. Then there would be practically no excess-profits tax?

Mr. SHEA. Yes; there would be an excess-profits tax to be collected by the Government. If the oil business does not pay more than 15 per cent it would have to go down because of the irregularities, the uncertainties, the great risk and hazard there is connected with bringing it to the surface and finding it. Oil profits are made by finding oil.

Mr. LONGWORTH. I agree with you that there should be a difference made as to investments in oil, zinc, and other risky ventures of that sort, and I think you ought to have a much larger allowance than 7 or 9 per cent, but the moment you advance the proposition that you should only pay an excess-profits tax based on the value of the property at the time the tax was assessed you destroy all revenue.

Mr. SHEA. I do not agree with you at all. I do not care anything about the rate, and you can fix that by your rate of taxation.

Mr. LONGWORTH. Of course, we might fix a rate of 100 per cent.

Mr. SHEA. Let it be 100 per cent or let it be 200 per cent. I do not care what rate it is when you put us on an equality and make others toe the scratch at the same time; then you can start the race whenever you want and make the tax as much as you want.

Mr. LONGWORTH. Put whom on an equality?

Mr. SHEA. Everybody.

Mr. LONGWORTH. Does not the tax bear equally on you and everybody else?

Mr. SHEA. There is certainly no equality among ourselves, not among the oil producers, and I presume there have been inequalities in other businesses under this law.

Mr. LONGWORTH. In every business there is bound to be some inequality.

Mr. SHEA. Yes; but I think it is more overwhelming in this business than in any other business.

Mr. LONGWORTH. Have you figured how you would come out on a fair oil price tax like the English tax?

Mr. SHEA. In the book which I have filed with the committee there is a sheet showing the prices of oil from 1903 up to the present time, but you must remember that the sale price of oil does not depend nearly so much on the conditions of the market as it does on the amount which you produce and that sometimes the production is enormous and sometimes it goes away down.

Mr. LONGWORTH. That does not answer my question, and I am speaking of your industry generally. Would you prefer to pay a tax under the English system, which would be, say, 80 per cent?

Mr. SHEA. That would be a difficult thing in the oil business for a lot of reasons.

Mr. LONGWORTH. Those were the only two resources that we had.

Mr. SHEA. I do not know whether they could do that. You know the war paralyzed the oil business for the whole of the year 1914.

Mr. LONGWORTH. I should like very much to know, because it is a question whether we shall continue this excess-profits tax or provide a tax under the English system.

Mr. SHEA. I am not prepared to say at this time whether the industry would prefer that. If, upon examination, it is found that that would put them on something like an equality with other industries they have no complaint at all.

Mr. LONGWORTH. Would you favor a tax based on what you made since the war and before?

Mr. SHEA. That would present a difficulty in regard to those concerns that had newly started in business.

Mr. LONGWORTH. The difficulty that faced us was that we had to do something, and we had a choice between two systems, and only those two systems. Can you suggest any other excess-profits tax except one based on the difference between the price before the war and during the war or a tax providing an arbitrary amount based upon the invested capital?

Mr. SHEA. We are in a different situation from other industries in this way: There is no way that we can produce oil except to find new fields.

Mr. LONGWORTH. Are you arguing that you should be placed in a different classification from all other businesses?

Mr. SHEA. Yes. We are a wasting industry, and from the moment we sell the first barrel of oil we begin selling our capital and there is no way you can produce more except by finding new fields. Now, that is not true of wheat, or a great many other things. The supply of wheat is unlimited, and you can produce more of a great many other things, and you can increase the supply of those things to an unlimited extent. But with us you can not produce until you find or discover oil. It is always a problem. You may or may not discover it.

Mr. LONGWORTH. I will agree with you that the oil business is different from other businesses, and I should not object to a different classification for it, but if we still continue this tax it must be based on invested capital, and must not be based on the value of the property at the time the tax was assessed?

Mr. SHEA. Why?

Mr. LONGWORTH. Because it destroys the whole thing.

Mr. SHEA. You are wrong about that, altogether wrong. Put the rate as high as you like—

Mr. LONGWORTH (interposing). Precisely, but you destroy the basis.

Mr. SHEA. You can set the rate in the classification, and there would be no trouble about that.

Mr. LONGWORTH. Do you mean to say, as a general proposition, that if I buy a piece of real estate for \$10,000 and it goes up 1,000 per cent that I have a right to be taxed only on the amount that the real estate cost me?

Mr. SHEA. I am not talking about that value. Your rentals do not go up in proportion to the increase in value of your real estate and the same is true with us. You tax us on the profits we make in the business—I will get to sales of property presently; you tax us on what we make, the income from our business, just as we would tax you on your real estate, on the income you make from it. While I am there, I might as well say that I think you can raise a very large amount of money by taxing the rents and incomes of individuals to a greater extent, and I think you ought to do it. In other words, I think the present law leaves free a great many incomes that are obtained from invested money.

Mr. LONGWORTH. Your proposition, as I understand it, is that you should be allowed a deduction of 15 per cent?



Mr. SHEA. Yes, sir; at least that.

Mr. LONGWORTH. And that the valuation should be not on your actual invested capital, but the value of your property as determined at the time the tax becomes due?

Mr. SHEA. Yes, sir.

Mr. LONGWORTH. Therefore, what margin you have to tax the excess profits?

Mr. SHEA. I could not just say at this time, but you would have a large margin, and the probability is that it would not affect as many people as you think. You take concerns with ample capitalization; they would not be affected. There would be many instances where the capital on which they are entitled to earn at this time would be greatly decreased by an assessment of that kind. There are many who are honestly in the business, but in such a way that it is impossible to trace all of those things, and yet the value of their property may be greater than on January 1, 1917, and our suggestions would tend to greatly equalize all of those things.

Mr. GREEN. If we could devise some plan by which we could equalize these values throughout the oil fields—

Mr. SHEA (interposing). That is the only thing we ask.

Mr. GREEN. As patriotic people, the same as patriotic people elsewhere, you do not object so much to the amount of the tax as you do the inequalities in the way it works out, and possibly in order to equalize things the value ought to be arranged so that some might have to pay more and others less. However, that might be, I think you will agree with me that if we could have a general plan for valuing the property equally, as nearly as may be through appraisement, or something like that—and by equally I mean fairly as to—

Mr. SHEA (interposing). As to the particular industry.

Mr. GREEN. Yes; in that particular industry and as between particular corporations—if a plan of that kind could be worked out then we could apply whatever—

Mr. SHEA (interposing). You can apply whatever rate you like, we do not care how much it becomes; if it becomes 50 per cent or 100 per cent, all right, and if we have not enough to meet it, we will have to try to meet it in some way.

Mr. SLOAN. There is no difficulty about rates; the difficulty is how are we going to establish an equitable basis. If the basis is 1 penny and your rate is \$1,000,000, we do not gain anything, so that the difficulty is in arriving at a proper basis. I think we are more interested in that.

Mr. SHEA. There may be some better way in arriving at a proper valuation than the one I suggest; I do not know; but it is the fairest one we can think of. It is the way your property is valued for all purposes in every city at the first of any year.

Mr. LONGWORTH. But that is not an excess-profits tax.

Mr. SHEA. No; it is not an excess-profits tax.

Mr. LONGWORTH. That is what we are talking about.

Mr. SHEA. I know it is, but we are now talking about the proper way of arriving at that.

Mr. LONGWORTH. Are you arguing against this excess-profits tax as a system? Are you arguing against the system?

Mr. SHEA. No; I am not arguing against it at all.

Mr. LONGWORTH. You are arguing against it only as applied to your industry?

Mr. SHEA. Yes; it works such inequalities that the burdens are very heavy.

Mr. LONGWORTH. Do you admit that it is a proper tax with regard to all other industries?

Mr. SHEA. I do not know; I am not speaking for other industries, and therefore I would not undertake to say. While I am on this matter I want to say that the English law recognizes a difference between the oil industry and other industries, and it classifies many industries. For instance, the English law permits 24 per cent to be earned in gold mining, and in its classification of oils there are various classifications. It classifies those engaged in the production of California oil and gives them, as I recall, 10½ per cent; but that is a matter that you gentlemen will have before you—at least, data relating to all of those classifications. However, that is about twice what it gives to the ordinary industry in England. Before I get away from the matter of invested capital I want to say that we think borrowed money ought to be treated as invested capital as well as the money which a corporation earns during the year and puts back into the business. The oil business is maintained by constantly putting back the money you take out in order to keep up your production, in order to keep going, and we believe we ought to be permitted, when we reinvest that money, to consider it as invested capital from that time on. That is only fair to any business—the oil business or any other business. If I make a profit and immediately put that profit back into my business, use it in my business, and subject it to the risks and hazards of my business, then I am entitled to consider it as invested capital and should be permitted to earn upon it.

Mr. GREEN. I want to make a little further suggestion. I do not see quite so much difficulty in getting at this value as Mr. Longworth does. In an ordinary business we might say that its value is equivalent to what it would pay in eight years, and that would be putting it on a 12½ per cent profit; but that would not do in the oil business, and it would result in too high a valuation, would it not?

Mr. SHEA. Yes, sir.

Mr. GREEN. But suppose we establish the rule in the oil business—I am not saying that this is the right proportion because I have not studied it, and probably you can inform us—of taking five years as the basis. That would greatly reduce your valuation and might, perhaps, approximate the proper valuation of an oil well.

Mr. SHEA. I want to say right here that the purchasers of properties value them on the basis of the return on the invested capital in some period within from three to five years.

Mr. GREEN. If we took three years that would cut your valuation down still lower?

Mr. SHEA. Yes, sir.

Mr. GREEN. And we could in that way equalize values?

Mr. SHEA. It would be a very easy matter.

Mr. LONGWORTH. You did not comprehend exactly what I was getting at. My question was not how to determine the present value of the property but simply how to determine invested capital. Is invested capital the amount you originally put in or is it the

valuation of the property at the time the tax is paid? That is all I asked.

Mr. GREEN. That is just simply, in my judgment—if you will pardon me—a play on words.

Mr. LONGWORTH. No, it is not; it is an actual and definite proposition.

Mr. GREEN. We speak of it both ways. When we speak of our invested capital in a business we sometimes mean the amount we put in five years ago, but ordinarily when we speak about what we have invested in a business we mean what the property is worth to-day.

Mr. SHEA. Absolutely.

Mr. LONGWORTH. That is not what the law says.

Mr. SHEA. No; that is not the law and that is what I complain about, that there ought to be some method provided by which we could arrive at a fair value. I do not care about its being big, but I want it to be fair, so that it will give us some basis on which to start. I do not care anything about the rate of taxation you apply, but I do not want you to take all from my neighbor and not any from me, or vice versa. The experience in our country is that the earnings of some men do not pay any excess-profits tax at all under your law, while other concerns may be paying quite an amount in taxes. If Mr. Green and Mr. Longworth each owned 160 acres of land, divided by a road, each having the same number of wells, each producing the same number of barrels of oil and putting it on the market at the same price, it is not fair to make Mr. Longworth pay \$300,000 worth of taxes and let Mr. Green get away with \$8,000.

Mr. LONGWORTH. Suppose I have only originally put in \$10,000 and he has put in \$1,000,000?

Mr. SHEA. Of course, that would be a very extreme case.

Mr. LONGWORTH. No; you just cited such a case.

Mr. SHEA. But you have not only put in that original amount; but you have put in years of labor. I have a neighbor who has had 13 unsuccessful years in the oil business, and last year, for the first time, in 1917, for the first time, after 13 years of effort and labor, he made \$150,000 and his tax on that \$150,000 is \$85,000 or \$86,000, and he put in 13 unsuccessful years before that time. Those are the inequalities that I urge against—

Mr. GREEN (interposing). If the valuation were fixed on a three-year basis there would be very large returns?

Mr. SHEA. Yes, sir. If the method were used that a purchaser of property uses in estimating its value it would give you a large return. I have no doubt but that you can get very much more taxes from the oil industry by the method we propose, and I think they would be equitably distributed over the whole business. If anybody can suggest any good reason why, when a man borrows money on credit outside of the industry in which he is engaged—and a man with a lease in a field that is promising could not borrow a dollar on that credit from a bank anywhere in the world, but he must borrow it on other credit, and he puts it into his business—if there is any good reason to urge why it should not be treated as invested capital from the time he put it in, I have not heard it.

Mr. LONGWORTH. I agree with you on that.

Mr. SHEA. That is good common sense and it ought to prevail.

Mr. STERLING. Are you certain it is not now treated as invested capital?

Mr. SHEA. I am absolutely certain it is not treated as invested capital anywhere. You can deduct what you pay interest on—well, I will qualify that by saying that in the case of a corporation they do treat the borrowed money invested in the business, but upon which they are not allowed to deduct interest, as invested capital, but that is the extent of it.

Mr. STERLING. These inequalities arise from the difficulty in defining invested capital?

Mr. SHEA. Yes, sir.

Mr. STERLING. The value of the property is made up either of the money that is actually put in or the property that is put in and the good will that goes with it?

Mr. SHEA. There is no good will in the oil business.

Mr. STERLING. I think there is a good deal of good will in the case that you cited, where one man invested \$10,000—

Mr. SHEA (interposing). There is no good will, because your enemy will buy your oil just as quickly as your friend.

Mr. STERLING. What would you call it?

Mr. SHEA. I would call it earned increment or appreciation in value.

Mr. STERLING. How are you going to determine the value of the good will or this appreciation value that you speak of? Is not its earning power the only way to determine its value?

Mr. SHEA. Yes; but its earning power depends on its future possibilities.

Mr. STERLING. Eight per cent is counted a pretty fair income on capital, is it not?

Mr. SHEA. Not in the oil business; you could not get money into the oil business for that.

Mr. STERLING. Would you adopt one rule for the oil business and another rule for some other business in determining the value of the good will or in determining what you call appreciation?

Mr. SHEA. Good will does not enter into the production of oil in any degree; it is absolutely eliminated.

Mr. STERLING. Then call it the other thing, call it appreciation of value.

Mr. SHEA. You would not put the production, exploration, and pioneering for oil in the same category that you would put the banking business, would you? If you had \$100,000 to invest and you had the choice of putting it in either one of those businesses at 8 per cent which would you choose, the banking business or the oil business?

Mr. STERLING. Well, I do not know which I would choose, because I do not know anything about either, as far as that is concerned.

The CHAIRMAN. He would put his money in the business that he thought would make him the most money.

Mr. SHEA. The question of safety enters into it and the question of which business would give the surest return enters into it.

The CHAIRMAN. But if he thinks he is going to make more money he will take a risk, just as thousands of men will take a risk on the stock exchange.

Mr. STERLING. I would not put it in the oil business if I thought I could only make 8 per cent; I would put it in the banking business in that case, because I would hope to make a much higher percentage in the oil business. We realize the inequalities of this proposition and those inequalities do not apply only to the oil business but apply to many other lines of business. The difficulty we have is in determining a basis for exemption, and I do not believe you have offered any suggestion that would help us on that proposition. We have adopted invested capital as the basis and that is where the difficulty arises. Now, what would you think of this, saying nothing about capital: To give every concern a flat exemption, not any percentage, but a given amount, say, \$5,000, and then taxing all the rest of the income above the exemption on a graduated scale, without any reference whatever to the amount of money that is invested then capital?

Mr. SHEA. The same as is done in the case of the payment of the income tax?

Mr. STERLING. Yes.

Mr. SHEA. That would put your corporations on a graduated income tax?

Mr. STERLING. Yes. What would you think of that?

Mr. SHEA. If you did that you ought to tax the money when it reaches its final resting place; the man who owns that money ought to pay that tax when it reaches him.

Mr. LONGWORTH. It would not be an excess profits-tax under any consideration?

Mr. SHEA. I would not call that an excess-profits tax at all, and that would be an absolute abandonment of the excess-profits tax.

Mr. STERLING. We do not care what it is called, so we can get this revenue. Would not that be a better plan than the plan we now have of an excess-profits tax?

Mr. SHEA. You might increase the income tax, or the normal income tax on individuals, and it might be increased on corporations. It probably ought to be. When the corporation distributes its dividends to the stockholders, let the stockholder, who is the final owner anyway, pay that tax, and let the corporation pay its flat tax. Let the corporation pay its flat tax, and lay the graduated tax on the income of the individual when it reaches him. That is where it belongs.

Mr. GREEN. I want to ask you another question in regard to the matter that we were just discussing. You were speaking about paying this higher percentage, or using a higher percentage in computing the value of the investment in oil companies, and you were suggesting what that higher percentage ought to be. Now, you were not speaking in the interest of the oil people then, but against their interest, were you not?

Mr. SHEA. Yes, undoubtedly. Now, there is another thing, and that is that oil is just as absolutely necessary as flour, wheat, meat, and other like supplies. It is a fuel upon which we are largely dependent. We are up against this set of circumstances in the oil fields, that after putting forth the greatest efforts we can, and after taking chances that we really ought not to take, we are not able to keep the production normal at this time, and there have been 3,500,000 barrels of oil taken out of storage during each month of 1918. After a while, in a brief time, that storage will be below the point of

safety. A certain amount of oil must be kept in storage so as to insure a safe supply, but, after a while, with those withdrawals from storage, it will be below that safety point. Therefore, there must be something done by which men will be encouraged to go out and discover new fields. If you take 60 per cent from the adventurer when he goes out and discovers a new field, he certainly can not afford to go. The cost of drilling wells has increased enormously. Everything has practically doubled in cost. Labor has more than doubled in cost, and the cost of raising, pumping, and repairing has doubled. As shown by the table that has been prepared, all of those things have more than doubled in cost.

The price of our oil when the war began, or when the United States entered the war, was \$1.70 per barrel, while the price at this time is \$2.25 per barrel. That price is fixed at this time by the Fuel Administration, and the price can not be raised. It is only fixed in the interest of the consumer, and it is not fixed in the interest of the wildcatter or prospector. Those are things that you must keep in mind. You must keep the storage up to the point of safety, and you can only do that by encouraging or permitting these men to take chances. They will only do that if they are permitted to retain a substantial portion of what they discover.

The CHAIRMAN. I have asked several oil men this question, and all of them seem to have different opinions. In your territory, in Oklahoma, what is the average life of a well?

Mr. SHEA. You produce from a well in the first year, or within the first 12 months of its production, from 45 to 52 per cent of the oil that it ever will produce. During the next three years you will get 85 per cent of all the oil it will ever produce. In other words, in four years the well will produce 85 per cent of its total production. At the end of four years there will be 15 per cent of the total production of the well left in the ground. At first it comes slowly, or to the point where it is taken out by pumps. It filters slowly through the sand, and the remaining 15 per cent may be taken out over a period of several years. A well will produce 85 per cent of its total production in the first four years.

The CHAIRMAN. That is the experience in Oklahoma?

Mr. SHEA. That is our experience; yes, sir.

The CHAIRMAN. I believe that the committee generally feels that there must be some modification of the law made in the interest not only of oil and gas but also in the interest of lead, zinc, and other minerals in the mining of which exhaustion takes place in the course of a few years. Of course, coal and iron deposits may last for years, but this provision should apply especially to minerals of the kind I have mentioned. Now, the difficulty is in determining how to get at it, or what the remedy should be. That is the difficulty before us.

Mr. SHEA. I know it is a difficult question. You can get a great deal of information on the subject from the Fuel Administration, and you could get a great deal of information from the Bureau of Mines.

The CHAIRMAN. Don't you believe that the principle applying to other industries, except those that exhaust themselves in a few years, like oil, gas, lead, zinc, etc.—that is, by taking the capital invested—is the most equitable way to get at an excess-profits tax?

Mr. SHEA. I believe that is true.

The CHAIRMAN. Otherwise, we would have the English system of prewar profits and war profits. If we had that in this country, a few corporations would escape taxation to the amount of \$550,000,000. The English system applied to new business or new business started up since the war, with their exemptions—I do not know, but I have understood that last year they increased their exemptions from 6 to 9 per cent—

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

The CHAIRMAN. I doubt whether it is true.

Mr. SHEA. Mr. Farish, president of the Gulf Coast Oil Association, suggests to me that the average life of their wells on the Gulf coast is about three and a half years. Of course, that is different from the condition in the western fields, and I am speaking only of the Mid-Continental and older fields. There is another thing I want to get before committee: A great many people think that all a man has to do is to put down a well, and that it then begins paying dividends. I want to say that there are 20,000 wells in Oklahoma, north of the Arkansas River, that are producing on an average from one to one and a half barrels of oil per day. In other words, the 20,000 wells are producing about 30,000 barrels of oil. I think that a very fair estimate of the cost of those wells at the beginning would be from \$4,000 to \$4,500 each.

The CHAIRMAN. There is another thing I want to ask you: After you have put your pumping machinery and other machinery up, and the well is exhausted, is that machinery worth anything to you?

Mr. SHEA. It has what is known as a salvage value, which should be considered in connection with all this.

The CHAIRMAN. What would its value be after the well has been exhausted? What would a wooden derrick be worth?

Mr. SHEA. At the end of three years a wooden derrick would be practically worthless. The tubing, casing, and machinery would have a value of probably 40 per cent of the original value. I do not know but what that would be too high.

The CHAIRMAN. It would have some reasonable salvage value?

Mr. SHEA. Yes, sir. For instance, if we bought material at the present prices, and then at the end of three years should go back to normal conditions, the material would not be worth more than 10 or 15 per cent of the original cost, because we are now paying two and a half times as much for material as we did in normal times.

Mr. HAWLEY. You spoke of 20,000 wells producing one and a half barrels of oil each; in what period of time was that oil produced?

Mr. SHEA. Per day of 24 hours. Now, there are thousands of wells throughout the State of Pennsylvania that do not produce one barrel of oil per week; and many of them are only pumped one day in a week. They have gotten down now to the point where they compute Pennsylvania oil wells in gallons instead of barrels. You read about the gushers, but the reliance in the oil business is the settled steady production that is constantly going on. The reliance in the oil business is the producer who is steady and conservative, just as it is in every other business, and not those great strikes and things that you read about. I have myself in past years drilled a number of wells that cost me all the way from \$6,500 to \$7,500, from which the initial production was only 8 or 10 barrels per day, and they have rapidly gone down to 4 or 5 barrels. At that rate it takes a long time to get your money back.

Mr. DICKINSON. You spoke of 20,000 wells north of the Arkansas River that produced an average of one and a half barrels of oil per day.

Mr. SHEA. Yes, sir.

Mr. DICKINSON. You were not including dry wells in that average?

Mr. SHEA. No, sir; I am not considering them at all, but I am talking about producing wells.

Mr. DICKINSON. How many other wells are there in this territory besides those 20,000?

Mr. SHEA. That is the total number of wells north of the Arkansas River in Oklahoma.

Mr. DICKINSON. Of all kinds?

Mr. SHEA. Yes, sir; there are between twenty and twenty-five thousand wells.

Mr. DICKINSON. All the wells together average that production?

Mr. SHEA. Yes, sir. That does not include the Osage Indian Reservation, in which there has been some development, but it includes the Cherokee and Creek Nations north of the Arkansas River. This statement of mine includes only the producing wells, and I have taken no account of the dry holes. They do not enter into it in any degree.

Mr. GARNER. You want this committee to consider your industry in levying excess profit taxes aside from the general industries of the country?

Mr. SHEA. Yes, sir.

Mr. GARNER. You want us to make of you a specific industry, and levy the taxes according to the conditions?

Mr. SHEA. Yes, sir.

Mr. GARNER. The mining people have been here. For instance, the zinc miners have been here, the copper miners have been here, and the coal miners have been here. Representatives of the various mining or mineral industries have come in and claimed something on the same line that you suggest.

Mr. SHEA. I think they are entitled to it.

Mr. GARNER. If the industry is such that it exhausts itself in three or four years, you think that a different method should be applied. You think that a different rule ought to be made in those cases, and I think that is a very good argument. But here is the difficulty that we have: Here, for instance, is a mining industry that exhausts itself, we will say, in 4 years; another that exhausts itself in, say, 10 years; and another that exhausts itself in 15 or 20 years. Now, how is Congress going to write a law or make a prescription that will apply equitably to all of those mining industries?

Mr. SHEA. I know it presents great difficulties, but there must be some way in which it can be fairly reached.

Mr. GARNER. It is my opinion that you and your associates ought to get together, just as I suggested to the insurance companies, and see if you can write a prescription that would be applicable to your condition, so that we could get all of the money out of your business that we possibly can during the war without destroying it or unduly disturbing it. If you will do that, I am sure we will be glad to consider it.

Mr. SHEA. We will be glad to do that.



Mr. GARNER. Of course you understand your business much better than I do, and if you come here and make an argument and produce a lot of figures to show what a hard time you are having and then expect me to write the prescription, I might make a bad job of it.

Mr. SHEA. We will be glad to do that. There is this distinction to be borne in mind as between oil and a body of ore in the ground, and that is as soon as you reach your oil you must bring it up at once. You can not leave it there in the ground. In the case of ore, you don't have to bring it up until it is needed, but you must bring up your oil. Your oil must be produced at once, because your neighbor across the way is, perhaps, drawing from the same pool. Then, you must sell it. You must sell it in whatever market you can get. You can not store it and you can not keep it—

Mr. GARNER (interposing). We have one or two oil sharks on the committee.

Mr. SHEA. We will be glad to furnish you with such information bearing on that as we can.

Mr. LONGWORTH. Supplementing what Mr. Garner has said, you realize the problem that we have. We are attempting to raise almost double the amount now being raised by taxation, and it is our problem to raise that without destroying the machinery by which profits are earned.

Mr. SHEA. We will be glad to give you any data in our power.

Mr. LONGWORTH. What we want you to show us is how we can get the largest amount from your business without in any way destroying your efficiency, your production, or your machinery for earning profits.

Mr. GARNER. You suggest to us the machinery, and you may suggest the rate, if you want to, by which we can get the largest amount of money out of your industry during the time of the war, so as not to destroy or impair the tax-producing or revenue-producing power of that industry, and we will be glad to consider your suggestions.

Mr. SHEA. We will be glad to furnish you such suggestions.

There is another matter that I would like to bring to your attention, and that is the matter of the depletion of leases by the return of the invested capital. Now, growing out of a series of decisions, there is a distinction made between a leasehold and a freehold. The owner of the freehold, who usually receives one-eighth of the amount of oil or gas recovered from the property, is permitted to have his capital returned to him without depletion, the amount deducted each year being the total amount received after paying taxes. We are entirely satisfied with the regulation that we have now, except, as applied by the Treasury Department, there is a distinction made between the leasehold and the freehold, and we contend that that distinction should be eliminated. The distinction between a leasehold and a freehold is purely theoretical, and it ought not to be continued. They are in the same situation as to their legal rights, and I think there should be written into the law a provision that leaseholds shall be treated in the same way as freeholds. The owner of the freehold usually has one-eighth of the oil or gas, while the owner of the leasehold has seven-eighths of the oil or gas. In some instances, instead of one-eighth, the amount of the royalty is one-sixth. The owner of the lease ought to have an allowance made for the return of invested capital.

In other words, unless there is such an allowance made, or unless the producer of oil or the owner of the lease is permitted to have a return on his capital by reason of depletion, when his production ends his capital goes out with it.

We have proposed that this ought to be divided into payments, and I think there will be no dispute about that. It would be paid with less disturbance to business affairs that way. For instance, last December, the bankers through a committee out there notified the oil men at a big meeting that they would not be able to finance the oil men on their taxes, and that they should begin right then to prepare to meet their taxes. They said that they would not be able to finance them. The result was that the oil men began to prepare to meet their taxes and ceased development work. They ceased development work with a view of being prepared to pay their taxes. They met them without any great amount of difficulty, but in order to meet their taxes they began last December to prepare for them. They did that, because they were warned by the banks that they could not finance them or take care of them in the ordinary course of business. So if that demand were distributed over four payments, it would be a good thing.

Mr. WHITE. May I ask whether, in your opinion, the curtailing of new business has affected the production of oil materially?

Mr. SHEA. Yes, sir; very largely. We are engaging in new enterprises now under great difficulties. Labor is scarce and is not good, while material is very high. In many instances it is almost impossible to get labor or material. The cost of wildcatting is now almost prohibitive except to a man with great capital. For instance, a man will not take chances on drilling a dry hole, even in promising territory, when you tell him that the cost will be \$45,000, and that it may be a total loss.

I want to make a suggestion as to sales: At present, if a concern owning several properties sells one of those properties and immediately reinvests the money in its business, the present method of treating it is to take that property separately and treat it as profit and levy immense taxes upon it, although they do not take it out of their business. The English have a very superior method of treating that. They permit the money taken out by the sale of property to be immediately reinvested in the business, taking as profit only the difference between the sale price and that which was reinvested. That is entirely fair both to the Government and to the business.

Mr. WHITE. You stated to the committee that there had been taken out of storage 3,500,000 barrels of oil per month. Did you mean that that much was taken out of storage in the Mid-Continental field?

Mr. SHEA. No, sir; in the total number of fields. I referred to the total storage. Of course, I am not talking about California, because that is in a class by itself. I referred to the total field exclusive of California. I will give you those statistics literally as they are.

Now, returning to this suggestion as to sales of property, sales of property ought to be encouraged. You have heard the statement that there have been no sales of property in the Mid-Continental field since this law went into effect. They can not sell. This provision absolutely stops them from selling. The result is that the oil man who has accumulated a fair amount of property can not sell it.

He can not get his money out of the property and go into other ventures and keep on in business. He can not sell his property, because he can not afford to pay the tax that is assessed against his sales based on capitalization. I can give you the instance of a concern operating in three States—Kansas, Oklahoma, and Texas—which recently entered into a contract to sell provided some arrangement could be made about the payment of the taxes on the sales. They figured out that they could pay \$500,000 to the Government in taxes.

They figured out that both the purchaser and the seller could stand that. They came to the Treasury Department here with a suggestion that if they could be permitted to pay \$500,000 in taxes that trade could be made, but there was no method by which the Treasury Department could accept that, and the result was that the sale was not made, and the Government lost \$500,000, while the people were compelled to keep their property. The suggestion was made a while ago that you could tax earned appreciation or appreciation whether it was earned or not. You would be undertaking a big job in taxing that sort of appreciation, because that would apply to every other industry. It would apply to every house and lot—

Mr. GARNER (interposing). What do you think about the public policy of Congress leaving it very largely in the discretion of the Treasury Department to pass on cases of that sort?

Mr. SHEA. We have made that suggestion here, and we would have a board of equalization to do that.

Mr. GARNER. Suppose Congress should follow that suggestion, and by virtue of a want of conception of the law or a disposition not to construe it as it should be, the administration of the law should be had in such a way as to abuse the privilege given, would you not be among the first to come to Congress asking that that wrong be remedied and complaining at Congress for having permitted it?

Mr. SHEA. No, sir; we would not complain at what you had done.

Mr. GARNER. You would come to us and say, "We want you to give us a remedy against this outrage that has been perpetrated upon us by the Treasury Department in the construction of the law." You would want us to go back and enact a rigid rule.

Mr. SHEA. When we are wronged by any executive branch of the Government, we will come to Congress for relief in the matter, because there is no other place for us to go.

Mr. GARNER. That is what I am pointing out to you now the danger of Congress giving too much discretion to the executive branch of the Government in the administration of the law.

Mr. SHEA. I think there might be too much discretion in something of this sort—

Mr. GARNER (interposing). You are a man of affairs and you have studied political questions, and you know that it is dangerous for the legislative branch of the Government to place too much discretionary power and power to show favoritism in the administration of the law in the hands of the executive branch of the Government.

Mr. SHEA. In the matter of the suggestion I have made in regard to sales, it will be quite an easy matter to write into the law a provision that would cover it. It would not be a difficult matter to cover that.

Mr. GARNER. You might cover all of the points you make by suggesting provisions that might be put into this bill.

Mr. SHEA. We will submit those suggestions in the brief that we will file with the committee.

I want to give one more instance along that line: In this case the concern has a nominal capital, and has been very successful. They have a capital investment of \$10,000, and they have been extremely successful. Their tax this year is \$240,000, and they were ready and willing to pay that tax, except that they did not have the money. They had taken all of the money earned from the business last year and put it back into the business. In order for them to pay the tax, it was necessary for them to sell some property. They have one piece of property that they could sell for \$300,000, but under the present method of figuring it this would be considered under the present law as a profit, while, in reality, it should be considered as a diminution of their invested capital.

The result is that if they should sell their property for \$300,000, thereby reducing their assets in that amount, it would be classed as profits in the current year under the present law, to which would be applied a 60 per cent tax, and they would still lack \$120,000 of having enough money to pay the tax now assessed and the tax upon the sale. That being the case, they are now considering making a proposal to the Government to let the Treasury Department sequester and sell enough of their property to pay the tax. If they sell it to pay the tax, they can not get enough money to pay both of the taxes that would be assessed.

Mr. LONGWORTH. Can you say how the average profits from the oil business last year compare with the profits for 1911, 1912, 1913?

Mr. SHEA. No, sir; I can not say. You have no statistics for 1911 and 1912, but beginning with the income tax, your income tax reports would show that pretty well. Speaking personally, all the money I have ever made in the oil business was made in 1911 when oil was selling at 35 cents per barrel. That is the only time I have ever made any substantial sum of money in the oil business. I did that by producing oil at 35 cents per barrel, but I did it because of a discovery.

Mr. LONGWORTH. The reason I asked that question was to get some idea about how the English system would affect the oil business.

Mr. SHEA. During the war—

Mr. LONGWORTH (interposing). I am referring to war profits.

Mr. SHEA. I am inclined to think that the war has rather injured than helped the oil business. Although the price is greater, the production is less. For instance, in 1914 and 1915 the wonderful Cushing field, a strip of ground 6 miles wide and 12 miles long, produced more oil than the entire State of Oklahoma is producing just now. When, if we go back to 1916 and 1917, the Eldorado and Augusta fields in Kansas produced such an enormous amount of oil that the price was kept at a very moderate figure. Now all of those fields are decreasing rapidly.

Mr. LONGWORTH. You think that the war has hurt rather than helped the industry?

Mr. SHEA. Yes, sir.

Mr. LONGWORTH. Then, in getting at the excess profits by the present method—

Mr. SHEA (interposing). I am not claiming that exemption.

Mr. LONGWORTH. I am saying that—

Mr. SHEA (interposing). I am willing that you shall take the price of oil at the beginning of the war and take any increase since then and call that a war profit.

Mr. LONGWORTH. We have two methods of getting revenue by means of excess-profits taxes, one by our present system and the other by the English system. You say you think that would not affect you, because we could not get any tax from the industry under the English system?

Mr. SHEA. I do not believe that the profits have been increased by the war.

Mr. LONGWORTH. Then, we would not get any tax out of the industry under that system, and so our only recourse would be our own system. That is the reason I hope you will give us all the assistance you can in devising a method to raise a substantial revenue without actually destroying the machinery by which it is produced.

Mr. SHEA. I think we can do that very easily. I would like to call your attention to the fact that there is an error in the calculation shown on page 24 of the brief, and I have inserted a typewritten page to be taken in lieu of page 24. You will please not consider that example on page 24 in print, because it is a miscalculation.

The CHAIRMAN. In allowing you a deduction for depletion of oil, do they allow you the value of the oil in the well?

Mr. SHEA. No, sir.

The CHAIRMAN. How do they treat that?

Mr. SHEA. They treat that in this way: There are two methods of doing it. The first method, and a very satisfactory method, is to estimate the amount of oil in place at the beginning of the year. For instance, we have 1,000 barrels of oil in place at the beginning of the year, and we take out 200 barrels of it. Then your property is depleted to the extent of 20 per cent of the invested capital.

The CHAIRMAN. And in making up your return of profits you deduct that?

Mr. SHEA. Yes, sir; for the return of invested capital.

The CHAIRMAN. Do you treat a lease in the same way?

Mr. SHEA. They do not permit it now on a lease, although the owner of the lease owns seven-eighths of the oil. They do permit it in the case of the owner of the property. A lease may represent a large investment. A single quarter section frequently sells for \$250,000, or the lease does. On the Osage Indian Reservation many leases have brought at public sale in the neighborhood of \$100,000. That is simply for the lease itself.

Mr. WHITE. Before oil was produced?

Mr. SHEA. Yes, sir; a mile or more from any production.

Mr. GREEN. What is usually paid for a lease?

Mr. SHEA. In the Osage Nation the royalty is one-sixth, but almost everywhere else it is one-eighth. There is usually, also, a cash bonus paid.

Mr. GARNER. In buying a lease, you would pay a cash bonus for the privilege of prospecting for the oil, and then you would pay a royalty of one-sixth or one-eighth of the oil produced?

Mr. SHEA. Yes, sir; you really buy the oil in place.

Mr. COLLIER. And in case you do not develop that field, you pay the owner so much every year?

Mr. SHEA. Yes, sir.

Mr. COLLIER. That is paid in advance?

Mr. SHEA. Yes, sir; it is so much per acre per year until development begins. Then when the royalty equals the annual payment to the lessor, the annual payment stops.

The CHAIRMAN. Is there any deduction for depletion allowed as to the lessee?

Mr. SHEA. No, sir; but I think it was the purpose of Congress in the act to do that.

The CHAIRMAN. How would you word it? Suppose we substituted the word "acquire" for the word "purchase" in section 5?

Mr. SHEA. I have not that section before me.

The CHAIRMAN. Well, any way, the depletion provision.

Mr. SHEA. I would just say, "No distinction to be made between owner and lessee in this matter."

The CHAIRMAN. Then how would you get it in the case of the lessee?

Mr. SHEA. Of course, when he acquires it it is his, and whatever he has got in there ought to be returned to him.

The CHAIRMAN. So that when the lessee had 1,000 barrels, you take 200 from it as 20 per cent?

Mr. SHEA. Yes, sir.

The CHAIRMAN. In the same way?

Mr. SHEA. In the same way. I would treat the owner and the lessee on an equality. They are on an equality so far as that depletion is concerned; and that is only so that at the end of the useful life of the property the man may have back his investment and have it intact, just as he does in any other business. In the mercantile business, for instance, his profits are the difference between his cost and expense and his sale price, and it ought to be the same way in this case.

Mr. Chairman, I would like to say that Mr. E. H. Letchworth, of Buffalo, representing Forman & Hochstetter, Oklahoma operators, also appears with the committee in this matter, and Mr. Hayes, of Oklahoma City, would like to make a brief statement.

**STATEMENT OF MR. S. W. HAYES, OKLAHOMA CITY, OKLA.,  
ATTORNEY, AND ALSO INTERESTED IN OIL PRODUCTION  
AS A PRODUCER.**

Mr. GARNER. Judge, may I ask you a question before you start?

Mr. HAYES. Yes.

Mr. GARNER. Did you ever live in Texas?

Mr. HAYES. Yes, sir.

Mr. GARNER. Were you born in Texas?

Mr. HAYES. No, sir; I was born in Arkansas. I have a double combination on that.

Mr. GARNER. Is it not a fact that most of the good people living in Oklahoma either were born in Texas or came from Texas?

Mr. HAYES. Well, we have a great many good people from many States. We have a great many Texans there, and they predominate. We also have a number from Alabama, and we have a number of Mississippians.

Mr. COLLIER. You have some mighty good Mississippians in Oklahoma.

Mr. HAYES. Yes, sir.

Mr. GARNER. I am not reflecting on them. I simply wanted to claim that as a predominating factor a majority of them were either born in Texas or have lived in Texas.

Mr. LONGWORTH. You left Texas as soon as you could get away?

Mr. DICKINSON. I understood the best people they have down there came from Missouri.

Mr. HAYES. We have a great many good people from Missouri. One of our Congressmen, Hon. Scott Ferris, is from Missouri, and our governor is from Alabama, and several members of our supreme court are from Kentucky.

Mr. STERLING. Did all the smart people leave those States for Oklahoma?

Mr. HAYES. A great many of them did. We do not undertake to say that they all did.

Mr. Chairman, I am not going to attempt to burden the committee with more than one or two matters. Judge Shea has very generally covered the field. There is one condition and one effect and result that flows from this present act and its application which should be remedied if a way can be found to remedy it, and that does not seem to us at all impossible, and at the same time not diminish or impair the amount of revenue to be received by the Government.

This act operates as a great inequality between the company that goes out and pioneers, takes the long chances and has a small investment to begin with, as against the company that has a settled production, has a large investment and a large capitalization, and an almost uniform rate of income. You may take the example that has been given in the typewritten sheet which has been handed to you and that is fairly illustrative. The Congressman from Ohio propounded a question to Judge Shea that seems to me worthy of noticing, when he asked whether the man who had gone on to the 160 acres had invested \$10,000 and several years of effort and ultimately discovered oil and developed before this law became effective a very large valuation for his investment, whether or not he should not be treated upon the same basis as the man who waited until a value was developed and then went in and bought a sure thing at a million and a half dollars with a certainty of no loss in his investment but a reasonable return upon his investment. I say unqualifiedly that the man who takes the chances and who develops the property and discovers that great amount of wealth and makes it available for our country deserves a consideration upon some other basis than the actual amount of money he put into it that he has a record of, to wit, the \$10,000; and if the pioneer in the oil business is to be treated upon that basis in arriving at the amount of excess-profits tax he shall pay, solely from the number of dollars he put into it, the small pioneer will be driven out of the business.

For illustration, take the example which is given to you on the typewritten sheet here. A company that has a large capitalization, say of \$3,000,000, and with a regular income, its activities are scattered over a wide area and a wide territory, in some of which it will have losses and in others it will have gains by means of its production and by means of its discoveries, and it has an average income of 25 per cent for four years. You take a pioneer who goes out with a

capital, say, of \$300,000 and who pioneers and develops for a period of three or four years—and one who goes into new territory generally finds it takes from two to three and a half or four years to make his property a paying property—if he makes a new discovery and is successful in finding oil, he is away from the pipe line and he has to develop it, and ordinarily it is difficult to get supplies and materials necessary for development purposes, and frequently they are located some distance from the railway and freighting facilities are difficult and inconvenient and it is from two and a half to four years before he realizes any great income from his properties. Then he may realize in his fourth year 100 per cent on his property. You will find from the sheet which has been submitted, and which is illustrative, that with 100 per cent in his fourth year he will pay approximately 48 per cent of the entire amount of his profits in the fourth year as an excess-profits tax under this law. On the other hand, the company that has eliminated very largely the chances by getting the benefit of the law of averages, having a large investment scattered over a wide area of territory in different fields and having production realizing 25 per cent a year on his investment for four years, also makes a total income of 100 per cent and is taxed 16.71 per cent under this law as its excess-profits tax.

Now, there can not be any question, after a full study of the act, as it now is, that it operates as a very heavy burden upon the pioneer and the small investor. Then with the high-profits tax following, if he discovers oil, it makes it almost impossible for him to dispose of his holdings by way of sale.

I realize that the important point you gentlemen have to consider, and the important feature of this hearing, is finding some method to solve the problem. The difficulty lies in the peculiarities of this industry, and it has conditions surrounding it and has handicaps from the point of view of this legislation that but few, if any, other industry has. They are probably greater than the lead and zinc business. The oil producer, when he finds oil, has got to quickly develop his premises for several reasons. If he does not do so, the man adjoining him will take the oil away from him, because oil is of a fleeting nature and would get away from him. Again, most oil is developed on leases, and if you do not develop your lease immediately and economically, the lessor can forfeit your lease and you lose your property. So you have got to produce the oil and bring it to the earth's surface quickly. You can not postpone it as you can in some of the other industries. Therefore that presents a condition that has to be considered, and is one which is peculiar to the oil industry and does not exist as to other industries.

Now, as to the different methods, Judge Shea and the other members of the committee have presented in the pamphlet filed with the committee the suggestions of the committee. There appear to be three methods by which this might be handled which seem to us practical. In reference to the method that Judge Shea suggested of valuation, I hardly thought the Congressman from Ohio caught the suggestion of Judge Shea in that respect. The valuation of these properties does not seem to us to present any unfairness; that is, to permit the owner of these various properties, whether he be the discoverer of the oil properties or the purchaser of them, before the law became effective, to have treated as his investment the values



of his properties at the time the law became effective. This law became effective as of January 1, 1917. If a man by taking the great hazards of the business prior to that time had developed these values, it occurs to us as a matter of justice and equity that he should have considered as a part of his investment these values which he developed just as much as the man who had gone out and bought the properties after they had been developed before that time or after the values had been discovered; and one of the methods presented to you would be a valuation of these properties as of January 1, 1917, adding thereafter to them the additional capital put into the business.

This, of course, would leave newly discovered properties to suffer some of the inequalities and injustices of the present law, that might be developed subsequent to 1917, and they probably would have to be handled, and should be handled, upon a different basis.

Mr. LONGWORTH. Judge, let me ask you right there, you realize that such a system as you propose applied to industries universally would bring in practically no excess profits taxes at all?

Mr. HAYES. No, I do not recognize that at all, for the very reason that oil properties that have been developed—

Mr. LONGWORTH (interposing). No; I say, if your system was applied to all industries we would not get practically any excess-profits taxes.

Mr. HAYES. That might be true, or at least it might very greatly diminish the revenues.

Mr. LONGWORTH. Precisely; so that your argument is that your particular industry ought to be segregated and a different rule applied to it?

Mr. HAYES. Yes, sir; we take that position.

Mr. LONGWORTH. Your argument is not against the tax as a whole as applied to the industries—

Mr. HAYES (interposing). No, sir; we are not attempting to direct any criticism to this act as applied generally, but we are saying that because of the peculiar condition of the oil industry and the hazards of the business and the rapidity with which it must be developed and the chances to be taken in it, that a different rule should be applied to it; that it should be segregated and a different method applied to it.

Mr. LONGWORTH. That is what I wanted to know.

Mr. HAYES. Yes, sir; that is our suggestion; and in connection with the valuation of properties, that need not present and does not present any great difficulties. In every field there is a standard for measuring the values of properties. In the case of the properties that sell there is a general price fixed of so much per barrel of daily production depending, of course, largely upon the quality of the oil and the thickness of the sands from which the oil is produced. There is a method of arriving at the values and it presents no greater difficulties than arriving at the value of any other property. It is not an insurmountable difficulty to value these properties, if no other more desirable and effective method can be found than to adopt a system of valuation, valuing the properties as of January 1, 1917, and then adding to them the additional capital that is invested and put into the properties since that time. This method will equalize at least the properties that were developed before 1917.

For instance, take the system as it is now and as suggested by Judge Shea, and I happen to know of some instances where properties that have been developed since, say, 1914 will pay taxes under the present law, if literally applied and unless some relief can be found, of 60 per cent to the Federal Government on its profits; and right on the adjoining quarter section will be a property producing the same oil, producing similar quantities with similar wells, paying 25 per cent. The difference is that the properties on the adjoining section are held by companies that have been long organized and have their large capital investments and the property is absorbed into that company, whereas the company that pays the large percentage—in this particular instance I refer to it as the company that discovered this particular field and went out and pioneered it and produced the first well in the field—it takes 60 per cent of its net income to pay the tax to the Government. The result is this: You take, as Judge Shea suggested, with the 50 or 60 per cent profit tax under the present law, if your same basis applies under your new law and you raise your tax rates, as has been indicated and appears absolutely necessary, when you apply the same basis to this company and other like companies, you can readily see that it means practical destruction of the company, because after oil is discovered and when the flush production begins, you have got, as I said a while ago, to develop the property, and there is but one way to develop by these small companies, and that is by putting back into the business what they take out, and if such a company pays 60 per cent of its net income in taxes, you make it impossible for them to develop the properties, because their only means of developing the property is to put back into the property that which they take out of it, and the result will be to almost entirely or very largely, at least, stop development by the small company and by the class of people who have heretofore largely discovered and wildcatted territory for new discoveries.

And in this suggestion it is generally recognized—I do not know just of what percentage it is true—but it is generally recognized that very largely all wildcatting has been done in the past by the small company. The wildcatter has not been the large producing company, but the man with a speculative turn of mind, with small capital, who goes out and discovers oil in a new territory, and after it is discovered it is sold and produced by the practiced and experienced producer and passes into the hands of the larger companies; and the tax as it now exists, and if increased upon the same basis as applicable to these companies, necessarily will very greatly deter discovery and production by such companies in the future. I do not wish to detain the committee longer. What I have said is very largely in repetition of what Judge Shea has said, but the one thing I wanted to emphasize and which I know the committee will find true upon further study is that under the present system with a still greater rate imposed it will be practically impossible for the pioneer to go out and engage in the discovery and production of oil.

Mr. SHEA. Mr. Chairman, if I may be pardoned, there is one more suggestion I overlooked in my presentation, and that is, in determining profits in the oil business it ought not to be confined to the particular year. For instance, in determining the profit, I think you ought to take the taxable year and the two previous years and take the average profits, because of the great irregularity in production,

because new discoveries brought in during a year put a burden that the business can not bear and to find the earnings for 1918 you should also consider the earnings of 1916 and 1917. It might even be that a fair determination might require you to go further back than that; but you should at least take the two years before the taxation applies, in all businesses of great irregularity, particularly when so much depends upon the value of the strike made, and I think it would be fair to determine the average profits in that way. You have got the data in the reports on the income tax, so it would be a very easy matter to ascertain the profits, and I think that would tend to fairness in the business.

The CHAIRMAN. Judge, is there any way you can tell with reasonable approximation how many barrels of oil are in a newly-discovered well?

Mr. SHEA. Not in a particular well, but in a particular 80 acres or 160 acres in a field that has a long history back of it or a recent history, with considerable development, it is a very easily ascertained matter based on an experience of 75 years in the oil business. They have this table—

The CHAIRMAN. Of their territory?

Mr. SHEA. Yes, sir. For instance, there is a sand in Oklahoma known as the Bartlesville sand, which is a very steady producing sand. It is not a high producing sand at any time. It begins with a moderate amount and it is almost like measuring corn in a crib to tell how much oil is in there.

The CHAIRMAN. And how long it will take to exhaust it?

Mr. SHEA. Yes; and how long it takes to exhaust it. The figures will show that 85 per cent is taken out somewhere between the end of the third and the end of the fourth year and the other 15 per cent dribbles along until it finally fails to be profitable any longer.

Mr. Chairman, Mr. Thraves, representing the Kentucky Oil Association, wants to be heard for a few moments.

#### STATEMENT OF MR. W. V. THRAVES, WINCHESTER, KY.

The CHAIRMAN. Mr. Thraves, are you in the oil business?

Mr. THRAVES. Yes, sir; I am in the oil business in the Kentucky field. I just want to emphasize, gentlemen of the committee, what Judge Hayes has suggested to you with reference to the small man going into new fields and discovering oil pools. Kentucky is just now in its infancy, we hope, as an oil-producing State. There are a number of companies and individuals that have gone into that field and discovered small pools of oil that should be developed extensively. There are others who are trying to do the same thing, but under the high price of material and other hindrances such as lack of labor, and so on, at this time, they are not making the progress that should be made in a new field of this kind. Now, there are other strong companies, companies with ample capital, who would like to purchase and will purchase from these people who made the first discoveries some of their properties, but they get up against the proposition talked about and emphasized by Judge Shea and Judge Hayes; that is, if they sell the property they must pay 60 per cent of the profits, based upon the purchase price, the price for the wildcat stuff and the development of it, and it will take perhaps all or a

greater part of the value of the property, and at this time that is hindering the development in the State of Kentucky. The State of Kentucky is capable of producing perhaps a great deal more oil. We are only producing at this time about 10,000 barrels per day.

Mr. LONGWORTH. I notice that all of you gentlemen assume that any man who sells his property must pay a 60 per cent tax on it. Is that the profit in all these cases?

Mr. SHEA. That is nearly always the case with all the pioneers. It is almost universal that the pioneers are the only men who sell.

Mr. THRAVES. I know of properties that will bring millions of dollars and would be purchased and the owners would sell them if they could pay to the Government some reasonable excess-profits tax; but you see they went into Kentucky experimenting, wildcatting as we call it in the oil business, and discovered this oil, and some of them have drilled a few wells on a large acreage. They have not the money with which to go on, and yet if they were to sell it to a company capable of developing it further, they would have to give, as they understand it now, 60 per cent of the selling price.

Mr. LONGWORTH. Mr. Thraves, to what extent, if any, does the Standard Oil engage in the development of these fields?

Mr. THRAVES. To a very small extent. I do not know of any real wildcatting being done at this time by the Standard Oil. I think perhaps some of its subsidiaries at this time or in recent years, or within the last year, perhaps, have gone out and taken over some properties that might be considered partially developed only.

Mr. LONGWORTH. Does the Standard Oil Co. ever finance individuals or corporations in the development of an oil field?

Mr. THRAVES. I do not know about that. Not to my knowledge.

Mr. LONGWORTH. Not in Kentucky?

Mr. THRAVES. No, sir; not in Kentucky that I know of. There is a subsidiary of the Standard Oil known as the Ohio, and they have bought production in Kentucky and some little acreage partially developed and they are working and are pretty active there. But, as I suggested, there are perhaps one dozen good properties that would be developed and the oil put upon the market rapidly by companies who at this time are anxious to purchase and develop those properties, and the present owners are little organizations gotten up in the State of Kentucky and adjoining States that are not able to go on with this vast development.

Mr. LONGWORTH. The real reason for a lack of sales in the case of these properties is the hope that Congress may amend the law as it now stands, is it not?

Mr. THRAVES. The real reason is that in the near future some time—

Mr. LONGWORTH (interposing). They are holding on until they find out what Congress is going to do?

Mr. THRAVES. They are holding on because they do not know of anything better to do. They fear that if they sell now and give away 60 per cent of what they get for the properties, that it will be a mistake afterwards; that it will be worse than if they held it and paid each year a certain amount of the profits.

Mr. LONGWORTH. It would not be 60 per cent of what they got but 60 per cent of the difference between what they get and the amount of capital originally invested?

Mr. THRIVES. Suppose a company put in \$10,000 in the development of one of these shallow properties, which is the case there, and in the case of these shallow properties it does not cost a great deal, and then some subsidiary of the Standard would come along and offer them \$1,000,000 for it. He only has \$10,000 in it, and yet his property is actually worth \$1,000,000 or \$1,500,000, because the large companies always buy or try to buy the property so they can make a profit on it.

Mr. LONGWORTH. Are they the subsidiaries of the Standard that are in the market for these properties?

Mr. THRIVES. I do not know about that; but I know that many strong companies are trying to buy these properties, and I am sure, or I believe, that the Standard Oil and its subsidiaries are always willing to buy producing properties, and I know in Kentucky of at least one dozen properties that could be purchased and would be developed extensively and rapidly if it were not for the fact that the owner feels that he would have to give away at once so much of the purchase price.

The CHAIRMAN. You mean you have results such as this: A company puts \$100,000 in a field, which is its investment, and then it has an offer of sale for \$1,100,000?

Mr. THRIVES. Yes, sir.

The CHAIRMAN. And the company or the individual will hesitate to sell for the reason that he would have to pay between five and six hundred thousand dollars of the profits as a tax?

Mr. THRIVES. Yes, sir.

The CHAIRMAN. But that would still leave that company or that individual \$400,000 clear, net profit, would it not?

Mr. THRIVES. Yes, sir, it would; and yet he takes into consideration the fact that he wants to keep on, perhaps, in the oil business, and when he gets this money out and puts it back the next time, he may lose it. You know that the fellow who made this strike, perhaps, has been trying for 10 years or a lifetime to make such a strike in the oil business, and perhaps has lost a great deal of money in past developments, and now when he makes one strike, which is the case with the lucky man in the oil business, then if he has to sell and give away 50 per cent or 60 per cent, it certainly discourages the operation of the properties.

Mr. SHEA. Mr. Chairman, Mr. Cottingham, of Oklahoma City, would like to say a few words. He will not take more than five or ten minutes. He is a big producer in our country. By the way, gentlemen, I may say that he was born in Kansas and is not from Texas.

#### STATEMENT OF MR. J. R. COTTINGHAM, OF OKLAHOMA CITY, OKLA.

Mr. COTTINGHAM. Mr. Chairman, I am a practicing lawyer, also engaged in the production of oil and gas to a certain extent. I was born in Kentucky, but I came by way of Kansas into Oklahoma.

It looks to me like it would simplify this matter a little bit to apply two or three illustrations and to get the oil business down to the unit of production, which is the barrel, wherever it is, whether it is 1 barrel or 10 barrels or 1,000 barrels, and the production in the

whole country last year was about 341,000,000 barrels, having varying prices, depending upon where it was produced and the quality of it as produced. In our country the price is controlled by the large companies conceded to be the Standard companies, who post a price and say that will be the price "we will pay for oil in this country of a certain grade and character," and all transactions are made on that posted price. It is \$2.25 for some of our oil at the present time, and \$1.45 for some of the other oils in the Mid-Continent field. That is the varying price, between \$2.25 and \$1.45, and it is by the barrel.

Referring to some of the illustrations to show the inequalities of the situation with which I am somewhat familiar, several of the members of the committee have asked very pertinent questions from their standpoint, as to whether or not it would be entirely fair to apply this 60 per cent to the man's investment in the business. It might be, in a way, but as has been said here, that investment is not the capital stock. What we have been talking about now largely has been capital stock being a few thousand dollars——

Mr. LONGWORTH (interposing). No; nobody has said anything about that.

Mr. COTTINGHAM. I understand, but I think it has been applied in that way from my standpoint. I think it would be just to take his investment rather than the capital stock, and, where we have talked about low investment, I am sure it has referred largely to the original investment and not what has accrued subsequent to that time in various ways.

I have an illustration in mind of a man on one side of the road with a small capital, say \$10,000, and a man on the other side of the road with a large capitalization. The leases were divided by a public road. They were acquired at the same time by yourself, for instance, with \$10,000 capital—say you had a corporation with a \$10,000 capital, and that I had a corporation, we will say, with \$50,000,000 capital; but we came to that country at the same time——

Mr. LONGWORTH. Pardon me just there; nobody has suggested the amount of the capital stock. The only suggestion that has been made was with reference to the cash capital investment.

Mr. COTTINGHAM. Yes.

Mr. LONGWORTH. The cash invested, not the capital.

Mr. COTTINGHAM. Yes; just let me finish my illustration. We came to that country at the same time and we acquired these leases at the same time and paid the same amount of money and we spend the same amount of money developing them. They produce the same amount of oil and they return the same in money. When you get your lease you put it into a company—before this law was passed, when no thought of anything of this kind ever occurred to you or me—you put your lease into a company with \$10,000 capital and I put mine into a company which I already have with a \$50,000,000 capital, and we go on and produce this oil, the unit being the per barrel, and we both get the same amount of money for it.

It costs you under this scheme, say, \$1.50 a barrel in taxes to the Government to produce every barrel of oil you get off of your piece of land on your side of the road, and it costs me on my side of the road, say, 25 cents a barrel to produce the oil off of my piece of land, which is exactly like yours, costing the same, producing the same, and returning the same. These are some of the inequalities of this

law that we want to call attention to, and not the amount of money it produces for the Government. I dare say that you, holding your piece of land there, would be glad, if the Government required it, to pay the \$1.50, but you do not like to look across the road and see me paying 25 cents a barrel when the unit of production is by the barrel and the price is the same and when these matters were brought about before the law was passed.

Now, just to pursue that one step further, you do not get the credit for your investment as you go along, and you have to pay your expenses, which are great; you have to pay the investment in capital account, in casing, and all of those things, and you do that this year and you will not have money enough left to pay your taxes to the Government. I know of instances of that kind right now where they have not got the money. That is the condition that confronts them. It is not the amount of money that goes to the Government but it is the inequality between us that we are here objecting to. If this committee concludes, after you place the producers on an equal basis, that you want 50 or 60 or 70 or 80 or 100 per cent of our net income, take it, if the Government needs it during this war, but take it all from the gentleman from Ohio as well as from myself, and take it all from me as well as from him. That is what we are complaining of.

Now, just a word in regard to the sales of these properties. There has been considerable said about that. Take some of the illustrations that have already been given where a sale of property is proposed and the proposed tax on it and the proposed return on it is all considered as profit and 60 per cent taken as the tax.

In the first place, when a sale of property is proposed, it is producing so many barrels and that in turn is figured out on the per barrel basis, and it is worth so much a barrel in the market to the purchaser. He figures that he is going to get his return back in one, two, three, or four years, whatever it is, and that is something like the value of the property. He knows that he is paying about what that property would produce in so many years. To him it is worth that. Now suppose I were selling this property. If I kept the property that length of time it would produce that amount of oil and I would pay that much tax to the Government in that number of years. On the other hand, if I sell it to the company I pay it all to the Government right now, but the property is there and it goes on producing so many barrels of oil just the same, and it pays a tax to the Government in terms, so that the tax has been paid twice. Again, I take the money out and put it right back in this business or in any other business, and every dollar of it is subject to the tax that the Government might impose, so that on that particular transaction the money pays taxes three times to the Government.

Now, we are not complaining about this tax if it is thought it ought to be that way. It has not occurred to us it should be that way. We think there should be some encouragement in the sale of these properties, and I will say to the committee again that there is a further reason that has not occurred to the committee why that should be so, and that is that it is well known in the oil business that the wildcatter and the pioneer who goes out and gets these properties is not an oil operator on an economical basis. He can

not produce oil on an equality so far as economy is concerned with these old companies that are prepared to do it better. The public is interested in having these properties operated economically. The Government is interested in having them produce the greatest amount of oil and putting it upon the market at the present time. Now, this wildcatter, if you please—and I know because I have been right in that business myself—can not produce the oil as efficiently and as economically as these big companies are prepared to do it and can not handle it to the best advantage. Therefore these fields that are discovered do not receive the best treatment or the treatment they are entitled to in the hands of the man who discovers them and who primarily is not an operator but a discoverer or a wildcatter.

Therefore, we feel there should be some encouragement given to placing these properties when discovered in a position where the public will get the largest benefit from them. There is only so much oil in that ground, and if it is operated in such manner as to let water get into it, for instance, that will spoil it at once. It ought to be taken out of there safely and economically, and the public is interested in that proposition and have a right to say that that shall be done and have a right to say when it shall be done; in fact, laws are passed constantly in all of these States controlling such matters, and very properly so.

Now, from every standpoint, the standpoint of the public, the discoverer, the wildcatter, and the Government, that is true, and therefore it looks to me like the man is justified in placing such a sale on a different basis and not counting it all profit, because the property is still there to be taxed and the money realized is put back into the business or into trade and taxed again.

Mr. SHEA. Mr. Chairman, there is a delegation of oil producers here from Bradford, Pa., who are not connected with our association, but who are interested in the same way, and they would like to be heard for five minutes or so. They will not take up a great deal of your time.

Mr. Chairman, I would like if the committee would hear Mr. Bouton, of McKean County, Pa., and also Allegany County, N. Y.

The CHAIRMAN. What is your full name?

#### STATEMENT OF MR. JOSEPH W. BOUTON, SMETHPORT, PA.

Mr. BOUTON. Joseph W. Bouton.

The CHAIRMAN. Are you in the oil business?

Mr. BOUTON. Yes, sir.

The CHAIRMAN. What is your address?

Mr. BOUTON. Smethport, Pa.

I have been attempting to get into the oil business for more than 30 years, and I know something about the experiences of the man who undertakes to open a new field. He generally starts with a number of dry holes. I myself had the experience of drilling or being interested in drilling 50 dry holes before I ever produced a barrel of oil. I finally succeeded in producing some oil.

The wildcatter, as has been suggested by the gentleman who just preceded me, is as much an important factor in the oil business as the heavier producer. Without the wildcatter there would have



been no oil found up to this time. He is the man who starts in and who generally opens up the new field. After he has succeeded—if he does succeed at all—in finding some oil he generally sells out his holdings to the larger companies, who proceed to produce the oil. And it is true, as stated by the gentleman preceding me, that the so-called wildcatter or prospector can not produce oil as economically as the larger companies. Hence it is, as stated, for the best interest of the Government that the properties be turned over to those with more capital who can operate more economically.

The oil business is unlike any other business in the world. The man who engages in coal mining prospects first for coal at a very little expense, and ascertains exactly the amount of acreage and as to the depth of the veins. He starts in to operate for coal and every dollar of money that is put into that business is his capital invested from the time he starts his operations.

In the oil business, the man who starts in to prospect for oil, as I have said, drills a number of dry holes, and the expense of doing that should be considered a part of the capital invested, the same as the man who starts in the coal business, because the oil man does not make a penny for himself until he has gotten back that money which he has lost on dry holes, and it is as important, as I have already said, that the wildcatter flourish, or, in other words, that he proceeds to discover these fields, as it is that the large companies exist when the oil is discovered.

There are other gentlemen from our section who are better posted and who have larger interests than I. But I want to say that there is no class of business men in the United States to-day, more willing, more ready to share the burden of taxation than are the oil men, and if the Government wants it, every dollar we make, only so it is equalized, but it should be made equitable with other grades of business and other classes of business. It is not fair, of course, to the oil man to have to bear more than his just burden, but he is perfectly willing to share his just burden, but let it be equalized so that the oil men can not be taxed out of proportion to the men engaged in the coal business, or their manufacturing business, or any other business.

Let the oil man's capitalization be just what he puts into that business, no matter whether he succeeds in the start, no matter how many dry holes he drills, no matter how much it costs him. If he is producing 20 barrels of oil per day, it has cost him possibly three times beyond what that property is actually worth before he has gotten it. And that is the peculiarity of the oil business. It is purely and simply, you might say plainly a gambling transaction. It is a gambling game. The man who is not a born chance-taker never goes into the oil business. He has got to take his chances, and he does so. We want this oil, and we are all willing to produce every barrel we can just as long as we can do it and not do it at a loss. But to-day the expense of producing oil is very great—three times has pipe advanced in value. The cost of drilling wells as contracted, is more than double. The cost of all sorts of labor is more than double what it was four or five years ago. The market price of oil to-day is not based upon any war profit. If it were not for this war we would be getting more for oil to-day than we are getting now, I am satisfied of that. If the price of all other products, including oil,

were gauged upon the law of supply and demand, we would be getting more for oil than we are getting now.

Mr. LONGWORTH. Why do you not get more—because the Government has fixed the price?

Mr. BOUTON. Yes.

Mr. LONGWORTH. It has fixed the price at \$2.25 per barrel?

Mr. BOUTON. Yes, sir; for some grades.

Mr. LONGWORTH. What grades are they?

Mr. BOUTON. The Pennsylvania grade is fixed at \$4 the barrel.

The CHAIRMAN. Who fixed the price to the oil producers before the Government fixed it, the Standard Oil Co.?

Mr. BOUTON. Not necessarily the Standard Oil Co. It was fixed by the price which was offered and paid by the Standard Oil Co., if you please, and by the Tide Water Pipe Line Co., and by other refiners.

Mr. LONGWORTH. What are the various prices fixed by the Government?

Mr. BOUTON. I am not familiar with them.

Mr. SHEA. Mr. Parish, what is the price on the Gulf coast?

Mr. PARISH. There is no price fixed by the Government on the crude oil.

Mr. BOUTON. Except in the letter that Mr. Requa wrote, and in that letter it was not exactly fixed.

Mr. SHEA. Here is what was done. A letter was sent by Mr. Requa to the oil producers of the country saying that if there be any further attempt to advance the price of midcontinent oil beyond \$2.25 that it would be looked upon disapprovingly by the Government fuel committee, which, of course, is equivalent to a fixing of the price.

Mr. LONGWORTH. Have the producers agreed to it?

Mr. SHEA. Yes, sir; they have agreed to it.

Mr. LONGWORTH. What other prices have been fixed?

Mr. SHEA. The standard price prevails in the different grades of oil, and that letter applies to all fields.

Mr. LONGWORTH. And the Pennsylvania price is \$4?

Mr. BOUTON. The Pennsylvania price is \$4. We agreed to that in Pennsylvania under the same conditions as were stated as to the other oil fields.

The CHAIRMAN. The price of oil fixed by the Government was satisfactory to the oil producers?

Mr. BOUTON. That price is satisfactory to the oil producers as conditions were at that time and are at the very present time.

The CHAIRMAN. One gentleman from Oklahoma stated that in their field the purchasers posted up prices at which the oil would be bought, sometimes \$1.45, sometimes \$1.50, and sometimes \$2. Who was it fixed the price? Did the oil producers ever get together and say, "We will sell at so much"?

Mr. BOUTON. Oh, no; it is the purchaser, the refiner.

The CHAIRMAN. Who posted these prices?

Mr. BOUTON. The refiners say what they will pay.

The CHAIRMAN. Did the refiners get together and all agree?

Mr. BOUTON. I have no knowledge of that.

The CHAIRMAN. It looks to me like there is bound to have been some kind of an agreement between the refiners that they go around and post up a price for a field or territory in which I am operating

and say, "We will pay you for the next 30 days \$1.45," and that is the price I take. If you did not have some kind of a tentative agreement or tacit agreement would not some other oil refiner say, "I will give you \$1.50"?

Mr. SHEA. The price is just announced by the purchasing companies that purchase the oil and transport it to the eastern and southern markets.

The CHAIRMAN. Is there any agreement?

Mr. SHEA. Do you mean is there any agreement among them?

The CHAIRMAN. Does one company stick up a sign on my place saying "I will pay you \$1.45," another company post a notice saying "I will pay you \$1.55," and another company post a notice saying, "I will pay you \$1.60"?

Mr. SHEA. That has been done.

The CHAIRMAN. It looks like if that were done, it would tear down the lower price.

Mr. SHEA. Here is the situation: A pipe-line company comes along and says, "We will, beginning to-day, pay \$1.50 for oil." If companies have only been paying \$1.40, they will immediately have to meet that price or they would not get any more oil. They do not go above it. So that the price is the same for the same grade of oil, except the companies will pay us what is called a premium. Some refiners for oil which is high grade sent to their refineries in connection with the pipe line pay a premium of 10 or 20 cents a barrel.

The CHAIRMAN. For instance, suppose they stick up a poster in your territory that they will pay \$1.80 for oil which you have. Would they say that price would last?

Mr. SHEA. It may go down to-morrow. We have had five fluctuations up or down in a month; just like the price on hogs or wheat or any other commodity.

The CHAIRMAN. The oil is transported by what companies in your territory?

Mr. SHEA. The oil is transported in our territory by the Prairie Pipe Line Co., bought by the Prairie Oil Co. Their oil is transported by the Prairie Pipe Line, the Gulf Co., the Texas Co., the Cosden Co., the Sinclair Co., the Roxana Co., the Oklahoma Producing & Refining Co., the Magnolia Oil Co., and the Empire Oil Co.

The CHAIRMAN. Is this poster signed by all those companies?

Mr. SHEA. No, sir.

The CHAIRMAN. Is it signed by any company?

Mr. SHEA. It is not signed at all, but is just an announcement appearing in the press that "the price of oil to-day is \$1.50," and if you are representing another company that has not been paying that much you must immediately meet the price or lose your oil.

Mr. LONGWORTH. As a matter of fact, all of these companies are subsidiaries of the Standard Oil Co.?

Mr. BOUTON. That is a mistake that many people labor under. They are not the Standard Oil Co., and many of them have no connection.

Mr. SHEA. There are many oil companies in Oklahoma in which the Standard Oil Co. either directly or indirectly has no interest.

Mr. LONGWORTH. The price is the same?

Mr. BOUTON. Not always.

The CHAIRMAN. But you will give the Standard Oil Co. credit with having fooled these people before they found out those companies all belonged to the Standard Oil, but having different names?

Mr. SHEA. All that information is with your Federal Trade Commission, and you can find out about these concerns and who owned the stock.

The CHAIRMAN. I am trying to find out what all you producers think about it.

Mr. SHEA. We do not think it is the Standard Oil.

The CHAIRMAN. You think it is fair, independent competition?

Mr. SHEA. We sometimes think there ought to be more competition than there is, but there is a fair amount of competition the producers feel. Of course, now there is no competition, because the price is fixed at the request of the Government. In these war times a request is equivalent to a command to any citizen, and we have no way of getting it any higher.

Mr. BOUTON. These pipe lines, Mr. Chairman, are common carriers. We are not bound to sell our oil to the pipe line company or the purchasing agent of the pipe line company. They are common carriers and if you say, "I want you to transmit my oil to such and such a refinery," they are bound to do that. I know, as a matter of fact, that there are several refineries in our county, none of which are controlled by the Standard Oil Co. There is one refinery which has been paying a premium of 20 cents per barrel, and I understand the Fuel Commission has said they must not do that—that is, pay that 20 cents premium above the quoted price. We have another refinery in our county that has always paid 1 cent in advance of any other posted price. We have other refineries that are not controlled by the Standard Oil, private institutions, having no connection whatever with the Standard Oil.

It must be remembered that the Standard Oil Co. are not producing all the oil. I have not the figures, but I think the gentlemen here who have know just the proportion that the subsidiaries produce.

The CHAIRMAN. We all understand there is more competition now among the refineries than there was years ago.

Mr. BOUTON. Oh, yes; very much more competition. As has been said, all that the producer wants is to be put on an equal basis with other business. The producing of oil, you must know, is peculiar to to itself, entirely different from any other industry that was ever known, and we are perfectly content to pay any amount of tax that the Government wants, that the Government needs, if it takes every dollar that we make out of the business, but we do desire that they treat other business in the same way. Let us be treated exactly as the coal operators and other operators and other classes of business.

The CHAIRMAN. We will now hear Mr. Franchot.

#### STATEMENT OF HON. N. D. FRANCHOT, OLEAN, N. Y.

Mr. FRANCHOT. I have been in the oil business since 1875. I believe I am a type of oil producer among those here present who have just arrived from Bradford, Pa., who have devoted their time exclusively to the oil business, the actual producing, the raising of the oil out of the ground, after finding a take place to take it from.

The concrete question, it seems to me, with the oil men and with your committee is, to arrive at a fair and equitable basis of taxation as compared with manufacturing interests and other interests. Our trouble is to know what our capital is. We start with the shoe string, we come out with a pair of top boots. We wear those boots with pride, and the next year we get back to the shoe strings again.

It seems to me that the most equitable way would be to let us capitalize our earnings on 6, 8, 10, 15, or 20 per cent basis, and you put your rates on, and we will stand for it; in other words, we do not, most of us, keep the refinements of bookkeeping. We do not consider we have made a dollar out of an oil property until we get our money back. In other words, I keep a sembalce of bookkeeping. I make a guess January 1 what a certain property is worth. Oil may be selling at \$3 a barrel. I go along until March, and oil is worth \$2 a barrel. It seems to me just that statement illustrates the uncertainties of the business, and why in formulating tax legislation a great difficulty arises to put us on an equality with other businesses.

I am interested in a manufacturing concern, a director of it. We have \$600,000 capital. We had a prosperous year last year. Our taxes, however, were \$12,000. I have in my oil business had a nominal value on a lot of old properties that I have accumulated in the last 40 years; and, let me say to you, that in the States of Pennsylvania, New York, West Virginia, Ohio, and Indiana there are probably 300,000 oil wells the average of which is not over 0.25 of a barrel or a quarter of a barrel. It was stated here that 20,000 wells north of the Arkansas River were doing a barrel and a half. I want to say to you that the reports of the Geological Survey will show that there are around 300,000 oil wells producing but about 60,000 or 70,000 barrels a day, or 0.25 of a barrel.

Mr. LONGWORTH. After the present price of oil?

Mr. FRANCHOT. At the present price of oil. I could have brought you accurate statistics showing that it is costing perhaps \$1.50 per barrel to just raise the oil out of the ground, to say nothing of taxes, to say nothing of overhead, to say nothing of 6 per cent on what they may be worth. You do anything that shuts off the encouragement of production in that vast area, and that vast number of wells operated by the real little fellow, and you will retard and restrict production. What am I doing? I have got a number of old wells, some of them over 40 years old, and some of which are very small. Within the past five years it has developed that by flooding the territory—that means putting water into an abandoned well and crowding the oil to other wells and drilling near we get a well that will produce 1, 2, 3, 4, or 5 barrels up to 1,000 barrels, or perhaps 2,000 barrels, before water floods it out. Five years ago when I started that, I was paying \$60 to \$70 for my labor. I was paying 24 cents to 27 cents for my 5-inch casing. I was paying 45 cents for a contractor to drill the holes from a thousand to eighteen hundred feet in depth. To-day I have not got a man working for me that I am paying less than \$100, and this is an old Pennsylvania field.

Mr. LONGWORTH. That is, \$100 a month?

Mr. FRANCHOT. \$100 a month. I am paying the contractor 80 cents a foot for drilling and furnishing the fuel. I am paying 66 cents for some second-hand 5-inch casing I bought last week, which used to be bought at from 24 to 28 cents new. We are getting \$4

for oil. There comes a time, if you will put your pencil to work—understand, this oil is not coming out unless you go after it; it will keep; it will not spoil—when it is nearly approaching the time when with heavy taxation it would be better for me and the other producers to say, “I might better take \$3, \$2.50”—and we were getting that in 1913 and 1914—“than to go on and not get what we feel we should get.”

Get in your minds, gentlemen, this thought about the men engaged in the oil business. I was in Washington here during the enactment of the tariff legislation under Mr. Taft's administration, trying to keep in the bill the provision that had always obtained, a contra-vailing duty as against Mexico, and we were unsuccessful. Every man I met almost that did not know the oil business—some Senators and some Congressmen—when you would say “oil,” would say at once “Standard Oil.” Get in your minds that where there is one Standard Oil man or Standard Oil stockholder there are a hundred or two hundred men engaged as I am in the production of oil—farmers in oil. [Applause.] We bear the same relation to the Standard Oil Co. that the cattleman of the West, the sheep grower of the West, raising a few steers or a few sheep and selling them to the Armour—selling to the so-called “Beef Trust.” We do not care a whoop to whom we sell our products. We would sell to either of you if you were in the oil business, provided your check is good. We are after the high dollar. If a bunch of men come along, organize a refinery, however small, and want our oil and give us 5 cents more a barrel, we will sell to them. We occupy the unique position, gentlemen, that our product is cash. We can go to the Standard's office in the several localities and ask for our oil balance, and they will give us what is to our credit up to 7 o'clock this morning. The price is there, the clerk gives us a check, and we tell him to “go to hell,” if we want to. Those are our relations with the Standard Oil Co. [Applause.] I am taking you time longer than I should. It is seldom that I get an opportunity to say anything to public men and try to get them right in their minds about the production of oil in the United States.

Now, it seems to me—and I have not been in conference with any of these gentlemen—and I only know that after that excess-profits tax bill was in print and I could get a copy of it, I naturally took it up immediately. How did it apply to me? I spent many hours studying it. I have come to the conclusion that the point is how to arrive at our capital in business, which is so different from that of other businesses. I make this suggestion—and I do not know whether these other gentlemen agree with me—let us capitalize our earnings, then put your rates upon that. I do not know whether there would be much difference if you do it that way than by the suggestion, I think, made by the gentleman from Ohio, Mr. Longworth, of a per cent of earnings. It is unnecessary for me to say it is not that we want to—because no American wants to avoid taxation—but we do want an equitable basis, a fair basis comparable with other men in other businesses.

Get this in your minds, too, that when you hear of the fellow making \$1,000,000 it is one of the freaks of the oil business, the spectacular. Apply it to the mining business. I have been through the

West and have lost money in mining. You go into the Cripple Creek or some other district of miners and you will find hundreds of quiet unassuming men who have a little claim and who have been taking out \$10, \$15, \$20, or \$50 a day. But you hear of the great American Benzal Tiger Mining Co. paying dividends. Why? They want to catch the suckers to buy their stock.

I represent, as I have said, the consistent oil producer. And from my study of your excess-profits tax law, our trouble is getting at the capital. If you will bear with me, I will give two illustrations. In the year 1916, for \$22,000, my son and myself got some leases, about 300 acres, in Oklahoma. We drilled the first well. A conservative man in the oil business should figure, if he wants to stay in the business, "What is my loss going to be?" We figured we would lose \$10,000; we would take that chance. On the contrary, the first well we got proved to be a very nice well, of 300 barrels capacity. I think our books will disclose that it capitalized that property. I think we drilled 25 wells, and I think if you will examine the income-tax statements of my son and myself you will see that we paid taxes on capital and income from that property on the basis of the cost of that well. That is one illustration.

We could have sold that property for \$400,000 in the year 1917. However, we could not do it, because we had other sources of income and this would so have swollen our income that we would have paid such large taxes that we would have been giving our property away. The prospective purchaser could not agree to pay our income taxes, because then he would be paying too much for the property. That is the second illustration. Those were facts.

Another phase: We had a little well up on Bird Creek. It was doing 1.50 barrels a day, and it did that steadily for five years, and we used to speak of that as the best well we owned. It ran along during that period. It represented \$10,000 or \$12,000 loss. I went West in January, and made out our statements declaring an earning of \$600 or \$700 on that well. I went again the latter part of February, and my son told me the Alex well was pumping a whole lot of water. We pulled out the tubing, looked over everything thoroughly, and tried to get ahead of the water, but we could not do anything. In other words, she was drowned out over night almost. When I was in Oklahoma four weeks ago, we pulled that well out, abandoned it, and transferred the material to another property. Understand, the price of material when we put it into that well and at the now prices and the jump in connection with that, that well will show a loss for us next year of about \$400.

There is your oil business. You go to bed at night with the sweetest dreams. You are pleasantly at breakfast with your family, and you go to your office, and you get a telegram that things have gone wrong.

I do not mean to say that it is not a good business. I mean to say that after 43 years nearly of producing I have something to show for it, but I want to say that I have made more money at taking what profits I got from my oil business and putting it into some other enterprise or investment than I have made during those 43 years in the oil business—and it has been my business.

I say again, give us a way to fix our capital, and put your rates up.

Mr. LONGWORTH. Generally speaking, tell us what the effect of the war situation has had on your business.

Mr. FRANCHOT. I believe, sir, if the war had not come, with the conditions of the known field—for in this day of the motor, the tractor, the use of gasoline for power for ships and everything, I believe the price of oil to-day would have been as much if the war had not existed. because in the first years of the war our exports were very much restricted. The foreign demand fell off very considerably.

Mr. LONGWORTH. You are not making war profits?

Mr. FRANCHOT. I do not believe we are; but I am willing to pay taxes on it.

Mr. LONGWORTH. You think generally the oil business is not making war profits?

Mr. FRANCHOT. I really do not think so.

The CHAIRMAN. We will now take a recess and return at a quarter to three.

(Thereupon, at 1.20 o'clock p. m. the committee took a recess until 2.45 o'clock this afternoon.)

#### AFTER RECESS.

The committee reassembled at the expiration of the recess.

The CHAIRMAN. Mr. Hayden, do you wish to present somebody?

Representative HAYDEN. Mr. Chairman, I want to present Mrs. Percival Lowell the widow of Dr. Percival Lowell, who established the astronomical observatory at Flagstaff, Ariz.

Mrs. Lowell wants to address the committee on the question of the heavy tax that is to be paid by Dr. Lowell's estate, which she says is seriously hampering the work of the observatory, so that it will be impossible to use the moneys given for the endowment institution.

In this connection, I also want to have inserted in the record a telegram addressed to Senator Ashurst on the subject by citizens of Arizona, which he asked me to present to the committee.

The CHAIRMAN. The telegram may be inserted in the record at this point.

(The telegram referred to is here printed in full, as follows:)

FLAGSTAFF, ARIZ., June 24, 1918.

Hon. H. F. ASHURST, Washington:

We, the undersigned citizens of the State of Arizona, believe for the sake of science and the general good, that the Lowell Observatory should be exempted by the Government from taxation, in order that it may continue unhampered its future scientific work. Our State legislature has so exempted it, and it is the general feeling in this Nation, and wherever the value of science to humanity is appreciated, that the public should lend aid to such institutions, rather than tax them. The Lowell Observatory was founded 24 years ago by the late Dr. Percival Lowell, who since privately maintained it, and by his will provided funds that its maintenance might be permanent. It is hoped that these funds may not be reduced by Government taxation, as such would vitally hamper the future of the institution.

George Babitt; T. A. Riordan, Federal food administrator for Arizona; David Babitt, chairman war savings stamps; M. J. Riordan; G. W. P. Hunt, governor of Arizona; F. W. Perkins, judge superior court; T. E. Pollock, president Arizona Central Bank; Rev. C. Vabre; M. I. Powers, president Citizens' Bank; Flagstaff Board of Trade, A. A. Johnson, secretary; E. C. Slipser, mayor Flagstaff; Tom L. Reese, secretary council of defense; C. B. Wilson, county attorney; Woerber Smith, cashier First National Bank.



The CHAIRMAN. Mrs. Lowell, the committee will hear you now. Please give your full name and your address.

**STATEMENT OF MRS. CONSTANCE S. LOWELL, FLAGSTAFF ARIZ.**

Mrs. LOWELL. My name is Constance S. Lowell; my residence Flagstaff, Ariz.

The CHAIRMAN. You may proceed in your own way and tell the committee what you want and the circumstances of the case in which you are interested.

Mrs. LOWELL. Dr. Lowell erected and established the Lowell Observatory at Flagstaff, Ariz. He was not a man of means, and in order to do that he had to have advances. He also had a business and an office in Boston, but his profession was astronomy. And, finding in 1886 the inadequacy of the facilities for following mathematics and astronomy, he decided to establish this observatory—I do not know exactly how to get at the point I wish to present.

The CHAIRMAN. I understand that Dr. Lowell left an estate, part of which was to go to the observatory?

Mrs. LOWELL. Yes. And then when he had accumulated money he said that he would leave it to endow the observatory. The way he had obtained money was through investing his money. The last summer, 1917, he was ill. He was then writing lectures to deliver to the universities through the Northwest.

He had a nephew who wanted him to put his name in his brokerage house, so that he could have the benefit of his name, which would be a good thing for the house, you understand.

And so he left it somewhat to them to do the business.

And when he came back to Arizona he found that he was accountable for about \$900,000. That was on a margin. And he wanted to realize on it and to liquidate the stock; and he telegraphed those brokers from Flagstaff that he wanted to realize it; that he did not want to be in those stocks; he felt that it was too much for him to carry. And no word came to him from them. He telegraphed them on Wednesday, Friday, and Saturday and no word came, and Saturday he said to me: "Do not let Monday go by; we must understand why they do not answer this, because it is a serious matter."

On Sunday he was taken ill, and he died that night. But in view of what he told me, I telegraphed them that night and said: "Why do you not pay attention to what Dr. Lowell telegraphed you? He wanted to sell the stock. Please answer."

But no answer came to me until the next Thursday, and then they told me that I must wait until I came back; that I had no right to do anything; that they could do nothing.

There was another brokerage house in which he had some stocks, and they did realize.

And when I came back I waited about seven days, and they did very little. And finally I asked a bank to take over the stocks they had—to buy them from the brokers—so that I could have my orders obeyed.

They did so, and when that man was asked why he did not obey my orders he said I had no legal authority; that the legal papers were not issued.

Now we come to the point. When the appraisement was taken on the estate, it was appraised as of the value on the date of Dr. Lowell's death. Holding in his name that amount of stock, it appeared that he was a very wealthy man. His estate was estimated at over \$2,500,000.

The debts alone on that broker's books showed an amount of a little over \$900,000; other debts amounted to nearly \$500,000.

Therefore, you can see what the amount of his estate is; to-day it is just one-fifth of what people think. I am borrowing money in order to pay the tax and to pay the debts that we have, because you see this stock that the bank took over has to be paid for in time, the principal and interest paid on these stocks.

This other amount was over what that broker had in notes by which he was making money on them, using them for his investments.

Now, the observatory stands for an educational and scientific institution; and by maintaining it we support five families, who have their children; and they are all good citizens of Flagstaff.

And if you kill this and do not allow us to keep it, we will have to dismiss all those men; and they have been trained by my husband to do the work; and they are recognized to be among the best astronomers in the country.

The CHAIRMAN. Did your husband leave a will giving all of his estate to this observatory?

Mrs. LOWELL. It is all left to the observatory, with the exception of his personal effects and \$175,000 to me—that, of course, is a private thing, but it is really for education; that comes to me.

The CHAIRMAN. And the balance of the estate—

Mrs. LOWELL. The balance of the estate goes to the observatory; 45 per cent of the income is to come to me during my life.

The CHAIRMAN. Has this stock that you speak of depreciated since your husband's death?

Mrs. LOWELL. It has depreciated within three months. It was stock such as Butte Superior, Ætna Explosives, and Ventura; they put him into all of those things that he had never been in before. And he had a large block of Bethlehem Steel; the day he telegraphed it was at 600 or more; and the day I took it over it was worth \$425; and after that it went down to \$125.

The CHAIRMAN. Did you ever close those stocks out?

Mrs. LOWELL. We tried to do so; with a good many, we could not. I have sold off a good many, so that all we are holding now is about \$100,000 worth.

The CHAIRMAN. Has the department notified you of the amount of the income tax—not the inheritance tax?

Mrs. LOWELL. I beg your pardon; I do not understand.

The CHAIRMAN. The income-tax return has been sent in to the Treasury Department by the executor or administrator, has it not?

Mrs. LOWELL. Yes; and it has been paid, but I had to borrow the money to pay it.

And then it looks as if we had a very large income, because all of the stocks that we have not been able to sell we have the dividends from those stocks. But you can see that it does not belong to us. It is just like buying a house with a very large mortgage on it; we do not really own the house.

The CHAIRMAN. Has any officer of the Treasury Department, or any internal revenue collector in Arizona made a statement as to how much of an inheritance tax you would have to pay under the law?

Mrs. LOWELL. Yes; about \$89,000. And then a young man from Washington came up to Boston to see me about it. I came to Washington in May and asked them not to put such a heavy tax on it. The young man at the department said, "Well, we are trying to get more; we will get all you have got, if we can." And I said, "Do not do it; we can not stand it." And he said, "Oh, yes; you can go to work."

The CHAIRMAN. I presume he said that as a matter of pleasantry with you.

Mrs. LOWELL. Well, I could not stand it; that is all. I said, "I can not stand it. I am doing all I can."

But some young men from the department have been up there since, and they say there are dividends that Dr. Lowell did not account for in 1913 that he should have paid, and that he has got to tax us for them; dividends accrued.

What my husband did was this: He bought some stock, and the man from whom he bought it he gave the dividends up to that time to; so that when he got it he had to deduct those dividends. This young man thought he had not accounted for those dividends, but we showed him the books.

The CHAIRMAN. So that the whole estate of Dr. Lowell turns out to be worth from \$500,000 to \$1,000,000, or something like that?

Mrs. LOWELL. \$500,000, yes; it is about one-fifth of what the appraisal was.

Mr. DICKINSON. It is appraised at \$2,000,000, is it not?

Mrs. LOWELL. Nearly \$2,400,000; about \$2,400,000.

The CHAIRMAN. All right, Mrs. Lowell, we will give due consideration to your statement.

Mrs. LOWELL. I will be very grateful to you if you will. And you will remember what it means, and what astronomy stands for; it is the foundation of navigation, which you need now for all the ships and the standard time.

The CHAIRMAN. Yes, that is true. Have you talked with Commissioner Roper about this matter?

Mrs. LOWELL. Yes, I have; and he was very kind, indeed. And it might be said that Dr. Lowell could have gone to a university and given the money to it; but he said that "they are handicapped at a university; if you want to go ahead you can not do it if you do not have your own means." And therefore he wanted to go ahead as far as he could.

The CHAIRMAN. I should think your best and quickest remedy would be through Mr. Roper, the Commissioner of Internal Revenue.

Mrs. LOWELL. Yes. I have gone there, but he said unless you gentlemen did something, that he could not do anything, or very much.

The CHAIRMAN. You say that all of that has already been assessed under existing law?

Mrs. LOWELL. Yes. I know the law was all right, so far as that is concerned; but when you made that law you did not know that a man would give very much. As they say in Arizona, no one has ever my before, but he always gave.

were

The CHAIRMAN. All tight; we will consider your statement.

Mrs. LOWELL. Thank you very much.

The CHAIRMAN. Is Mr. Byrnes present? If he is not, we will hear Mr. Garrett next.

Please state your full name, Mr. Garrett.

**STATEMENT OF MR. THOMAS GARRETT, JR., REPRESENTING STETSON, JENNINGS & RUSSELL, ATTORNEYS AT LAW, NEW YORK CITY.**

Mr. GARRETT. Thomas Garrett, jr.

I came here, gentlemen, representing several trust companies and banking institutions in New York with respect to administrative features of the law. We do not feel called upon to discuss the economic features which you gentlemen have been considering heretofore, but we wish to discuss more or less the questions which have arisen in the administration of the law, in the capacity of the institutions which are practically agents of the Government in collecting the tax.

You all know that when the income-tax law first went into effect there was quite an outcry from the banking institutions that they were called upon to do a great deal of labor in the matter of collecting at the source and reporting, etc.

This work increased the expenditure for clerk hire and help for the institutions, but the institutions have come to realize that Congress was quite justified in adopting the methods of getting us all to help the department by reporting, by giving withholding in cases, and things of that sort. But we do realize that there has been a great deal of lost motion in that withholding and return process.

As you know, the law is a combination of law and regulations of the Treasury Department, and we have taken the liberty of addressing a petition to this committee, the originals of which have been signed by a great many representative institutions. I shall read a list of them:

Guaranty Trust Co. of New York.  
Bankers Trust Co.  
Central-Union Trust Co.  
Equitable Trust Co. of New York.  
Farmers Loan and Trust Co.  
First National Bank.  
Liberty National Bank.  
Fulton Trust Co.  
Metropolitan Trust Co.  
Empire Trust Co.  
United States Trust Co.

Franklin Trust Co.  
Columbia Trust Co.  
Title Guaranty & Trust Co.  
Lawyers Title & Trust Co.  
Lincoln Trust Co.  
Peoples Trust Co.  
Brooklyn Trust Co.  
Hamilton Trust Co.  
Kings County Trust Co.  
Bonbright & Co.

Then, in addition to that, these recommendations for your consideration have been indorsed by the committee on banking institutions, representing those same institutions and a great many other smaller institutions, so that I think that I can truthfully say that these recommendations as to administrative features have been approved by very much more than a majority of the institutions in New York who have had an opportunity to consider them.

I had expected to be able to report that the New York State Bankers' Association had approved these also; but the telegram which I expected had not arrived—they have had a convention, but these recommendations were presented to them too late, perhaps, to obtain their signatures.

May I present to the committee copies of these recommendations while I discuss them with you? [Passing around a printed paper.]

The first recommendation there is as to returns as to payments in excess of \$800, or such other amount as Congress may fix per annum, shall be mandatory only when such payments are made to individuals by the following persons and represent, respectively, as follows: Rent from tenants, interest from mortgagors, and salary and wages from employers.

It is contemplated under the present law that all of these returns are made to the commissioner; and we verily believe that there can be no effective checking up of these returns, because the provision is so broad with respect to who shall make these returns that a great deal of waste material comes into the hands of the commissioner.

For instance, the large corporations receive these amounts; of course there is a check on that; they have to report them, and their books are examined, and everything of that sort. In other words, the present basis of who shall make a return to the department is anybody who pays to a single person, firm, or corporation "fixed and determinable gains."

Now, we feel that the commissioner in getting a check on these things could call upon any particular class of persons to file returns, but not leave it in the law that everybody has to make a return when they have "fixed and determinable gains."

It is rather a difficult clause to construe, and it is very hard to make an all-embracing statement of the returns which the commissioner would require to be made.

Under these circumstances, if the commissioner were given power to require returns, we think that the full purpose of checking up would be accomplished.

The next suggestion—

Mr. GREEN (interposing). Just a moment, with reference to your first suggestion, if you please. It does not say anything about dividends.

Mr. GARRETT. They are returned under another section; this is only the \$800 clause; it only refers to the \$800 clause.

Mr. GREEN. And you specify mortgagors—and interest, of course, would be paid by other than mortgagors?

Mr. GARRETT. Yes, it would, but I think it would not in large sums. Mortgagors would be the principal payers of interest.

Of course, this is only the \$800 provision. Of course, the dividends and the interest on bond issues, etc., would all be covered by other sections. This is that form which is generally known as the "yellow slip," Form No. 1099.

May I pass to the next suggestion?

Mr. HULL. What is the objection to putting royalties in there?

Mr. GARRETT. I should think there would be no objection to putting royalties in there; I should think they would form a fairly large class; there would be no objection to that that I can see. My only point is that the language as it now stands causes a great deal of trouble, and produces a great deal of surplus or unnecessary matter.

Mr. HULL. Does the department specify that the report shall pass through two or three hands, or what shall be done with it?

Mr. GARRETT. They have not done that.

Mr. HULL. They have not done that?

Mr. GARRETT. Well, there have been some rulings as to apartment houses, for instance, as to the agent in charge; they have fixed certain rule-of-thumb methods there that work out all right.

The next suggestion is that the law should permit the taxpayer to deduct all actual losses ascertained and actually realized in all transactions engaged in for profit, whether or not such losses were sustained in connection with his usual business or occupation.

That is a subject which I imagine you have heard discussed a great deal and which has appealed to a great many people as bringing about a great deal of unfairness.

The example I have set forth in the printed paper is that a lawyer should have as much right to deduct a loss he has sustained in buying and selling real estate as a real-estate speculator. A real-estate speculator under the present law will buy and sell real estate, and he only is responsible for the net business gains; whereas a lawyer, if he buys a piece of real estate and sells it at a loss, as that is not his usual occupation, he can get no credit for that loss as against his income.

Mr. HULL. May I interrupt you just a moment? Your printed suggestion says, "Deduct all actual losses sustained in all transactions"——

Mr. GARRETT (interposing). Engaged in for profit.

Mr. HULL. That transactions not connected with the regular business of the taxpayer should be deducted from the gains of the taxpayer; that means the taxable gains; it does not mean gains that would not be taxable, does it?

Mr. GARRETT. Oh, no. As the law now stands, a lawyer could not deduct his losses from his gains if he bought a piece of real estate and sold it for a profit and bought another piece and sold it at a loss; he could not deduct the loss from the gain; he would have to report and pay an income tax upon his gains, and the rest would be considered living expenses, and so on.

Mr. HULL. Do you not think it would be wise, in undertaking to draw this line, to safeguard very carefully capital deductions and not allow them in there? In other words, if you do not safeguard those carefully, a taxpayer can really make a great amount of capital deductions which are not profit deductions at all.

Mr. GARRETT. The recommendation was only intended to cover losses in undertakings or transactions for profit; that is all it was intended to cover.

Mr. HULL. I know, but there are a great many profit deductions, and then there are other deductions which may be claimed which are really capital deductions and have no place in any kind of income deduction. Now, the trouble is to segregate those capital deductions and not allow them to become mixed with what would be a legitimate profit deduction, I think.

Mr. GARRETT. Well, I think that would work out very simply, if we mean the same thing, by using a little bit of care in the language. But it was the intention of this committee that it should cover all transactions which are actual completed transactions. If property was bought to be resold, and it was resold and there was a gain, and then there is a similar transaction where property was bought to be resold and it was resold and there was a loss, our recommendation is that that loss should be set off against that gain, irrespective of whether the man was engaged solely in the business of trading in

real estate or trading in stocks or what not—that the loss should be set off against the gain.

Mr. HULL. Yes. Of course, under the regular income tax provisions which tax profits derived from any kind of a business or trade, it is rather easy to separate a business deduction from profits, from what would be considered capital deductions; that is, the loss of capital as distinguished from a business loss, which deduction of capital loss is not allowed under the income tax law now.

This provision deals with casual items of profit which do not arise out of any business or trade; and for that reason it seems to me that it would be very necessary to safeguard a provision of this kind—I am not controverting now your purpose; but I am speaking about the necessity for very carefully safeguarding those kinds of deductions from capital deductions, which ought not to be allowed in figuring profits, whether they are profits from the business or merely casual profits which are not derived from any business.

Mr. GARRETT. I see. Well, I think for that purpose the regulations of the department would offer a very sure index. Their regulations generally would give you ample material to safeguard that in framing your statute.

Mr. HULL. Well, of course, there is quite a difference sometimes between the ordinary rules of commercial accounting, and some of the restrictions in the law now that interfere with the ordinary laws of commercial trading with respect to what items shall or shall not be allowed as deductions. Some of them are restricted in part, so that they are not allowed in whole. For instance, take permanent improvements. That is an outlay, but it is now allowed as a deduction from the profits; it is treated as a capital outlay, and, therefore, not permitted.

Now, in dealing with this more difficult class of cases, the profits from no business but from an isolated and occasional transaction, it is very difficult to draw the line between the actual expenses that should be deducted, of all kinds, on the one hand, and cutting out or segregating items that would be pushed in there, under many rules of accounting, as a business expense, or, rather, an expense of the proposition, whereas they are, in fact, capital outlay.

Mr. GARRETT. I think the rule that they have promulgated as to loss which you can deduct is based upon a very simple rule, and that is a realized, closed transaction of buying and selling. The article, whatever it might be, has to be bought and has to be sold, and the difference is the loss. I do not think that they allow any incidental expenses in connection with such a transaction; it has to be a straight purchase and sale; it is not accrual, or any bookkeeping item at all.

Mr. LONGWORTH. Would this be an illustration of what you are bringing out? Suppose I was a lawyer making \$10,000 a year; and four or five years ago I bought a piece of property for \$50,000, and last year I sold it for \$40,000. Would I be allowed under your proposition to deduct \$10,000 from my income last year in paying the tax?

Mr. GARRETT. No; because the department has fixed the date March 1, 1913, as the date the value is to be taken.

Mr. LONGWORTH. But I mean suppose I bought it after March 1, 1913—I bought a piece of real estate, say in 1914, and sold it at a loss of \$10,000 on my original purchase price last year.

Mr. GARRETT. Yes.

Mr. LONGWORTH. And I made \$10,000 as an attorney-at-law. Your proposition is that I should deduct that loss?

Mr. GARRETT. No; not at all.

Mr. LONGWORTH. It is not?

Mr. GARRETT. No.

Mr. LONGWORTH. I thought that was what Mr. Hull was getting at in connection with what he said about reduction of capital.

Mr. HULL. Well, of course, when the law goes outside of the regular profitable transactions that are connected with a man's business, then a little different language has to be employed for computing the profits and losses on casual transactions. You can not say that a person shall have deductions for such losses as arise from the business, because it is not a business. You can only say that any expenses incurred in connection with that transaction, or any losses incurred in connection with that particular transaction, excluding capital losses—certainly, under some kind of sound rule. There is the difficulty of determining how far you will go, in my opinion, in allowing actual expenses or losses.

On the one hand, they are not going far enough to give the taxpayer a chance to ring in the outlays he has suffered in the nature of capital outlays that come in there, because they are not closely or immediately enough connected with the transaction when it happens to occur.

It is easy enough to apply this where it is limited to the business, because you can see that "any loss connected with the business, or any expense of the business" would exclude any other kinds of loss or expense and denominate them as capital expenses.

But this suggested provision is really somewhat more difficult, I think, to handle—and I am still not taking issue with you on your proposition.

Mr. GARRETT. I say it is a question of the manner of carrying it into effect.

Mr. LONGWORTH. I do not quite understand the distinction there. I thought that I had given an illustration which was like the one you gave.

Mr. GARRETT. About the lawyer?

Mr. LONGWORTH. Yes; about the lawyer who, two years ago, engaged in a real estate speculation and lost \$10,000.

Mr. GARRETT. Yes.

Mr. LONGWORTH. And he sold it this year, and the transaction showed a loss of \$10,000. My question was whether, under your proposition, that would be deducted from his fees received as a lawyer this year?

Mr. GARRETT. Oh, yes; that would.

Mr. LONGWORTH. That was my understanding of it.

Mr. GARRETT. I misunderstood your question before. That is my idea; yes. In other words, I feel that that lawyer in that position should be entitled to that deduction; he has that much less as a result of that year's effort, and he should be in an equal position with the real estate speculator who has no other occupation; and he, under such circumstances, should be entitled to deduct that \$10,000 loss against six operations which would have netted him a \$10,000 gain;



I think the lawyer should be entitled to as much consideration as the real estate speculator under those circumstances.

Mr. LONGWORTH. Suppose that applied to a transaction outside of a man's regular business—lasted over a series of years; that is to say, the property was bought three years ago, after March 1, 1913, and was sold this year?

Mr. GARRETT. Yes.

Mr. LONGWORTH. That transaction would cover a period of three years. Would you have him deduct that from his income of the last year?

Mr. GARRETT. The year when the loss occurred; that has been the simple rule which they have adopted with respect to all losses which were permitted to be deducted. The Treasury Department has adopted the rule that a man who is entitled to make such a deduction—for instance, the real estate speculator—is entitled to take the benefit of that loss as a credit in the year in which the same was realized, on the theory that it works out in the end; but the time he actually sustained the loss was a time when he could not afford to pay the tax.

Mr. STERLING. Suppose he made \$10,000 on the real estate; would he turn that in with his lawyer's fees as income?

Mr. GARRETT. Certainly.

Mr. STERLING. Suppose Mr. Longworth had bought the property in 1910 and sold it this year at a \$10,000 loss?

Mr. GARRETT. Well, it would depend on what the value was on March 1, 1913.

Mr. STERLING. And if the appraisal should show a depreciated value at that time, would he be allowed to set that off this year?

Mr. GARRETT. No; only if he made a sale and realized his loss.

Mr. STERLING. Well, if he sold it this year?

Mr. GARRETT. If he sold it this year he would take his loss and get credit for that loss.

Mr. STERLING. Even though the loss was much greater than the appraisal showed the depreciation was on March 1, 1913?

Mr. GARRETT. I think we are talking at cross purposes. The rulings have been that in the case of a loss the difference between the actual value on March 1, 1913, and the date when sold represents his loss. In other words, they take that as a standard, not what he purchased it for 10 years ago. March 1, 1913, is the basis.

Mr. HULL. If I may be pardoned for interrupting you just a little further, I would like to ask a question.

Mr. GARRETT. Certainly.

Mr. HULL. Take, for example, a taxpayer who has some line of business out of which he is making a taxable profit; he may have an old house standing over here of some value; he may have other properties of different kinds which are really not being used to any appreciable extent, and which, in fact, will not realize a profit to him for an indefinite number of years, and may never at all. But he can insist to the Treasury that he is expecting to make a profit out of those things during the year; some profit, more or less; it might be small.

Now, he would not be limited to any particular figure; if he was in possession of those kinds of profits which for all revenue purposes, would amount to nothing, practically, for the Government, but one

of them he should lose in some way, or in some way not provided for as a deductible loss here—he could bring in almost any kind of a capital loss almost, or an expenditure in maintaining as one of the regular deductions, unless he is very carefully restricted.

Mr. GARRETT. Well, I think there should be careful restrictions, and as I suggested before, I think that the rules which the Treasury Department has adopted as to losses which could be deducted where the taxpayer was entitled to deduction should apply here. In other words, what this provision seeks to extend to everyone the same right of deduction which is now under the law as administered extended to those persons who engage in those speculations exclusively.

Mr. HULL. Yes.

Mr. GARRETT. In other words, all this could be cared for by careful regulations; or, if your committee chose to frame the bill in such form that the present regulations should be in the form of law—as we would like to suggest, too, by the way—

Mr. HULL (interposing). Well, the fact is that unless the law safeguards these kinds of expenditures or outlays, the courts would override the regulations of the Treasury Department and hold that the loss of ordinary commercial business would govern whatever they might pay.

And, of course, all the income-tax law does is to impose certain restrictions and prohibitions on the methods of computing income under the ordinary rules or laws of business.

Now, there is so much difference in accounting; some items are put on the asset side by one accountant or one method of accounting, and on the debit or credit side by another accountant or method. Unless the law itself should rather specifically safeguard this new proposal to allow deductions for losses—and it should be for expenses just as well as for losses if we put the provision in—unless it is very carefully watched, the Treasury will be powerless, I think, to protect the Government against every kind of a deduction with respect to any kind of a capital outlay that was not remotely connected with a real profit-producing business.

Now, as to the theory of this—of course, some of the laws elsewhere relate to profits from business. And they say that the tax shall be imposed on the profits of this business owned by a person or corporation, and likewise on the profits of this separate and wholly disconnected business, and that a loss suffered in one of those businesses shall not be deducted from the profits of the other.

Some of the laws go on that theory. Now, in this provision I think the idea was somewhat similar, in view of the very great difficulty of carving out just what allowance might justly be made and at the same time protecting the law from a great many abuses in the way of deductions of a capital nature.

Mr. GARRETT. And I think, as I stated before, that you will find that the present regulations would offer a sure index with respect to the extension of that principle; in other words, that they have given this privilege to taxpayers whose sole business is covered by transactions of that character.

The next proposition is that the law shall provide for the constitution of a commission of three independent officers, not charged with the duty of tax collecting, to hear claims for diminution of assess-

ment or reclamation of taxes erroneously overpaid, and also to furnish information to the public upon the construction of the law and regulations of the Commissioner of Internal Revenue, it being a necessary part of the machinery of such commission that a hearing should be accorded to taxpayers upon all claims for diminution of assessment or reclamation of taxes.

With regard to that suggestion I will say that it seems certain that no officer charged with the duty of collecting taxes and making regulations governing the machinery of such collection is an unbiased tribunal for the decision of such matters and for the summary determination of intricate questions under both the law and the regulations which the commissioner has himself promulgated. As a practical question it has been the experience of most inquirers for rulings that the commissioner has ruled upon questions in a manner studiously calculated to subject to the least possibility of criticism in his (the commissioner's) capacity as tax gatherer. There is a large portion of the public unwilling to submit such rulings to the courts for review, and there is a larger portion to whom the cost of such submission would practically prohibit the submission of the same. The element of time in determining all these questions is so important that a commission with powers to grant a summary hearing on these questions would prove of the greatest service in assisting taxpayers who are anxious to do their duty by the Government, and in return are entitled to fair treatment from the Government, to the extent, at least, of placing them upon a footing equal to that accorded large interests prepared to litigate all doubtful questions.

Now, gentlemen, I think that goes back to the basic principle of our Government; that is, the separation of powers into the three groups of legislative, judicial, and executive. We realize that in the emergency it was necessary; we were treading in an untried path, and it was necessary to give very plenary powers to the Treasury Department. I think that the time is now ripe to relieve the Treasury Department of some of that onus.

This is not intended at all as a criticism of the Treasury Department in its handling of questions. I might say that the idea here of having this commission to pass upon these questions is based upon common sense.

The commissioner makes the ruling; he executes the law; he practically makes the law, in great part. I might recite just one specific instance:

As you gentlemen know, the excess-profits tax law places a burden of paying 8 per cent upon certain gains by professional men and others, and the question came up as to fees of executors. I think every lawyer in the country has worried as to whether he had to return those fees as part of his 8 per cent.

In fact, the other day I was talking to a judge of the United States district court in New York, and he asked me, "How have you been construing that section of the excess-profits tax law? Here I am, a judge of the United States district court, and I am also an executor. I have some large fees as executor, and my coexecutor did not return those fees; he also is a lawyer. He said it was not part of his earnings from his profession." And the judge asked me, "What do you think about it?" "Well," I said, "that has been quite a moot question." But I will tell you what happened. There is a large lawyer

in New York who has been practicing a number of years, and he had a large estate of which he was executor. He wrote to the commissioner for a ruling as to whether he should include those fees which he had earned as an executor in his earnings from his profession. The department wrote back that it would depend entirely upon how much time he had spent upon his work as an executor and upon how frequently he had acted as executor.

The lawyer wrote a letter in reply to the commissioner, in which he stated that he had been practicing law for 45 years; that he had acted as executor twice, and that the time engaged in this particular work was about one week. In other words, I think he stated almost a minimum under that definition or ruling of the commissioner. The commissioner replied that, in his opinion, the commissions so earned should be stated as part of his earnings from his profession.

Now, gentlemen, that is exactly what you must expect. The commissioner has a fixed duty, and that is to collect taxes; and I think he himself would like to be relieved of the responsibility of judicial determinations of questions which would come up under his own ruling.

Of course, in the instance I cited to you, it was quite open to this lawyer to go to the courts and get a determination of the question. But here was a case where the lawyer felt that he wanted to do his duty to the Government; he did not want to be criticized for taking an appeal in a large matter; it was a very large estate, or he would not have applied, perhaps to the commissioner; he would have made up his mind as a lawyer and would have gone ahead and paid the tax under protest and sued afterward. But he did not wish to be regarded as unpatriotic in any way; and he put it up to the commissioner under the provision of the law as it now stands.

It does not seem to me that that is fair, or that it is democratic, that a man should be placed in that position. And we all thought that some kind of judicial body to pass upon these rulings and assist the commissioner and relieve him of all responsibility—which I feel certain that he does not wish—would be very desirable.

Mr. LONGWORTH. Your proposition only involves a hearing, and not any power of determination in the commission?

Mr. GARRETT. Well, I did not mean to so state it. I meant to say as a necessary part of it, "and determination." Did I not say "hearing and determination"?

Mr. LONGWORTH. Not determination.

Mr. GARRETT. I meant to say "hear and determine."

Mr. LONGWORTH. You mean that the commission shall pass upon each case?

Mr. GARRETT. Pass upon these cases, exactly. Of course I do not go into the constitutionality of the thing. I just merely brought it up as a proposition involving policy—

Mr. LONGWORTH (interposing). I think there is a great deal of reason in what you suggest.

Mr. GREEN. Would you have this proceeding final, if the parties choose to submit their cases to this tribunal?

Mr. GARRETT. I do not wish to dictate to the committee. I just put it up as a proposition for you to consider.

Mr. LONGWORTH. You did not say "hear and determine."

Mr. GARRETT. I meant to say "determine." And when I say "I," I mean the gentlemen who worked these printed recommendations up. I mean to say that we did not consider the question as

to whether or not the hearing should be final, or whether it should be subject to review or not. I leave that to the judgment of the committee, as to how the thing should be worked out.

Mr. STERLING. Taking up that case you spoke of, why did the commissioner say that the question depended upon the amount of time that lawyer devoted to the performance of his executorship?

Mr. GARRETT. Well, the law is that earnings from his profession—and I imagine what he had in mind at the time of that ruling was that a lawyer does so many things that it is pretty hard to say what are earnings from his profession; and that he had in mind the possibility of some lawyer specializing and working in the matter of estates and acting as trustee, etc. I believe there are certain lawyers in Boston who described themselves, not as lawyers, but as trustees by profession. I believe he had something of that kind in mind, and therefore that clause crept into his ruling.

Mr. STERLING. Well, that only goes to the question of whether he would pay the 8 per cent; that would all be subject to the income tax in any event?

Mr. GARRETT. Yes; it all would be subject to that. But the excess-profits tax is in addition to the other tax.

Mr. STERLING. So if a lawyer should make money outside of the actual practice of law, by acting as executor or in any other capacity, do they hold that he is not bound to return it as part of his income in the payment of the 8 per cent?

Mr. GARRETT. If he earned it entirely from his profession—for instance, if he got a lot of income from bonds, we will say, or dividends on stock, it is quite certain that he is not subject to the 8 per cent excess-profits tax. Also if he gained it from quite a number of transactions which did not involve professional ability, or the exercise of professional judgment, I do not think there is any question about it that it is not subject to the 8 per cent profits tax.

Mr. STERLING. Yes; I undertsand.

Mr. HULL. This is intended now to relate to the income tax as well as the excess-profits tax—your suggestion?

Mr. GARRETT. Yes; it is to relate to all these kinds of Federal taxation. That is, I do not know whether I stated it clearly at the beginning. All of these suggestions as they may appear apply to both income tax, or war tax, estate taxes and excess-profits tax.

The CHAIRMAN. Who would you have appoint this board?

Mr. GARRETT. I do not know whether I would be presumptuous enough to suggest that.

The CHAIRMAN. Would you have the Secretary of the Treasury appoint, or the Commissioner of Internal Revenue, or would you have the President of the United States appoint, by and with the advice and consent of the Senate?

Mr. GARRETT. Well, I had not even thought of that. I think your committee is more able to pass on that question than a committee of lawyers.

The CHAIRMAN. Well, would it not have the same effect on your returns to the Treasury if the Commissioner of Internal Revenue or the Secretary of the Treasury should appoint the commission who would pass on those questions? Do they not do that now? Does not Mr. Roper select one or two or three men, or as many as they want, as officials to review these cases and to hear these complaints,

and they decide them in the first instance, and then pass them to Commissioner Roper for his approval or disapproval?

Mr. GARRETT. Well, I had more in mind something that would not be a department of the Internal Revenue Bureau.

The CHAIRMAN. You want a separate commission?

Mr. GARRETT. Yes; a separate commission.

The CHAIRMAN. Independent of the Internal Revenue Department?

Mr. GARRETT. Yes; independent of the Internal Revenue Department. I do not want anybody who would be a creature of the Revenue Department—although I do not mean to reflect at all upon the Revenue Department.

The CHAIRMAN. We understand that.

Mr. GARRETT. The next suggestion we have is that the law should definitely show that in the case of all fiduciaries the income which is taxable is the amount of income accrued and distributable as distinguished from the amount of income actually paid.

In that connection, I will say that we do not believe that the public at large generally realizes that this is an exception to the general rule; because, as I stated, I believe it to be the concensus of opinion as to the present regulations, but I do not believe the public at large understands it, because the public generally has the ideas that all of these taxes are based upon the receipts of the beneficiaries, not accruals in their favor; and this is a very complicated question in the regulations, and I thought the thing should be cleared up so that the public at large could understand it.

Mr. STERLING. Excuse me for interrupting you, but I do not think I get your idea clearly, Mr. Garrett. The taxable income is "the amount of income that is accrued and distributable, as distinguished from the amount of income actually paid?"

Mr. GARRETT. You would understand that with the words "to the beneficiaries" at the end of that sentence. You see, when an individual receives an income, it is the income which he actually receives upon which he reports and upon which he pays the tax, not the income which has been earned and accrued.

Mr. STERLING. Does the fiduciary pay tax on the income which he retains in his own hands, as well as upon that which he turns over to the beneficiary?

Mr. GARRETT. That is the rule; where there is an estate in process of settlement, or where there is a trust that accumulates for some time, the income tax is collected upon the basis of what the trustee, executor, or other fiduciary has actually collected, and not upon what is paid to the beneficiaries.

Mr. STERLING. That is the practice now, is it?

Mr. GARRETT. As I have stated, the practice is based upon a number of divergent rulings—they are not necessarily divergent, but they are abstruse; and it has taken a great deal of thought among lawyers to understand exactly what they do mean at present time. In fact, they were not all in agreement when we had the question up; but when the discussion developed it was the concensus of opinion that that was what the present regulations mean.

Mr. STERLING. How would that work out in a case where the executor has a right to determine how much of the income accruing he shall give to the beneficiary—or is that a matter of discretion?

Mr. LONGWORTH. How would that work out in the case where the executor has the right to determine how much of the income accruing he shall give to the beneficiary? Is that a matter of discretion?

Mr. GARRETT. I don't think it would affect that at all because it is only actual receipts upon which he makes his report of income, the income the fiduciary receives, not the beneficiary. In other words, the income that accrues in favor of the beneficiary and not that which is distributable to him.

Mr. STERLING. It would come at the same in the end.

Mr. GARRETT. It would come at the same in the end. What we suggest here is not a departure from the present rulings of the department, it is merely a question of having it stated clearly, because as it is now it is involved in four or five different propositions.

Mr. LONGWORTH. I see what you mean.

The law should set forth with exactitude the treatment of each class of payment to or for the account of nonresident aliens. That a personal return should be required of a nonresident alien only when his total tax is not paid at the source and his income is taxable.

That is exactly in the same class as the other. That presumes to set forth what the law now is, but it is very difficult for the layman to understand it through all this mass of decisions as to the handling of income for account of nonresident aliens.

Mr. GREEN. That is what I understood the law at present to be, but maybe it is not as clear as it should be.

Mr. GARRETT. That is exactly what we understand the present law to be, but we wish it to be set forth clearly in the act itself instead of being hedged about by a mass of regulations which very few understand. I may say that seven or eight lawyers sat around a table, and each lawyer went through a catechism and there was only one in the crowd who could answer the questions. He has been working on the income tax for the past two or three years. It is merely on account of that state of affairs that we should like to have it stated clearly in the law.

The next question is:

The interest on deposits of alien corporations should be excepted from the excess-profits tax unless said alien corporations be otherwise liable to the excess-profits tax.

Now, that goes into the question of economics slightly. There are now large cash balances carried in institutions of this country which are the property of alien corporations, not engaged in doing any business in this country, and we believe that those deposits are a substantial economic benefit to this country and to the institutions here, and that they would be quickly withdrawn, or unseasonably withdrawn, if what seems to be the present policy were continued.

Mr. GREEN. Do you mean that there are more now than in ordinary times on account of war conditions?

Mr. GARRETT. Oh, yes; quite a number.

Mr. GREEN. A very large number?

Mr. GARRETT. I believe so. Am I correct, Mr. Orr?

Mr. ORR. I am not sure.

Mr. GARRETT. I beg pardon, I won't state that. I thought Mr. Orr would back me up on that. I am not certain, but my idea was that there was no reason why we should collect an excess-profits tax

from these corporations merely because there are very many here which draw interest.

Mr. STERLING. They would not be subject to the excess-profits tax any way.

Mr. GARRETT. I believe that since this has been prepared there has been a ruling that they are not subject.

Mr. ORR. I believe they have so ruled. The ruling came down Thursday or Friday.

Mr. STERLING. Regardless of the ruling, you could not get any excess profits tax from property that was paying only bank interest.

Mr. GARRETT. There was a ruling earlier, I believe, which did make it taxable because the language was that they were liable to tax, those foreign corporations, and they figured upon the proportion of the business done by the alien corporation in this country, with reference to the total business of such corporation. That was the law, and under that they first ruled that keeping money in this country was doing business here.

Mr. STERLING. If you compute that interest in computing his excess-profits tax, it would simply go to reduce his income tax. That is the only thing which could possibly be taxed. How much is the bank interest, 3 or 4 per cent?

Mr. GARRETT. About 3½ or 4 per cent.

Mr. STERLING. If you allow him to compute that in his income tax, the tendency would be to reduce his income tax, and you can not get any excess-profits tax where the exception is 7 to 9 per cent out of an income that is derived from a 4 per cent investment.

Mr. GARRETT. It was based upon the proportion of total business done in this country and the total business of the corporation done elsewhere. It was not a question that these alien corporations might have any business in this country whatsoever. But that was under the earlier rulings, and I should think that this is unnecessary, as stated, because there is a later ruling, since this was prepared last week, which holds that they are not taxable. Am I correct?

Mr. ORR. Yes.

Mr. GARRETT. Then, the next is:

The time within which the return of a taxpayer may be reopened for reassessment, and the time within which the Government may sue for the collection of the tax not assessed in the normal times, should be limited to two years.

In other words, we feel that there should be a settlement of these questions at some time.

Mr. STERLING. No limitation at the present time?

Mr. GARRETT. No; none whatsoever. That, of course, would not foreclose the Government in correcting a fraud or anything of that sort; but if the matter of construction of the law and of the regulations be left open, they would have a false security in making these returns, and there should be some limit whereby the corporation or the individual could make certain that he has adopted the right basis and that he can continue to disburse his income in accordance with the return which he has made.

Mr. HULL. What limitation would you put upon the detection and assessment of a taxpayer who had failed to make any return?

Mr. GARRETT. Well, I think it would not be necessary to fix any limitation on that. You can catch that any time.

Mr. HULL. Leave that open?



Mr. GARRETT. Yes; That is a class of fraud, practically. I do not know. I might be mistaken on that.

Mr. HULL. In case of fraud, where there had been a partial return, you would limit it to two years with the other?

Mr. GARRETT. No. When there is fraud, fraud should go from the time of discovery.

Mr. HULL. Then, this limitation is only applied to full, complete, and bona fide returns?

Mr. GARRETT. Yes; made in good faith for a complete return.

Dividends paid to corporations should be treated for the purpose of the normal income tax in the same manner as for the purposes of the war income tax.

In other words, the law now is that it discriminates against corporations, and I do not see any reason at all for it.

All interest paid by corporations should be deducted from its earnings for the purpose of computing its net taxable earnings.

The present law has a very curious rule which only permits the deduction of interest on indebtedness not exceeding the sum of the paid-in capital plus one-half of the interest-bearing indebtedness outstanding at the close of the year. The reason for that is not apparent with anyone with whom I have discussed this question. There should be no relation between the capital of the corporation, the interest it should pay, nor the indebtedness. I think it quite possible, as I have stated in the example, for a corporation to have a capital of only \$10,000 and having a bond issue of \$10,000,000, and if it is possible to pay \$5,000,000 under the present law, they could only deduct interest on \$5,010,000, whereas they might have paid the interest on \$10,000,000 for 11 months and 29 days. In other words, the full interest should be allowed. It should not be limited to any amount of capital and indebtedness at the end of the year.

Mr. STERLING. There is nothing in the law——

Mr. GARRETT (interposing). The law as it now stands says that they can only deduct interest upon an indebtedness not exceeding the paid-in capital plus one-half of the interest-bearing indebtedness outstanding at the close of the year.

Mr. STERLING. I guess you are right.

Mr. HULL. What would you say about a situation of this kind: Suppose a corporation issues \$1,000,000 bonds at 6 per cent and then they are converted into 6 per cent preferred stock? In that case a 6 per cent dividend comes off the common stock, but the 6 per cent interest accrues before the bond has been converted. That does not relate directly to the merits of your proposition, but it is an economic situation which we have with reference to preferred stock.

Mr. GARRETT. Well, if they paid the interest before the conversion, it has not affected the distributable profits, and if they have not paid it, then the profits are that much more, and you are going to get that going and coming.

Mr. HULL. What would you do with the preferred stockholder so far as the normal tax is concerned? What would you do with his dividend?

Mr. GARRETT. Why, as to the normal tax he would be exempted from that, but the Government would get the income from the corporation just the same, because before it paid the dividend it would have paid the tax.

Mr. HULL. Of course, where his stock is 6 per cent the corporation pays out on its profits whatever it pays as dividend.

Mr. GARRETT. Exactly.

Mr. HULL. Where the amount outstanding is bonds which have not been converted into preferred stock the 6 per cent interest is likewise paid over to the stockholder, in the case of the preferred stockholder, and he gets off very light on the normal tax.

Mr. GARRETT. The stockholder would.

Mr. GREEN. This provision that is in the law now, I think, had a little more force and reason back of it before we adopted the excess-profits tax.

Mr. GARRETT. Yes, sir.

Mr. GREEN. Just now it is to the interest of every corporation to keep its capital as large as it properly can, and not lose money thereby, because it gets bigger allowances under the excess-profit tax. It seems to me at the same time that this provision might at least well be modified, if not done away with entirely.

Mr. GARRETT. I think quite a number of States in the Union have provisions that their bonded indebtedness should not be in excess of a certain ratio to the capital stock, or vice versa, and I think that they were based upon exploded economic theories. There should be no relation whatsoever between the capacity of a corporation to borrow money on its capitalization. The capitalization is sometimes the result of an accident, sometimes inheritance, sometimes peculiar laws, and the corporation needs money just as much as an individual does, just as much as it can get or requires, and the expense of getting that money certainly is a legitimate item of deduction in finding the profits.

That as to the estates tax (sometimes called the Federal inheritance tax) the tax shall not be payable until the same has been assessed and a 10 days' notice of such assessment given. However, the assessment shall be made within a reasonable time (say, 60 days) after the filing of the final returns, and the assessment, when made, shall release the lien of the Government on all property reported in said return.

Now, I did not get in in time to hear the last speaker, Mrs. Lowell, but I do know from conversations that most of the lawyers that have been bothered by this Federal and State tax law think that this law is an anomaly among tax laws generally. There is no provision in the law assessing the tax. There is no one who has split up an estate under this law who has known where he stood when he split it.

Mr. GREEN. Her complaint was based largely on the ground that the Government instead of taking the value of the property which consisted largely of certain bonds and stocks that were on a falling market, instead of taking the value at the time of her husband's death, at the time it came into the hands of the executor, that the Government wanted to take it at the time that they were at the highest point, at the death of her husband, I think.

Mr. HULL. After death, wasn't it?

Mr. GREEN. I didn't get her statement very clearly.

Mr. GARRETT. I think the law is as to the date of his death. It is not any arbitrary date. That is fixed.

Mr. ORR. I think what they do is, they take the value of stock at the time of the death of the decedent instead of the value which the beneficiary receives. The stock may be worth \$100,000 when the decedent died, and when she got it it was worth only \$50,000, dropped

when going through the estate, and she paid a tax on the value of it at the time of his death, not when she received the stock.

Mr. HULL. But suppose it had gone up?

Mr. GARRETT. The date of the death.

Mr. HULL. The law does not allow the Government to take advantage of the increase, but the State has to stand the decrease.

Mr. GARRETT. This goes to the whole question that there has not been a single estate administered where anyone can determine as to whether or not they have paid the correct amount of tax. There is no provision in the law for assessing the tax, and we feel that there should be some provision for actually assessing the tax so that the taxpayer may settle up an estate and make a distribution. There is no chance of making a distribution with any certainty under the law as it is now.

Mr. HULL. They can pay a tax any time.

Mr. GARRETT. But no one can tell whether they have paid the right amount.

Mr. HULL. But if the department gives them a receipt in full, that is a termination.

Mr. GARRETT. It does not give a receipt in full.

Mr. HULL. That is because the entire value of the estate has not been determined.

Mr. GARRETT. No; I quite differ with you, because there is no provision in the law exactly figuring the amount of the tax. The lien of the Government attaches upon all the property and remains upon all the property, and there is not any way of releasing it from the lien that we know of.

Mr. HAWLEY. The Government gives a receipt for the amount paid, but it does not certify that that is all the obligation.

Mr. GARRETT. That is the proposition.

Mr. GREEN. If I understand you, no person is authorized by the law to levy and assess these taxes and notify the executors that that is the amount they should pay?

Mr. GARRETT. That is exactly it. It is unique in tax legislation.

Mr. HULL. Of course, some laws levy a tax without prescribing any method of collecting it. The assessment is only for the purpose of determining the amount to be paid.

Mr. GARRETT. And also give a man an opportunity to be heard and also protest against the assessment of his tax. He has no right in the courts until the assessment is fixed.

Mr. HULL. Unquestionably it is a very important thing, but I was calling attention to the fact that some laws have been put into effect without providing the machinery of assessing in a formal way, leaving the main function of assessing to such methods as may be agreed upon.

Mr. GARRETT. Certainly. Then, the next question:

Provision should be made in the estate-tax law for the apportionment of the tax and exemption, on the one hand, as between real and personal property, and, on the other hand, as between the various classes of legatees and devisees under wills.

I may state that under the law as now construed the present effect of the tax is to place the entire tax upon the residuary estate, not to spread the burden over among the other bequests or devisees in the will. Under such circumstances, I think it does not seem fair, because the testator never knows what his residuary estate is going

to be, or rather very seldom does he know what his residuary estate is going to be, and to place the whole burden of the tax upon the residuary legatee does not seem fair, nor in conformity with the general provisions of the inheritance tax laws in the various States of the Union. It is a very serious computation to determine whether or not there will be a residuary estate sometimes. Under the law as it now is, if there should be failure of the residuary estate, we imagine that there can be some priority arrangement made to apportion the tax among the other devises and bequests in the will. Also, there is not any provisions which might cause a portion of the tax to be borne by specific devises of real estate. In fact, we feel quite certain that now the bequests of a specific piece of real estate are not taxed, whereas a bequest of a sum of money would be caught by the tax. In other words, the tax is against the estate, and the rulings are that the residuary estate bears the tax completely.

Mr. HULL. Unless the testator provides in his will that that shall be apportioned.

Mr. GARRETT. He could provide in his will if he has able counsel, and he calls able counsel at the time when he makes his will—one who has studied this law. There has been a lot of wills drawn before this law went into effect, and there is a lot of estates in litigation, and you must remember that there are a great many men who do not keep up with the Federal taxation laws, and, I think, in fact, a very small proportion of them do keep up with it. The usual provision of apportionment of tax between legacies of various legatees is usually in the inheritance laws of the various States, and I see no reason why it should not be inserted here.

Mr. GREEN. Well, I can see some reason why there ought to be a provision in the case of residuary estates, that if there is not sufficient to pay the tax that it should be apportioned among the bequests.

Mr. DIXON. It would be, in that case.

Mr. GARRETT. There is no question about the Government getting its money.

Mr. GREEN. But I understand your contention to be that in some instances a parcel of real estate might escape, under these rulings, and all go on the legacies of cash.

Mr. GREEN. What I was endeavoring to say was that I did not think that that ought to be permitted, but so far as the residuary estate is concerned, that is merely an expression of the testator's will—that if there is anything left it may go to a certain person or in a certain direction. When he allots or bequeaths \$5,000, it is, for example, to a certain person, and he wants him to get that.

Mr. GARRETT. It also occurs that if he feels a certain obligation to some one, we will say he gives \$5,000 to one, \$10,000 to another, and \$50,000 to another; and he figures with a lead pencil as to what is going to be left, and his principal beneficiary is going to have what is left; it may often happen that the principal object of his bounty is in the residuary class.

Mr. GREEN. That is true.

Mr. HULL. A great many estates have lawsuits about it.

Mr. GARRETT. Yes.

Mr. HULL. And those expenses come off the residuary fellow?

Mr. GARRETT. Yes, they do. But this matter of taxation has grown up to be a recognized factor.

Mr. HULL. It should be provided for in the will.

Mr. GARRETT. Of course it should be.

Mr. STERLING. The only way to meet that obligation is to impose a tax on legacies and devises.

Mr. GARRETT. Or provide for an apportionment of the tax as among the legacies and devises, the same as is done in New York State, and in most inheritance-tax States.

Mr. STERLING. And distribute the exemptions among them also.

Mr. GARRETT. And distribute the exemptions among them as well.

Mr. STERLING. According to relationship?

Mr. GARRETT. I do not know that it is necessary to be according to relationship, but to distribute the total exemptions. In other words, the net tax would be distributed among them all. I think that would be the simplest.

That under the estate-tax law, transfers of stock held by nonresident alien decedents should be permitted under a system of waivers similar to that now used in the administration of inheritance-tax laws in New York and other States.

Now, gentlemen, I think that is one of the most serious propositions that we have encountered in the administration of this law, and that is that the nonresident alien stockholder, nonresident alien decedents, stock held in their names, the transfer of which is made by an executor or an administrator of an estate, and it is like a dog chasing its own tail to get anywhere because they can not make a transfer of stock until the tax is paid and they can not pay the tax until they know what the tax is going to be, and they can not determine what the tax will be until they sell the stock, and the stock is the first thing they should sell, yet they have got to pay the tax before they sell the stock. In other words, in the ordinary administration of the estate, stock is the first thing. A lawyer would say "Sell stock. It is perishable, and you should start with that first." And when it comes to the transfer of such a share of stock, you have got to present a receipt of payment of tax in full. In working it out they present a receipt for the payment of taxes upon the provisional return sometimes, which they allow the executor to correct. It seems perfectly simple to build up the same system which they have built up in New York and all the other States in administering inheritances taxes, that is to allow the stock to be transferred, signed by the collector of internal revenue wherein he substitutes the lien of the Government upon some claim or some assurance bond, which they give to the collector of internal revenue that the tax will be paid upon this item of transfer. In other words, to make it workable and businesslike, as it is now, we have all been standing on our heads and didn't know what to do.

In computing the estates tax there should be allowed as a deduction all payments made to States under their respective transfer tax laws.

This question has been the subject of adverse ruling from the department, and there has been a great deal of difficulty in conforming to the laws of the various States. As a matter of fact, in practice and in administration, a tax in the various States is usually the first paid before the tax is paid to the Commissioner of Internal Revenue, and it would seem more than fair probably to allow those deductions. As you realize, the tax is paid in many instances in three or four States. A man dies resident of one State. He has in his estate

stock of corporations. In another State, or three of four States, he has to pay taxes, and it is a question of how he happens to arrange his securities and what States he was unfortunate to live or die in. That brings up the question of how to levy his inheritance tax that is to be paid upon his estate, and it seems no more than fair that the amount of tax that his estate paid to the various States should have an effect in determining this tax here.

Mr. HULL. Is that the only reason you suggest why the State should have the benefit of assessing the full amount before collecting it for the Government?

Mr. GARRETT. Not only that, because he pays in two or three States.

Mr. HULL. There has not been any well-defined determination of this question, has there?

Mr. GARRETT. The last ruling of the department seems to have denied the right to make this deduction.

Mr. HULL. I mean this controversy that comes up between the State and the Government, that matter has never been thoroughly thrashed out?

Mr. GARRETT. It has not. There has been one decision of the surrogate of New York County, I believe, in which the right to deduct the tax paid to the United States Government as against the New York tax, was denied. That is the only ruling I know of.

Mr. HULL. I have noted some decisions where the State courts have held that the States are entitled to priority, even if the Government gets to it first, to take its full amount. The Government, of course, adopts the other contention. It seems to be a situation where both the States and the Government should have equal rights in the assessment, and has this competition of rivalry or controversy as to how they shall treat the estate in determining it settled. I can not see, as a matter of right or power, why either one has an advantage over the other.

Mr. GARRETT. I do not know any reason why one should have an advantage over the other, except this, I think the States were first on the ground, practically. That is a new field, and it might be that they are justified upon that ground. That is a suggestion without any economic reasoning back of it.

Mr. HULL. But they do have the unquestioned right. The one that gets to the estate has the same right as the other to make the assessment on the whole amount—full original amount.

Mr. GARRETT. Exactly. The next is:

That banking institutions reporting interest earned on deposits of nonresident aliens shall report only the net interest earned upon the account of such a nonresident alien.

That is suggested from the fact that depositors, or correspondents, as we generally call them, with respect to nonresident aliens, often have a debit balance on which they pay interest. In other words, it should be the net interest, net credited interest, upon which the return should be paid.

That for the purpose of determining excess-profit taxes, borrowed money be allowed as a part of the invested capital.

The CHAIRMAN. Suppose in the States there is a contest between the different legatees as to whom they shall pay the tax, or whether they shall pay any tax or not, and it is tied up in court, must it

wait until the court decides in order for the Government to get its money?

Mr. GARRETT. The Government is going to get its tax at any rate. You have reference to No. 11?

The CHAIRMAN. Thirteen, isn't it?

Mr. GARRETT. Well, that one meant that in making up the net amount of the estate upon which the tax should be paid, there should be an allowance made for the amount of the tax paid to the various States.

The CHAIRMAN. Suppose they had not settled the estate, and the taxes had not been paid to the State, should the Federal Government then wait?

Mr. GARRETT. Not at all.

The CHAIRMAN. How is it going to get its money if the State inheritance tax is to be taxed?

Mr. GARRETT. They can go ahead and collect it. A man can only deduct what he has paid. It will force him to pay the tax.

The CHAIRMAN. You mean if you have an inheritance tax of \$10,000 that that amount should be deducted from the amount of taxes paid to the Federal Government?

Mr. GARRETT. It should be deducted from the estate.

The CHAIRMAN. Just like the county and city taxes?

Mr. GARRETT. Exactly.

The CHAIRMAN. And then the Federal Government tax would be on the balance?

Mr. GARRETT. Exactly; that is all.

The CHAIRMAN. None of the States levy a tax like this except Rhode Island.

Mr. GARRETT. Rhode Island has now an act passed last year.

The CHAIRMAN. What other States have such a law?

Mr. GARRETT. All the States, practically.

The CHAIRMAN. Have a State tax on the whole estate? They have a legacy tax and a devisee's tax, or one of them, but they don't have an estate tax on the whole estate.

Mr. GARRETT. We do.

The CHAIRMAN. Except, I believe, it is Rhode Island.

Mr. HULL. That is the last to fall in.

Mr. GARRETT. New York has it and New Jersey.

The CHAIRMAN. The rates are different according to relationship?

Mr. GARRETT. There are exemptions apart from relationship. You have exemptions in this tax.

The CHAIRMAN. This tax is a lien on the total estate just like the county or State tax is a lien on the total estate, and it can not be divided up until those are paid. Then if the taxes are paid it is in a condition to be distributed, and after the payment of the estate tax, the inheritance, it goes to the distributees. This taxation under the existing law is a lien on the total estate, is a debt against the estate, just like a debt due a creditor, or just like the tax due to a State. You see, if the States had a tax like we have, as a debt against the whole estate, it would be very easy to administer—that is, if we should adopt your view, to administer your proposition.

Mr. GARRETT. Except this, in the working out of those taxes in the various States, the whole estate is taxed at one time. This is taxed against the legacy of John Jones, William Smith, etc., which

is worked out in one proceeding, and it is made upon the total transfer—that is, upon the transfer to the various beneficiaries—and the reason this tax is more embracing than the State taxes it starts at a higher figure than the taxes in the various States. No. 18—

That for the purpose of determining excess-profit taxes, borrowed money be allowed as a part of the invested capital.

Now, that does not strictly come within the purview of this committee. The trust companies and institutions that I represent put it in here because it was of general interest with respect to the excess-profits provision.

Mr. LONGWORTH. The oil men suggested that this morning.

Mr. GARRETT. I did not hear them discussing that particular issue of it. We think the return allowed to corporations should be allowed on the investment and the borrowed capital. They should be allowed a fair return on it in determining what is their capital employed in the business.

The next item—

that the status of the Virgin Islands and the Canal Zone be clearly defined in reference to the income tax, war tax, excess profits law and estate tax,

should be clearly defined in this tax.

Mr. STERLING. What is their status now?

Mr. GARRETT. I do not know whether they are nonresident aliens or not.

Mr. ORR. The Treasury Department did not know whether they had received any from the Canal Zone when I asked them.

Mr. GREEN. I think your point is well taken. I think you can safely pass on that.

Mr. GARRETT (reading):

That corporations and partnerships filing returns for a fiscal year other than the calendar year be allowed to show when possible actual earnings applicable to each calendar year instead of being required to prorate earnings according to the number of months as under the present law.

The present law—that comes up under a ruling—is a rule of thumb. It is worked out to take the apportionment according to the number of months and prorate it. But if it is possible to take the actual earnings for a certain number of months, use those figures by all means. That is all there is to that.

The next item:

That the provision allowing deductions for contributions and gifts to charitable organizations, etc., allowed to individuals be extended to include corporations.

Now, we have all had that question up as to whether corporations can make charity contributions or not. In New York we secured the law permitting such corporations to make contributions to charities. Whether or not it is constitutional we are not quite sure. They are going ahead. Take those Red Cross dividends which were distributed a year ago. Only 17 or 18 per cent of them actually reached the Red Cross. The corporations are now making payments to the Red Cross and we feel that that form of endeavor should be encouraged, and certainly corporations should be entitled to deduct contributions in the same manner individuals are entitled to.

Mr. HAWLEY. What was that about contributions not reaching the Red Cross?



Mr. GARRETT. A large number of corporations in July declared 1 per cent dividends which were entitled, "Red Cross dividends," which it was intended that the beneficiaries or the stockholders should turn over and indorse to the Red Cross. About 17 per cent of those dividends actually were received by the Red Cross.

Mr. HAWLEY. The dividends received by the stockholders?

Mr. GARRETT. The dividends received by the stockholders. Under that set of circumstances, the corporations in New York secured special legislation authorizing them to make these payments and the corporations went ahead and actually paid the dividends, probably without any authority of law authorizing them to do it, but they took a chance and did it. We should be encouraged in that by having the deduction allowed.

That collectors be given authority to grant reasonable extensions of time for filing returns in meritorious cases.

We now know all the difficulty which occurred with respect to that. There are always cases coming up where there is a reason why an extension of time should be granted. Now the collector can only grant the 30-day extension, and then you have to come down here to Washington to get another extension, and it is a very small matter of discretion to allow the collector to make allowances for an adjournment.

Section 207, subdivision A, should be amended in such manner as to allow a fair method of valuing good will, patent rights, copyrights, etc., in cases where there have been no transfers thereof. It is suggested that such amendment should take the form of permitting the corporation a return on the amount of these items which have been carried as the value thereof on its books, provided such good will and other intangible items have, together with the tangible assets, during a period of three years, earned a return to the corporation at least equal to 8 per cent.

The is no question more difficult to ascertain than the value of good will, which is intangible. Here we have endeavored to state the New York net earnings rule, and I think the old Wisconsin rule as to the value of intangible things on the basis of returns. In the various tax laws which you have adopted 8 per cent is mentioned for various purposes, and if the corporation has set up these intangible items, or if the business has set up these intangible items, it is proposed to allow good will to be capitalized, if the value stated has been sustained by the actual earnings of the corporation during three years—or a fair period—that should be accepted as an item on which they are entitled to a return. In other words, if they are going to sell the business they are going to get something for the good will. It is property just the same as their house, and every little piece of machinery is property. The only difficulty with good will is that you can juggle with it, and I think you can provide against juggling by establishing a rule that it must have been set up on the books and to have been supported by the actual earnings of the company.

Mr. LONGWORTH. Suppose you had a corporation of \$100,000 cash capital paid in, and you had certain trade-marks, good will, etc., and had an income which you could show of \$8,000; then you would have a capital of \$200,000 instead of \$100,000.

Mr. GARRETT. No, I don't think so. You would have \$100,000 as the total capitalization.

Mr. LONGWORTH. I am speaking now of \$100,000 in cash.

Mr. GARRETT. Of cash?

Mr. LONGWORTH. And in addition to that you have certain trademarks or copyrights which bring in \$8,000.

Mr. GARRETT. What are the total earnings of the corporation?

Mr. LONGWORTH. \$16,000, but all that you show for \$8,000 is due to trade-marks, etc. You capitalize that into \$100,000.

Mr. GARRETT. Exactly.

Mr. LONGWORTH. That is what I mean.

Mr. GARRETT. My idea was not to allow them to do that, because they would expect the Government to lose. What I think should be done should be to take their own figures of what they carry for good will, but only take those figures if they sustain the income of \$8,000, \$8,000 on \$100,000.

Mr. LONGWORTH. Suppose you said that the good will was worth \$150,000, but it was shown that they only received \$8,000 therefor. The Government would say that it was only worth \$100,000, and you might add \$100,000.

Mr. GARRETT. That is exactly my idea.

Mr. GREEN. But it seems to me it would be very difficult to get at the true value of good will. You would have to know more than the income of the business to know what came from income. You have necessary expenses, and you have other assets. A firm that has been doing business quite a while in the line of clothing, we will say, has built quite a successful trade, a large portion of that, or some portion of that at least is due to the good will of the concern. How are we to determine how much?

Mr. GARRETT. I would say this, if that concern is a businesslike, well-managed concern that has been in business for years, it would have set up on its books good will, trade-mark, or whatever it is, \$10,000; set that up on its books. The value of its machinery brings its total up to \$150,000, we will say. Now, it would be entitled to that \$10,000 as an investment, provided that the total shown, to-wit \$150,000, had earned 8 per cent.

Mr. GREEN. It seems to me that that system would very soon make the Government short on taxes.

Mr. GARRETT. No; I think it would help the Government on the taxes.

Mr. GREEN. I understand, according to your system of figuring, you would have the entire capital of the concern only paying 8 per cent, assuming, of course, that they would put in those trade-marks and good will at a high enough figure.

Mr. GARRETT. Well, we think they ought to be entitled to around 8 per cent, because that is the figure that has been taken as the allowance under the excess-profits tax. We figure 8 per cent would be the proper figure, allowing for investment. Under the present law, as it works out, we are placing a premium upon reorganization, because you now levy 8 per cent just the same if there has been a sale of the business. If there has been a sale of the business and a purchase of the business, and something has been paid for that good will, you allow it only in the case of a sale of the business to put in good will at any value.

Mr. GREEN. That is true; but I am speaking about your method of getting at this value. We will say that the corporation has \$100,000 actual paid in cash, and owns and has also good will; and you were speaking now of trade-marks; they have a certain amount

of good will. It makes \$20,000 in the course of the year. Now, how are you going to apportion that between good will and actual capital, supposing they claim their good will is worth \$150,000 or \$100,000?

Mr. GARRETT. My idea is, if you will read my statement I think I said, "a return on the amount of those items which have been carried as the value thereof on its books, provided such good will and other intangible items have, together with intangible assets, during a period of three years, earned a return to the corporation at least equal to 8 per cent."

Mr. GREEN. I put my figures of profits too large to figure out the case I wanted to make. I would put it at \$12,000. Suppose their good will as \$150,000, the Government would not get any tax at all.

Mr. GARRETT. Pardon me; it would get more.

Mr. STERLING. It wouldn't get any tax on that. The 8 per cent return on the capital and on the good will would absorb the whole thing.

Mr. GARRETT. No; I mean that they should be allowed a return upon that \$12,000. If that \$12,000, plus the \$100,000 elsewhere which they have—cash, real estate, and machinery—if those two items together had produced 8 per cent per year for the last three years, only in that case can good will be included.

Mr. GREEN. Suppose they put it \$50,000 instead of \$12,000. Then couldn't they say, "Here is 8 per cent on the real estate and cash and 8 per cent on the \$50,000 good will"?

Mr. GARRETT. No.

The CHAIRMAN. Let me see if I understand you. You and Judge Green are going into a corporation that has \$100,000, cold cash, tangible assets, and that corporation makes 40 per cent the first year and 40 per cent on that \$100,000 the next year. Now, then, that shows if you have got the capital, you are making 8 per cent on \$500,000 of capital, aren't you? You are making an amount equal to 8 per cent on \$500,000 capital. Your proposition is that you should have a deduction of 8 per cent on that \$500,000. You go one step further and you say that you must know that you tax his good will. Now, we have made for three years 40 per cent on \$100,000, which is equivalent to 8 per cent on \$500,000. Then, for the three years we will put down \$400,000 good will. You will have \$500,000. Now, do you stop right there?

Mr. GARRETT. I can't see if you have once written down that \$400,000—

The CHAIRMAN (interposing). Now, when you make that same \$40,000 the fourth year, for the first time you write it down as \$400,000 of good will, and the next \$40,000, which is 8 per cent, then your company carries it on your books, and the company should be allowed to have a deduction of \$100,000 tangible assets, and \$400,000 intangible assets, because they have had that experience for three years. Just tell me how many companies with an 8 per cent on their capitalization, but making 40 per cent on their actual capital, could you collect a penny from, because while you are making 8 per cent under the law you are making 40 per cent on the actual capital. But to let them have a capital of \$500,000, the law is going to give him 8 per cent, so you have really a \$40,000 deduction. Where is your excess over deduction?

Mr. GARRETT. I don't think there would be any excess.

The CHAIRMAN. This corporation would not pay any tax at all with \$400,000 out of \$500,000 of its capital pure water. The only objection that I have to that provision is that you allow even that 20 per cent for this good will for corporations in which this 20 per cent was paid in prior to March 1, 1917. I understand that advisory boards have had difficulty over allowing that 20 per cent to go in as part of the capital.

Mr. STERLING. The result of your proposition would be this, that every concern that made more than 8 per cent on the capital invested would claim that the rest was made on good will.

The CHAIRMAN. We all worked your proposition out so that the Government would not get a penny.

Mr. GARRETT. Under the present law the Government would not get a cent if I was managing that corporation. I will tell you what I would do.

The CHAIRMAN. If you will show how under the present law companies like this would not pay a cent, I will tell you you would get enough fees from companies throughout the country to pay these excess profits taxes for them.

Mr. GARRETT. Under the law as it now stands the corporation would reorganize. If you can find a bonanza that would pay 40 per cent upon you cash capital that you put in for a period of three years you have got a bonanza.

The CHAIRMAN. Some corporations have paid over 250 per cent. How are you organized to get anything in under the present law? We thought we had prevented reorganization. That is the thing we gave much attention to, to prevent these fellows from reorganizing and escaping taxation. How can it be done? We want to do something to prevent that.

Mr. GARRETT. I would like to say—

The CHAIRMAN (interposing). The truth about that provision—you have read that provision of the act about reorganization?

Mr. GARRETT. The present bill, I have not seen that provision.

The CHAIRMAN. The present law.

Mr. GARRETT. Under the present law, if the company is reorganized and actual money is paid for that good will, the reorganized company would be entitled to a return on that investment of what it paid for the good will.

The CHAIRMAN. No; my friend, you were never more mistaken in your life. We hedged that in. We have prevented that. I will tell you what you could do. Take R. J. Reynolds Tobacco Co. They have got a cigarette, the Camel brand. They have developed that by advertising and by accommodating salesmen and good management, the way they have conducted their business. Now, if they were to sell their business to the American Tobacco Co., the Camel cigarette brand, and the American Tobacco Co. had paid them \$20,000,000 for it, the American Tobacco Co. could make a deduction for \$20,000,000, because they had paid out this \$20,000,000 in cash as part of the investment to the R. J. Reynolds Tobacco Co. and would not have to put that in because they have paid it out in cash. It is an investment and is just as much an expense of the cigarette as expenses for their traveling salesmen, for their advertising and other operating expenses. The American Tobacco Co. would have the

right to take \$20,000,000 to their good will account for the purpose of deduction.

Mr. GARRETT. Every organization contemplates that you are going to have a new purchaser.

The CHAIRMAN. But you read that provision and see how you would advise a reorganization to escape it.

Mr. GARRETT. That is not my business, to advise corporations how to escape taxation.

The CHAIRMAN. You have made some very valuable suggestions and the committee will take them into careful consideration, and I would like to have you think about it to-night when you get home, and write the chairman of the committee how you think corporations can reorganize and escape this good-will proposition. I mean to put in this good-will proposition as a part of their capital.

Mr. ORR. I will tell you.

The CHAIRMAN. Can you do it?

Mr. GREEN. Just before he goes on. As I understand, Mr. Garrett, you are not interested in any corporation that would have any interest in this provision?

Mr. GARRETT. Not a single provision which I have stated. We are absolutely neutral on all of them. I have stated that trust companies are interested in these provisions because I think perhaps the greatest burden falls on them in making returns and reports.

Mr. GREEN. And so far as you are concerned, in any institution which you represent it won't make a penny's difference?

Mr. GARRETT. No; we are a friend of the court, of Congress.

The CHAIRMAN. We have thought about it, but if you and this young gentleman will consider the question and tell us how a corporation can reorganize to escape this good-will proposition you will do us a great favor, and if you will show the American Tobacco Co. how to reorganize, so that they can put in this good will with respect to the Camel brand and save \$20,000,000, they would be glad to know it.

#### STATEMENT OF MR. W. ORR, ATTORNEY, NEW YORK CITY.

Mr. ORR. As I understand it, if they give stocks for good will you can not include that stock if it happens after March 1, 1917. Stockholders can go out and borrow money and get a check and buy stock for cash, and then they can pay for the stock and sell it back to the company and just work it out in a roundabout transaction.

The CHAIRMAN. You think that is a bona fide sale and transaction? You are a lawyer, aren't you?

Mr. ORR. Yes.

The CHAIRMAN. Don't you think the courts would take into consideration the construction of the laws whether that was a bona fide transaction or not. Now, your proposition would be just as easy as anything in the world. Do you think that the legislature, the senate and the house and the various committees, the finance committee of the senate and of the house, would not have thought of that when they wrote the law?

Mr. ORR. That is the bald statement. It can have a great deal more camouflage.

The CHAIRMAN. You can't do it that way, because it would not be a bona fide sale. In the next place, if 50 per cent of the stockholders

in the reorganized company, if the old stockholders owned 50 per cent of the stock, that would not be bona fide and they could not do it. In the case you put they could not do it.

Mr. ORR. If they paid cash?

The CHAIRMAN. If they paid cash, 50 per cent of the old fellows, into the new organization, it would not count.

Mr. ORR. Why can't the old company buy out the new one. That is all sold out.

The CHAIRMAN. The same stockholders? You did not notice that provision, young man, you have been too busy. That is the very first thought that we tried to guard against.

Mr. ORR. It is not a question of whether it is bona fide.

The CHAIRMAN. But the law says it is. Would your transaction be a bona fide transaction?

Mr. ORR. Not those exact facts, but you can get them so near looking bona fide that it would be hard to tell.

The CHAIRMAN. You will have to think of this thing some more. That suggestion does not relieve the Government. I wish you would think about it, because I am sure there are some loopholes.

Mr. ORR. No cash transactions should be considered bona fide unless you got all new stockholders?

The CHAIRMAN. If you got a majority of the old fellows, it doesn't matter what they thought it was.

Mr. ORR. Couldn't it happen this way? Why couldn't you sell corporation A to corporation B and have, in effect, a new corporation?

The CHAIRMAN. That wouldn't do. Here is this Woolworth concern which has about \$60,000,000 of good will and \$30,000,000 of real assets. That good will is worth it. They would have thought of your solution in 24 hours after it was passed. They have one of the shrewdest lawyers I have known in that concern. This company, R. J. Reynolds Co., would reorganize if they thought your suggestion was good; they would reorganize to-morrow night as soon as they heard of it. They are paying about \$1,000,000 taxes a year. I wish you would really think about that, you and Mr. Garrett, because if there is a loophole we want to stop it. It is a serious matter.

Had you finished your remarks, Mr. Garrett?

Mr. GARRETT. Yes.

Mr. ORR. In connection with those losses which are deductible by an individual if incurred in his trade or business, they are also allowed to individuals to be deducted from the profits made outside of trade or business, and we propose to ask that all deductions shall be allowed. They can be engaged in the real estate business and go out and buy stock and deduct the losses.

The CHAIRMAN. In other words, if a man gambles on the stock exchange—I do not mean that in the offensive sense—and he loses money, he can deduct the loss, while if the merchant in my town puts \$50,000 into it and loses every cent before night, he can not deduct it from his business; and if he had an income of \$25,000 in his mercantile business and has lost \$50,000 on the side in this one day's transaction, he has got to pay his full income tax on that?

There is something in what you say. I have often thought about that. There is something in that.

Mr. ORR. If a corporation can do it, why can not an individual?

The CHAIRMAN. It looks like there is something in it.

Mr. ORR. Then, there is one other question, that is that one about taking interest when it exceeds, for instance, the capital stock plus one-half of your indebtedness. One of the gentlemen made the remark that you would reduce your invested capital by permitting you to take that interest, because you would not then be allowed to put that part that was not deductible in your invested capital, and the taxpayers might not like that, because it would reduce your invested capital; but in being permitted to deduct that interest you are working a deduction of your net income, and it is a great deal better to reduce that net income than to reduce your invested capital, because your invested capital only works on a proportion of that net income, whereas in the net income there is just that much saving in principal. This is an income tax law. It is supposed to tax net income. Therefore we ought to be permitted to deduct our expenses or else we are not taxing net income.

We are not now permitted to deduct our income taxes, and perhaps that is all right; but why we can not deduct all our interest in arriving at the amount we pay is a thing I can not understand. The way it is now I suppose it is aimed at companies going out and borrowing large amounts of money and eating up all their profits by having interest deducted. But there are a great many companies that it works hardship on, because they cannot deduct all their interest, and they are paying excess-profits taxes on a large amount of money that is not real income. That is the reason we have that ninth suggestion there. That is all I have to say.

The CHAIRMAN. All right, Mr. Orr. Mr. Chandler wants to be heard for a few moments.

**STATEMENT OF HON. THOMAS A. CHANDLER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OKLAHOMA.**

Mr. CHANDLER. Gentlemen, I appear before you, not to ask you to reduce any taxes, but, on the contrary, to increase them on certain commodities, and in this connection I wish to call your attention to the bill I introduced a short time ago, which was referred to your committee (H. R. 11516), which I ask you to consider.

The CHAIRMAN. Very well. Append it to your remarks.

(The bill referred to is here printed in the record, as follows:

[H. R. 11513, Sixty-fifth Congress, second session.]

A BILL To increase the revenue and to levy a duty upon imports from foreign countries of lead and zinc ore and manufactured products containing lead or zinc.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That hereafter there shall be levied, collected, and paid upon articles hereinafter mentioned, imported from foreign countries, the rates of duty which are herein respectively prescribed, namely:

Lead ore and lead dross, 2 cents per pound: *Provided,* That silver ore and all other ores containing lead shall pay a duty of 2 cents per pound on the lead contained therein, according to sample and assay at the port of entry.

Lead in pigs and bars, molten and old refuse lead run into blocks and bars, and old scrap lead fit only to be remanufactured, 2½ cents per pound.

Lead in sheets, pipes, shot, glaziers' lead, and lead wire, 3 cents per pound.

Zinc ore or zinc in blocks or pigs, or zinc old and worn out, fit only to be remanufactured, 2 cents per pound.

Zinc in sheets, 3 cents per pound.

Manufactures, articles, or wares composed wholly or in part of lead or zinc, whether partly or wholly manufactured, fifty per centum ad valorem.

Sec. 2. That on all products of lead and zinc, or either of them, or products containing lead and zinc, or either of them, there shall be levied, collected, and paid, in addition to the tax now imposed by law, thirty per centum ad valorem.

Sec. 3. That all laws and parts of laws inconsistent with this act are hereby repealed.

Mr. CHANDLER. I want to ask you gentlemen to embody as much of that as possible, or all of it, if you think proper, in your bill to increase the revenue.

Mr. DIXON. What is it?

Mr. CHANDLER. I was just going to tell you. This bill provides for an import duty on lead and zinc, on lead and zinc ore, and on lead and zinc products, and I especially want to call your attention to the lead and zinc ore provision in it. Now, I am not asking this as a revision of the tariff, but purely as a revenue measure.

The CHAIRMAN. As I understand it, you have a bill there to put a tax on lead and zinc?

Mr. CHANDLER. On lead and zinc, lead and zinc products, and lead and zinc ore; yes.

The CHAIRMAN. You are doing this for revenue purposes?

Mr. CHANDLER. Yes.

The CHAIRMAN. You could not get much revenue from lead and zinc when there is an embargo on their importation, could you?

Mr. CHANDLER. That is the very point I wish to take up with you. The embargo on lead and zinc ore only applies to Mexican lead and zinc ore. In addition to that there is about 1,000 tons per month coming from Canada and about 1,000 tons per month coming from Australia, South America, and Spain.

Mr. STERLING. There is no embargo upon that?

Mr. CHANDLER. No, sir; there is no embargo upon that. And this embargo you speak of was placed only a short time ago. The fact, is there has been very little importation for the last eight months on account of the shortage of transportation facilities. What we fear is that as soon as transportation facilities improve there will be a big influx of Mexican ore into this country. This embargo was only placed there upon the earnest solicitation of the lead and zinc producers of the Southwest. When I say the Southwest I mean northeast Oklahoma, southeast Kansas, southwest Missouri, and northeast Arkansas. This ore, up until the time when the transportation facilities became so bad, was flooding the market, and the average importation price was \$19 per ton. It was said that our mines in the Southwest could not compete with that.

Mr. LONGWORTH. What was that price?

Mr. CHANDLER. \$19.

Mr. LONGWORTH. \$19 a ton?

Mr. CHANDLER. Yes.

Mr. LONGWORTH. Was that for what they call their regular 60 per cent ore?

Mr. CHANDLER. The average of all ores that have been imported. I do not know anything about ore terms. I am not in the mining business.

Mr. LONGWORTH. As I understand it, the ore is sold in this country on a 60 per cent basis.

Mr. CHANDLER. That is what I understand, too.

Mr. LONGWORTH. And that would bring it to about \$45, now?



Mr. CHANDLER. Yes; about \$45, but the average price for the last two years and a half, when they imported something like 700,000 or 800,000 tons from these countries that I have mentioned, the average price at the port of entry was \$19, and the Government collected \$1.90 duty upon the importation of those ores. Now, what I want you gentlemen to do is to place such a tariff, such an import duty upon ores that are coming into this country that you will get a revenue. If the miners that I have mentioned in the Southwest produce it, you will get a revenue from the excess-profits tax and the income tax, and if they do not produce it and it comes in from Mexico, we will get it from them.

Mr. STERLING. That \$20 per ton tariff equalizes—

Mr. CHANDLER. I provide in this bill \$40.

Mr. LONGWORTH. On ore?

Mr. CHANDLER. Yes.

Mr. LONGWORTH. And the zinc on the same basis?

Mr. CHANDLER. The same on zinc?

Mr. LONGWORTH. Yes.

Mr. CHANDLER. It ranges from 2 cents a pound up to about 4 cents, I think.

Mr. GREEN. Is that on the ore or on spelter?

Mr. CHANDLER. No; on the manufactured product.

Mr. GREEN. It is now selling at about 8 cents a pound?

Mr. CHANDLER. I do not know what the market is.

Mr. DICKINSON. That is not sufficient to create an embargo, is it?

Mr. CHANDLER. The bill I propose will practically mean an embargo. It will not altogether mean an embargo, but it practically will.

Mr. DICKINSON. It will be substantially an embargo?

Mr. CHANDLER. Yes; but if ore does get so high that they bring this ore in from Mexico, we will get the revenue from those men.

Mr. DICKINSON. Yes.

Mr. CHANDLER. And if it is embargoed none of it will come in.

Mr. DICKINSON. And there will be no revenue?

Mr. CHANDLER. If the embargo operates, nothing will come in and you will get the revenue from the lead and zinc miners of the southwest in the shape of income tax and excess-profits tax.

Mr. DICKINSON. In other words, in so far as that section is concerned, you and I are very much interested, and the embargo accomplishes everything you want, anyhow, does it not?

Mr. CHANDLER. Yes; but this embargo on Mexican ore may be taken off when transportation facilities improve.

Mr. DICKINSON. It may be only temporary.

Mr. CHANDLER. Yes; the fact is we were told it was only temporary when it was placed there, and we tried to get an embargo on Canadian ore and they said at the time they would not place an embargo upon Canadian ore.

Mr. DICKINSON. I am very much interested in this too.

Mr. CHANDLER. My idea is, as the old gambler says, to "play both ends against the middle," and we will get revenue from it either way; and if these cheap miners down in Mexico mine their ore and send it up here, make them pay for it. They are not paying any taxes in this country that I know of, and they are not buying any Liberty bonds or contributing anything to the Red Cross or to the

Y. M. C. A., or any of these other charitable associations; but on the other hand they are a thorn in our sides, and force us to keep thousands of men in arms on their border.

Mr. DICKINSON. I am inclined to think that this would be a very unattractive bill to many of them.

Mr. CHANDLER. I think so myself. And I hope you will place such a tax on them that their ore either will not come in or if it does they will pay very dearly for the privilege of sending it here. I think that is all I have to say. Mr. Scott Thompson, who is here, can give you figures upon Mexican importations of ore for about two and a half years, of zinc ore. I have not the figures on lead and zinc, but I simply wish to call the attention of you gentlemen to the bill and ask you to embody as much of it as you possibly can, purely as a revenue measure, not as a revision of the tariff or anything of that kind.

The CHAIRMAN. We will give it very careful consideration. We are glad you have come before us.

Mr. CHANDLER. Thank you.

#### STATEMENT OF MR. JOSEPH BYRNE, REPRESENTING THE BARBER SUPPLY DEALERS ASSOCIATION OF AMERICA.

Mr. BYRNE. We have a few things that we want to bring to your attention, and the president of the association, being sick, sent me. Some members who should have come were so far away that they could not do it.

The last revenue measure that was enacted worked severe hardship upon our organization and upon our business, because you classed us with perfumers, with people who sell goods in small packages at long profits. Our business is just the opposite. We sell goods in bid packages in bulk.

We have here a few samples of goods that are manufactured by our members, that will show what the packages are worth, and what they sell at to the barber. The barber supply industry consists of about 500 dealers scattered in all parts of the United States. They do a volume of business of about \$25,000,000. It is equally divided between goods that they manufacture and goods that they buy and job. What we are interested in now is goods that we manufacture. The last revenue measure, as I said, included our industry with the perfume industry, and it has worked great hardship on us. I, personally, am editor of the Barber's Journal, and I have business dealings with barber supply dealers all over the United States, and last January I noticed that some of our best people in the advertising line were slowing down in their payments, and I made inquiries among factories and others who were interested in them, and I found that this was one reason that was hurting them.

Now, here is a package of cream that contains a pound—16 ounces. That sells to the barber at 60 cents [indicating jar of "Greaseless Cream."] When you folks figured on us, you had this in mind [indicating another jar]. This is a 5-ounce jar, and sells to the retail consumer over the counter at 50 cents. There is a big difference. The same applies on talcum powder.

The CHAIRMAN. What is this last you have there?

Mr. BYRNE. This is a face cream. In our supply business we have four lines of preparations, hair tonic, toilet water, cream, and powder. Our hair tonic amounts to 1,000,000 gallons a year. These are legitimate articles that are not sold as hair growers as a good many people think. [Laughter.]

The CHAIRMAN. Continue.

Mr. BYRNE. They are sold, Mr. Chairman and gentlemen of the committee, in gallons—bottles of hair tonic—and they contain, of alcohol, from 20 to 60 per cent. They are not designed to stop the hair from falling out, but they are designed as preventatives of skin diseases and scalp diseases, and as far as hair tonic is concerned it amounts to about a million gallons a year, and it contains from 20 to 60 per cent, as I say, of the very best grain alcohol, from which the Government derives an income.

Now, as to toilet waters, they are just as necessary for use in the barber shop as powder is. I will tell you why. If they are not used when you shave a man's face you open up every pore, and unless an antiseptic of some kind is used you will just throw the whole business open to diseases that can be carried easier in a barber shop, possibly, than in any other place in the country.

Now, creams are of course used for finishing, and the sale of creams amounts to about \$1,000,000 a year as compared to figures that have been given here by other manufacturers of \$50,000,000 to \$100,000,000 worth of goods that are sold over the retail drug counter.

The CHAIRMAN. What did you say the manufacturer sold that for and the merchant sold that for?

Mr. BYRNE. We are figuring only on the consumer. The barber is a consumer and Mrs. Byrne is a consumer.

The CHAIRMAN. What price did you say the manufacturer sold that you have your hand on, for?

Mr. BYRNE. This retails to the consumer at 50 cents.

The CHAIRMAN. What does the manufacturer get for it?

Mr. BYRNE. The manufacturer gets on this about \$2 to \$2.50 a dozen, depending on the case, and this sells to the barber [indicating another jar] at 60 cents.

Mr. DICKINSON. There is 16 ounces in the large jar and 5 ounces in the other?

Mr. BYRNE. Yes. Under the old law this was taxed just as much as this [indicating]. Now, these two creams can be the same; they can be identical; the only difference in the different goods may be in the odor or the color, or some little thing not amounting to over 15 or 20 per cent.

Mr. DICKINSON. It is the same kind of goods?

Mr. BYRNE. Substantially so. Some creams are made of grease and some of other materials.

The CHAIRMAN. What is your tax on that?

Mr. BYRNE. Two per cent.

The CHAIRMAN. That is the manufacturer's price?

Mr. BYRNE. Yes.

Mr. DICKINSON. There are three times as much in one of those as in the other, and you sell that for 60 cents, and you sell the other, 5 ounces, at 50 cents?

Mr. BYRNE. This sells at 50 cents and this at 60 cents [indicating jars].

The point we want to draw a little later on is this, that these two articles should be taxed differently. We want to ask the committee to draw a line on creams that are sold in pounds or larger, and on hair tonics in quarts and larger, because the barber has a limit on what he can pay for his sundries and supplies.

Mr. STERLING. You want the tax on that to be more [indicating]?

Mr. BYRNE. Yes; now that is the same.

Mr. STERLING. Would this tax put some manufacturers out of business?

Mr. BYRNE. The smaller people. Now, we are all small people, in fact. There are 500 of us doing about \$25,000,000 worth of business. This has put the trade in general on a very poor financial basis. Some people who a year or two years ago used to take a 2 per cent discount and pay in 30 days have slowed up, and do not pay now in four or five or six months.

Mr. STERLING. How much should we add to that tax?

Mr. BYRNE. They could not add a cent. Competition is such that—

The CHAIRMAN. That is what you desire, to put a specific tax on it?

Mr. BYRNE. What is that?

The CHAIRMAN. It is your desire now to separate the tax and put a specific tax on one thing and another on another thing, so that you can transfer it—

Mr. BYRNE. We believe the things that are sold in the retail drug stores of the United States can carry a tax, and we can not on the big stuff. On the bulk stuff we can not. We have an average general profit in our line of about 35 per cent; that is, taking the entire line from start to finish. It costs us from 23 to 33 per cent to carry on our business. That is the position we are in.

Now, on talcum powder they go a little further.

The CHAIRMAN. You had better have the tax increased and have the package large enough so that you would be justified on your powders in increasing the price and adding it to the consumer.

Mr. BYRNE. If you increase it, you will drive the little fellows, who are toppling back and forth now, who are in a bad way, altogether out of business.

The CHAIRMAN. It would not cost them anything, because that would be added to the consumer.

Mr. BYRNE. They can not do it. In our industry it is impossible to raise the prices. Prices are established at 50, 60, and 75 cents.

The CHAIRMAN. The cigar men told us that, and they went up to 6 and 11 and 12 cents.

The moving-picture people told us that, too. They said that the people had gotten in the habit for years of going to shows and of paying admission to moving pictures of 5, 10, 15, 20, and 25 cents, and they never could get them to pay 11 cents instead of 10 cents, counting 1 cent for the war tax. It turns out that they keep right on going.

Mr. GREEN. The automobile men told us that they could not add anything to their prices, either.

The CHAIRMAN. We want you to transfer it to the consumer. We want him and not you to bear it. You are paying the excess-profits tax and income tax. We want it so arranged that you can transfer that tax to the consumer, because those are things that the consumer

ought to pay. If I liked to use a hair tonic, I would feel like I ought to pay that 2 or 3 or 5 or even 10 per cent, you know, but the manufacturer ought not to lose it. If I want to powder my face or my nose, I think I ought to pay for that. It is a luxury; a necessary luxury, you might say.

Mr. BYRNE. But these are given away, and not sold.

Mr. HAWLEY. Let the barbers charge enough so that they could afford to bear it.

Mr. BYRNE. We could not raise the price enough to cover the cost. We have tried to do it and failed. There is a limit in doing business in the barber industry, so far as we are concerned. Now, take the moving-picture business. In going into the movies in New York City we notice that the tax is three cents, and a good many of the theaters have been in shape all over the country so that they could absorb those taxes, but we can not.

The CHAIRMAN. We want to fix you so that you will not lose the amount of that tax, but the consumer will pay it. We want to fix it so that you can transfer the tax to the consumer by increasing the cost of the article to the consumer. You are a manufacturer, say, and you sell to the wholesaler——

Mr. BYRNE. No; no, sir.

The CHAIRMAN (continuing). And the wholesaler sells to the retailer and he will add the tax, and a little profit will be added all along the line, and this retailer will sell to the consumer for that much more. Why can you not do that?

Mr. BYRNE. We can not, because we are manufacturers selling to the consumer.

Mr. GREEN. You sell direct to the barbers?

Mr. BYRNE. Direct to the barbers. A little supply man will have, maybe, one or two men on the road. Take Des Moines, Iowa. We will have three men on the road, and they will go from town to town and take orders. This man will pick up a \$5 order here and a \$10 order there, a \$15 order a little farther on, and a \$20 order over here, and they prepay the freight on their goods. They buy the raw materials and bring them to their city and put them up, and they pay their traveling men and prepay the freight on the goods to the barber, and that is the way they make up their business. They are manufacturers; that is the whole story.

Mr. STERLING. Do you mean to say that the barbers would not buy these things? They have to have them, do they not?

Mr. BYRNE. The barbers do not have to have them. When you raise the rate on alcohol, the barber just cuts his use of alcohol in half.

Mr. STERLING. They have got to have something to put on the faces of their customers. They could charge a little bit more for powder, or could put a little less witch-hazel on a fellow's face, or else charge a little bit more for shaving.

Mr. BYRNE. I would like to have them come in here and talk to you.

The CHAIRMAN. Can they not increase their charge?

Mr. BYRNE. Every time they do that they send a man into the hardware store to buy a safety razor.

The CHAIRMAN. We are willing to help you out any way we can and make the other fellow pay it.

Mr. BYRNE. I do not see how you could do it. It has been suggested here that you put a gross sales tax on. That would have

been the finest thing in the world for us. We could have furnished an affidavit every day in the month, and it would have been just what we wanted.

Mr. STERLING. How about a fair amount of revenue tax?

Mr. BYRNE. In our industry you would probably have gotten more money, and much easier, because we know what we do each month, and we could come up and make a little affidavit to the effect of what we did.

Mr. STERLING. You do not have 5 per cent on your gross sales?

Mr. BYRNE. Our average profit is 35 per cent, and our cost from 26 to 33, to do business.

Mr. HAWLEY. Your gross profits?

Mr. BYRNE. Yes; gross profits. We have here a gentleman from Atlanta who happens to be in this section, Mr. Wilson, from the Atlanta Barbers' Supply Co., and he says that if we can make 5 per cent on our gross sales a year we will declare some dividend. They can not do it, and it is not on the cards, and if you folks will just say, "We know that toilet waters will stand a bigger tax than your goods because you sell in bulk," and so on all goods above 5-ounce packages of cream and 3-ounce packages of talcum powder, and so on for soaps all down the list, say that above that the tax is so much and below that so much—

Mr. HAWLEY. Why do you fix on the limit of 3 ounces? I thought you sold yours in pounds.

Mr. BYRNE. Well, take the limit on creams. This is a retail drug package [indicating]. A retail drug man can not and will not sell a package of that size, because if a woman buys it, it will go bad on her hands before she uses it up.

Here is talcum powder. Would you go into a drug store and buy that much talcum powder for 15 cents [indicating] large package]. This sells at 15 cents [indicating smaller package]. You do not have to worry about not taxing these goods because you are going to affect this [indicating], because you will not affect it.

And the same way with shaving powder. There is the way the barber buys shaving powder [indicating]. This is really a small package. This is 1 pound. Most of it is sold in kilos.

Here is a hair tonic [indicating]. There is goods that is very misleading. A good many people that are not handling hair tonics believe there is a big profit in them. Here is a tonic that sells for 50 cents a bottle and contains 5 ounces. That will bring in about \$18 a gallon. Now, this is a drug-store package. When that is sold in a gallon bottle to a barber it sells at \$5.50, and it contains just as much alcohol, and costs just as much to make, as does this [indicating]. The only difference is in the packing.

Mr. STERLING. What do you make when you sell to the barber at \$5.50?

Mr. BYRNE. The discounts just about cover the profits. That is, the profit covers just about the expense.

Mr. STERLING. You make a little profit?

Mr. BYRNE. Well—

Mr. STERLING. You must make a pretty good profit, then, when you sell it at \$18 a gallon?

Mr. BYRNE. We do not sell this [indicating]. This is a big package [indicating].

Mr. STERLING. Well, you sell it to them.

Mr. BYRNE. No, we do not. We do no business with drug stores.

Mr. STERLING. Then where does the druggist get it?

Mr. BYRNE. From the wholesale drug house—from the manufacturer. He makes it.

Mr. STERLING. Do you not manufacture it?

Mr. BYRNE. That is what we call a standard preparation [indicating].

Mr. STERLING. You manufacture?

Mr. BYRNE. Not this. Not our members; no, sir.

Mr. STERLING. Some man makes it?

Mr. BYRNE. Some man makes it.

Mr. STERLING. And he makes the profit?

Mr. BYRNE. Yes, sir; he makes the profit. This is goods that we job, not goods that we manufacture [indicating].

Mr. DIXON. The goods that you manufacture are sold strictly to barbers?

Mr. BYRNE. Yes.

Mr. DIXON. And not to wholesalers or druggists?

Mr. BYRNE. No, sir. They buy this in gallons.

The CHAIRMAN. Let us see that small package of face powder. What does the barber pay for that?

Mr. BYRNE. The barber pays 60 cents for that [indicating].

The CHAIRMAN. Could not the barber pay you a cent and a half more for that?

Mr. BYRNE. How could we charge the barber 61½ cents?

The CHAIRMAN. Do you think that 2 cents more would prevent him from buying that and using it, when we have got this war on here and he knows that that 2 cents is going to help the boys in the trenches?

Mr. BYRNE. The price of this is 25 cents and the price of this is 60 [indicating].

The CHAIRMAN. The barber would not stop buying that and using it just because you charged him 2 cents more. And then, are you not making a little profit on that? That cream that the barber buys by wholesale, how much does he pay for that?

Mr. BYRNE. 60 cents.

The CHAIRMAN. Do you think that he would stop using that if you just charged him 62 cents? Now, really, do you think he would stop buying it if you charged him 64 cents or 65 cents?

Mr. BYRNE. They would drop off at 65 cents; the sales would drop off, and the standard of the goods they are using would be hurt.

The CHAIRMAN. Do you mean to say that the barber that has been using it and paying this much would turn this down if you asked him 65 cents for it?

Mr. BYRNE. He would look for cheaper goods.

The CHAIRMAN. But the other fellow is going to have to pay the same rate that you pay.

Mr. BYRNE. I am told this was sold for 35 cents. It is now 60 cents.

The CHAIRMAN. The price has been raised? He did not stop when the price was increased from 35 cents up to 60 cents, did he?

Mr. BYRNE. It would just put the business in the position I mentioned a while ago. Our members, manufacturers, the people we are speaking for now, are in a bad way.

The CHAIRMAN. What is your suggestion now that we should do? You have been interesting and instructive about these matters, and we have never had anything like this before. What is your suggestion now as to the tax?

Mr. BYRNE. Our original suggestion would be most ideal; if we could get away from the present taxes, and if you would give us a gross sales tax on our business.

The CHAIRMAN. This is a gross sales tax on the business.

Mr. BYRNE. It affects certain goods and does not affect other goods.

The CHAIRMAN. There is 2 per cent on the gross sales now.

Mr. BYRNE. Yes.

The CHAIRMAN. What other kind of gross-sales tax would you want?

Mr. BYRNE. If that could be done away with, and you would put a gross-sales tax on every dollar's worth of goods we sell; there are some lines of our business that are a little more profitable than others.

Mr. STERLING. What are they?

Mr. BYRNE. Razor strops and tools of every kind; and they are growing very hard to get. The Government is taking the factories that make those goods. Most of those goods came originally from Germany, and now the Government is so flooding the plants in this country that make them, with orders, that they tell us they can not supply us, and we will have to wait. We are such a small industry; we amount to so very little.

The CHAIRMAN. Would you prefer a tax on the retail articles—a specific tax of, say, 2 cents?

Mr. BYRNE. On these small packages?

The CHAIRMAN. Yes.

Mr. BYRNE. It would be most desirable.

The CHAIRMAN. Of 2 or 3 cents?

Mr. BYRNE. On this class of goods [indicating]?

The CHAIRMAN. Yes.

Mr. BYRNE. Yes; if you will just keep away from the bulk stuff, Mr. Chairman, the goods that the barber consumes and uses. Most of it he gives away.

Mr. LONGWORTH. What proportion of your whole sales is that?

Mr. BYRNE. About 50-50.

Mr. LONGWORTH. You do not pay any tax on the other sales?

Mr. BYRNE. We are caught just about like everybody else on everything down the line; on our incomes; and now railroad rates are going to affect us very seriously, because they get our traveling men; and then they get our freight shipments.

Mr. LONGWORTH. You say you would prefer a tax of one-half of 1 per cent on your gross sales?

Mr. BYRNE. If we did not have that 2 per cent—a reasonable per cent, say, of one-half, on our gross sales.

Mr. LONGWORTH. If your business was one-half that and one-half the other, the result would be to reduce this 50 per cent, would it not?

Mr. BYRNE. We would then do a larger volume of business in our toilet goods, because we would not be held down by the terribly high price of alcohol; and that, for the purpose of our lotions, is necessary.



Mr. LONGWORTH. You have raised your prices on them?

Mr. BYRNE. Everything that carried alcohol has been raised.

Mr. LONGWORTH. You have raised your prices?

Mr. BYRNE. Most of the preparations that were sold, the fellows that were making them simply cut down the percentage of alcohol to keep within a certain price.

Mr. LONGWORTH. You get a profit?

Mr. BYRNE. To-day, as I said before, the very best people in our lines that used to take goods and pay in 30 days are not meeting their bills as promptly as they used to. We are in bad shape, as an industry.

Mr. HAWLEY. You really are retailers, are you not? Although you make in wholesale quantities, you retail your quantities to the ultimate consumer, the barber?

Mr. BYRNE. Yes.

Mr. HAWLEY. Suppose the tax was placed on the retail sales?

Mr. BYRNE. What do you mean, a stamp tax?

Mr. HAWLEY. Yes; on the retail sales, whatever the quantity sold. The tax would not then be based on the quantity sold but on the price obtained, and that would compel the drug stores to pay a much larger tax on a given quantity than you pay?

Mr. BYRNE. On the value of it?

Mr. HAWLEY. Yes.

Mr. BYRNE. That would be better than anything; better than a manufacturer's—

Mr. HAWLEY. How much could you afford to pay, if that arrangement was made; what rate per cent on your sales?

Mr. BYRNE. If we do not have to stand it and pay it to our—

Mr. HAWLEY. How much would your trade stand; 5 per cent?

Mr. BYRNE. Two per cent more? A gentleman here says it could stand 2 per cent more. I do not believe it, though. It could not; because here would be the effect of a change of that kind. The dealers, half of them, would say, "I will absorb that," just like the theaters have done on this 2-cent and 3-cent business on commissions. The theaters can do it because they have a big, profitable business, but we can not.

Mr. STERLING. I do not know of any that do that.

Mr. BYRNE. I will take you along Broadway, New York, and every show you go into from Fiftieth Street up, you will find that.

Mr. STERLING. It is not so in my country.

Mr. BYRNE. That is what it is in New York. They say, "Tax 3 cents, admission 27 cents; 30 cents," and so on.

Mr. STERLING. The admission was 25 cents before, was it not. Did they not just add 2 cents to their admission?

Mr. BYRNE. To be perfectly frank with you, I have just recently gotten into the habit of going into moving pictures, and I have not noticed as to that.

Mr. STERLING. They add 2 cents in addition to the tax.

Mr. BYRNE. They are making money on it, then. That is something we could not do.

We hope that some difference will be made on our bulk goods. I hope that you are going to classify us. What we really would like to see you do, Mr. Chairman, would be to draw a line. Do not put us in the class of perfumers. Do not put us in the class with people that

sell that class [indicating] over the retail counters, where we are selling it the other way.

The CHAIRMAN. What you want is for us to put you in a class that sells directly from the manufacturer to the consumer? That is, a barber's supply manufacturer must have a different classification from a man who sells it over his counter to Tom, Dick, and Harry?

Mr. BYRNE. You do not have to do that. All you have to do is to say, "We are going to put on all toilet waters and cosmetics, on goods above a certain size we are going to put a certain tax, and on goods under that size we are going to put another tax."

Mr. DIXON. Could they not furnish packages, and so forth, so as to come in under that classification?

Mr. BYRNE. No, sir.

Mr. DIXON. They could not?

Mr. BYRNE. No, sir. These two articles sell at 15 cents [indicating]. A druggist with a \$30,000 stock would have to have from three to five times the space to go into it.

The CHAIRMAN. We will consider that.

Mr. BYRNE. I hope you will.

The CHAIRMAN. Have you got a brief on the matter?

Mr. BYRNE. I was going to present one.

The CHAIRMAN. Suppose you write to the committee and just make a proposition about how to separate that tax?

Mr. BYRNE. We will suggest that in the form of a brief; and shall we address it to each member of the committee individually?

The CHAIRMAN. No; just address it to the chairman, and he will put it before the committee when we begin to write the bill. Make it as brief as possible. Make your brief about how to fix the tax and how to separate in packages with reference to the tax.

Mr. BYRNE. The size of packages?

The CHAIRMAN. Yes. We would like to have that before us.

Mr. BYRNE. I will do that.

The CHAIRMAN. All right.

Mr. BYRNE. You will have to have that within three or four days?

The CHAIRMAN. Yes; before July 1 we will have to have it out.

The chairman will state that Mr. Littlefield was down at the hearings, but he was unable to come before the committee, and he desires to submit a brief to be printed in the record. Without objection it will be done.

Mr. STERLING. What is it on?

The CHAIRMAN. He is here representing the Pennsylvania State Chamber of Commerce. They have sent out letters suggesting matters for consideration. It is on the state taxes.

(At 5.30 o'clock p. m. the committee adjourned until to-morrow, Tuesday, June 25, 1918, at 10 o'clock a. m.)

(The brief submitted by Mr. Littlefield is here printed in full in the record as follows:)

*Letters received by Paul Littlefield, general secretary Pennsylvania State Chamber of Commerce, 101 Telegraph Building, Harrisburg, Pa., sur- v- es- ing changes in the new war revenue bill now before the Ways and Means Committee of the House of Representatives.*

Mr. N. B. Kelly, general secretary Philadelphia Chamber of Commerce, writes regarding a decision rendered by Mr. Daniel C. Roper, Commissioner of Internal Revenue, affecting payment of income tax on trust estates in the present war revenue bill:

"Where estates are left in trust and there is more than one heir, instead of charging each of the heirs with the amount of income that each one would derive from the estate, he has interpreted the present law to mean that the estate must be taxed as a whole. In other words, if there are five heirs, and each heir has actually received an income of \$12,000, the income tax must be paid not on \$12,000 each, but on the total of \$60,000. Of course, you understand that that increases the tax that each of these heirs is charged with to almost double what it actually should be.

"This has actually occurred in the case of an estate in which I am interested. We were compelled to pay the income tax based upon the total amount of income received which was placed in the hands of the trust company for these heirs, instead of paying the actual amount, as stated above, on the income each received.

"I am sure it is not the intent of the United States Government where money is left in trust, to tax the heirs more than where the income is derived direct."

[Smith, Kline & French Co., Wholesale Druggists, 429-435 Arch Street, 105-115 North Fifth Street, Philadelphia.]

JUNE 13, 1918.

THE PENNSYLVANIA STATE CHAMBER OF COMMERCE,  
101 Telegraph Building, Harrisburg, Pa.

DEAR SIR: It is evident that the Government must collect very large sums by taxation. We write to urge that all such taxation be levied on net profits. Taxes laid on certificates of stock of incorporated companies, or on gross sales, are wrong in principle and very injurious in practice. The war has brought great profits to certain classes of industry, but the tendency in houses doing a distributing business is to increase the risks without increasing the profits. We believe that the Government is thoroughly justified in levying extremely heavy taxes on the excess profits of business, arising from present conditions, although we think that the Government should not take the entire profit. We believe, however, that nearly all business men would agree with us that they very much prefer that the Government should take the entire excess profits made by business rather than have the Government levy taxes on certificates of stock or on the total business irrespective of whether a profit may or may not be made.

Respectfully,

SMITH, KLINE & FRENCH CO.,  
HARRY B. FRENCH, *President.*

[Euston Process Co., corrodors and makers of guaranteed strictly pure white lead, Scranton, Pa.]

JUNE 13, 1918.

MR. P. LITTLEFIELD,  
Secretary Pennsylvania State Chamber of Commerce,  
101 Telegraph Building, Harrisburg, Pa.

DEAR SIR: Our preference would be to have a bill drawn requiring a corporation tax of about 10 per cent of the net earnings of the corporation and a graded tax on all corporation profits above an exemption of 10 per cent on a fair valuation of the capital and surplus employed, the tax rising even to 80 per cent of all profits beyond 50 per cent return on capitalization and surplus employed.

Our reason for considering that the graded tax should be used is that in our case we have been called on to make considerable investments in machinery this year, partly to overcome labor shortage and partly to meet special Government requirements for shrapnel balls, and if excessive taxation were to begin on all profits beyond an ordinary return, we should be in the position of having reduced our quick assets as the result of the business of the year.

Another point of very great importance in such cases as those in which the manufacturer is actually endeavoring to help the Government by putting in machinery of special and temporary value for Government work is the matter of allowing full amortization during the same period as that in which the taxes are figured. If the Treasury Department follows the method which it did in our case last year of allowing amortization at a rate of 33½ per cent per annum, and if we should face heavy taxes during the current year, we might be placed in the unfortunate position of paying this year such an amount in taxes as would ultimately mean an actual loss to us when amortization is completed. Most positively the amortization and taxation should run simultaneously. We consider that this question of amortization is as important as the percentage of taxation that may be adopted. We believe that the rules to govern amortization should be stated in the law and not left to the Treasury Department to decide later.

Very truly, yours,

EUSTON PROCESS Co.,  
By EDWIN EUSTON, *President*.

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[The Parkesburg Iron Co., makers of genuine charcoal iron boiler tubes, Parkesburg, Chester County, Pa.]

JUNE 13, 1918.

Mr. PAUL LITTLEFIELD,  
*General Secretary Pennsylvania State Chamber of Commerce,*  
*101 Telegraph Building, Harrisburg, Pa.*

DEAR SIR: We are in receipt of your letter of the 10th instant, in reference to the new war revenue bill about to be drawn by the Ways and Means Committee of the House of Representatives, Washington, D. C., and while we realize that all essential industries are and should be operating exclusively for the benefit of our Government, we feel that those industries can not preserve their efficiency unless they are allowed to spend out of the current earnings amounts necessary for improvements to their real estate, buildings, and machinery, before excess profits taxes apply.

After the expenditure of the above-mentioned necessary annual sums, we think there should be an exemption of not less than 10 per cent of the invested capital of the plant as of the beginning of the fiscal year, and that after this deduction has been made the excess profits should be taxed at such a percentage as the Ways and Means Committee may decide upon.

Yours, very truly,

THE PARKESBURG IRON CO.  
By GEORGE THOMAS, 3d, *Treasurer*

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[Law offices of Breitinger & Breitinger, 714-717 Franklin Building, 133 South Twelfth Street, Philadelphia.]

JUNE 13, 1918.

PENNSYLVANIA STATE CHAMBER OF COMMERCE,  
*101 Telegraph Building, Harrisburg, Pa.*

GENTLEMEN: I am in receipt of your favor of the 10th instant relative to the new war revenue bill.

I offer two suggestions. First, that the phraseology of the act be so worded as not to admit of several interpretations.

Second, that the inequality and injustice of imposing the burden of the excess-profit tax on business, professions, and labor, and exempting income from investments be corrected.

Yours, very truly,

F. L. BREITINGER.

# REVENUE BILL

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No. 16

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## HEARINGS

BEFORE THE

## COMMITTEE ON WAYS AND MEANS

HOUSE OF REPRESENTATIVES

WITH REFERENCE TO

## THE NEW REVENUE BILL

[THIS PRINT OF THE HEARINGS IS SUBJECT TO REVISION  
BEFORE THE FINAL PRINT]

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JUNE 25, 1918



WASHINGTON  
GOVERNMENT PRINTING OFFICE  
1918

**COMMITTEE ON WAYS AND MEANS.**

**HOUSE OF REPRESENTATIVES.**

**SIXTY-FIFTH CONGRESS, SECOND SESSION.**

**CLAUDE KITCHIN, North Carolina, *Chairman.***

**HENRY T. RAINEY, Illinois.**

**LINCOLN DIXON, Indiana.**

**CORDELL HULL, Tennessee.**

**JOHN N. GARNER, Texas.**

**JAMES W. COLLIER, Mississippi.**

**CLEMENT C. DICKINSON, Missouri.**

**WILLIAM A. OLDFIELD, Arkansas.**

**CHARLES R. CRISP, Georgia.**

**GUY T. HELVERING, Kansas.**

**GEORGE F. O'SHAUNESSY, Rhode Island.**

**JOHN F. CAREW, New York.**

**GEORGE WHITE, Ohio.**

**JOSEPH W. FORDNEY, Michigan.**

**J. HAMPTON MOORE, Pennsylvania.**

**WILLIAM B. GREEN, Iowa.**

**CHARLES H. SLOAN, Nebraska.**

**NICHOLAS LONGWORTH, Ohio.**

**GEORGE W. FAIRCHILD, New York.**

**JOHN A. STERLING, Illinois.**

**WHITMELL P. MARTIN, Louisiana.**

**WILLIS C. HAWLEY, Oregon.**

**ALLEN T. TREADWAY, Massachusetts.**

**JOHN E. WALKER, *Clerk.***

## REVENUE BILL.

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COMMITTEE ON WAYS AND MEANS,  
HOUSE OF REPRESENTATIVES,  
*Tuesday, June 25, 1918.*

The committee met at 10 o'clock a. m., Hon. Claude Kitchin (chairman) presiding.

There were also present, Representatives Rainey, Dixon, Hull, Garner, Collier, Dickinson, Oldfield, Crisp, Helvering, Fordney, Moore, Green, Sloan, Longworth, Fairchild, Sterling, Martin, Hawley, and Treadway.

The CHAIRMAN. I understand Representative Slempp, of Virginia, wishes to make a statement.

### STATEMENT OF HON. C. B. SLEMP, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA.

Mr. SLEMP. Mr. Chairman and gentlemen. In a manufacturing establishment a certain amount of capital is required for the establishment of a factory or plant and the necessary machinery and equipment. Provision is made for sufficient equipment and space to produce a certain definite output. That output can usually then be continued without further capital expenditures. A proper charge for renewals, repairs, and obsolescence will provide for new equipment as the old wears out or improved machines are developed. It would only be through increasing labor or material costs that new capital should be necessary.

With the coal mines such is not the case. To maintain a coal mine at a steady rate of output requires considerable capital expenditures from time to time. Take, as an example, an operation which it has been determined would pass from its development to its operation stage on reaching a daily average output of a thousand tons. This could presumably be reached in a drift mine without any of the working places being over 2,000 feet from the tippie. As the mine ages and the coal area nearest to the tippie is depleted of its minable coal, it becomes necessary to lay additional amounts of rail and to provide more copper, switches, frogs, timber, and everything that goes toward the providing of a tram system for hauling coal from the working places to the dump.

There also must be an addition to the number of cars and motors. As the mileage of the trips increase, the efficiency of the coal cars decrease. The turnover becomes lower as the distance that it is necessary for the cars to travel becomes greater. It is plain, therefore, that the same number of mine cars and motors will not produce an equal amount of coal from an old mine, where much of the coal has to be moved at least a mile to the tippie, as they will where the

distance from the face of the coal to the tipple is less. For the longer hauls it is necessary, as a practical matter, to keep the track in better shape than with the shorter hauls, for stoppages for any reason on the main haulway will have a greater effect on the output. These statements have been true of coal mines at all times.

Now, there are new factors which all coal operators must face.

Housing: It requires more rooms to-day per unit of coal mined than it did three years ago. Put another way, the workers per house have decreased. This is largely attributable to the fact that the single men who have been boarders with the married men no longer form so large a proportion of the mining force. They have been reduced by the draft and volunteer enlistments and have been more attracted to the cities and other industries than have the married men. Perhaps a less important factor is that the coal miners are now making sufficient money, so that their wives do not take as kindly toward keeping boarders as they did in earlier days when wages were lower.

The cost of houses has advanced in the last three years from two causes. First, the increase in materials and labor. A standard five-room mine house that could have been built in 1914 for approximately \$800 will cost very close to \$1,200 at the present time. With the increases which are to come in railroad freights, this cost will be above \$1,200. Second, the standards of living have advanced, and the miners are not contented with the class of house which they were willing to rent in 1914. The coal-mine laborer of to-day does not want to live in a shack, and an operation that has a large proportion of its houses of this nature is almost certain to be cut in its production far below its normal figure. Competition for mine labor has been so keen in the last two years that the suggestion of increasing rents has been quite out of the question. In the operations with which the writer is familiar, there is to-day no income whatever from houses. Maintenance and improvements and repairs up to existing standards, uses up the income, and house rents can no longer be considered as an income to mining companies. As a very large number of mines are located away from centers of population, and at points where persons could not live were it not for the mines, the housing problem is a serious one, and requires to-day far more expenditure per ton of coal produced than at any other time in the history of the industry. Admittedly, these conditions, as regards housing, are probably no different in the coal industry than in any other industry that provides houses for its employees.

Any operator who writes off for repairs and replacements an amount that was reasonable and liberal in the period prior to 1916, finds that his actual cost of repairs and replacements now are far more than any amount he has previously carried in his books for this purpose. It actually costs more to repair a badly damaged mine car to-day than a new one could be purchased for two years ago.

A standard 3-ton mine car could be purchased in late 1915 for \$96 delivered. To replace that car in late 1917, it took \$240, and to-day the price is even higher. Car repairs through the increase in labor and materials are at least double, and probably triple what they were two and a half years ago.

With electrical equipment the situation is even worse. Any operator purchasing new motors, mining machines, pumps, in fact almost



any form of motor-driven equipment now, will have to depreciate its cost at least 50 per cent before a reduction to normal prices comes, or he will find himself with equipment on hand that has been in use for a considerable period, and yet stands on his books at a higher cost than he will probably be asked to pay for new equipment if prices decline to the 1916 basis. Unless, therefore, operators are allowed to make some such liberal allowance for depreciation, they can not afford to buy the equipment which is necessary, not to enlarge their output, but to keep their output up to its existing standard.

It is also necessary in coal mining to always provide a certain amount of advance work, if the coal mine is to continue a producer at a fixed rate. That is, entries must always be driven well in advance of the room requirements of the immediate operation. This, too, entails a cost which should be considered in figuring an operator's profits. If the operator is not permitted to make some reasonable allowance for such advanced work, the temptation will be great for him to merely mine such coal as is obtainable with existing development and equipment.

The writer has tried to show that the coal operator has the problems of other lines of industry, high cost of materials and labor, and necessity for providing additional houses for his employees. In addition, he is called upon to make expenditures to hold his output to normal, which if he is not permitted to charge into cost of coal, will place him in a position of ultimately having an exhausted mine, and only second-hand or scrap values to represent a part of the capital expenditures which he has been forced to make.

The CHAIRMAN. We will now hear the gentleman whose name appears first on the program for to-day, Mr. Willock.

Mr. HAWLEY. Before Mr. Willock begins, Mr. Chairman, I would like to introduce for the record a letter which I have received from Mr. Charles S. Hall, president of the Coos & Curry Telephone Co., of Marshfield, Oreg., with reference to the income tax so far as it affects public utilities.

The CHAIRMAN. All right; that will be inserted in the record. (The letter referred to is here printed in full, as follows:)

COOS & CURRY TELEPHONE CO.,  
Marshfield, Oreg., June 19, 1918.

Hon. W. C. HAWLEY, M. C.,  
Washington, D. C.

MY DEAR MR. HAWLEY: With respect to the proposed or pending legislation increasing or changing the income tax, wish to call your attention to the situation with public utilities.

We are now operating under the same rates that were in vogue prior to the high prices which now prevail. I know it is not the thought of any public utility man to shirk a duty, but the present trend of operating costs, will result sooner or later in our having to ask the public service commission for authority to increase rates. This will be inevitable, and the last few months would indicate that it will possibly come sooner than we have had reason to anticipate.

It is my desire to simply call this to your attention so that it may be given consideration in the perplexing problem with which you have to deal.

Very sincerely, yours,

CHARLES HALL, *President.*

The CHAIRMAN. Mr. Willock, the committee is ready to hear you now.

**STATEMENT OF H. H. WILLOCK, PITTSBURGH, PA., SECRETARY-TREASURER WAVERLY OIL WORKS CO.**

Mr. WILLOCK. My name is Harry H. Willock. I am secretary and treasurer of the Waverly Oil Works Co., of Pittsburgh; and I am now giving my time to the Pennsylvania Food Administration, at Philadelphia, for the period of the war.

I appreciate very much, Mr. Chairman, this opportunity to come before you to say a few words on what I consider, probably, the great question of the war period. And I come before you in a rather unique manner. As I sat here the other day, and listened to the testimony that you were getting that day—and I presume it was only an instance of what you get every day—of why the country should have a billion dollars of taxation this year, and yet why each individual, business, or class of persons, should not pay any of it.

I am here wanting you, pleading with you, to raise the income taxes, to raise the excess-profits tax, and to put another tax on another form of privilege which has not yet been taxed by the taxing power—and that is land.

The CHAIRMAN. Mr. Willock, what is your business, do you say?

Mr. WILLOCK. I am secretary-treasurer of the Waverly Oil Works Co., of Pittsburgh.

The CHAIRMAN. I did not understand you a moment ago when you mentioned it.

Mr. WILLOCK. Each tax that I shall argue for, that I am interested in having proposed or advanced over present rates, will advance my own taxes very materially. But this is a period when no man's personal interest should affect in any way whatever his duty to the Nation.

Taxes in general should be laid so that the values which are created by the immediate contingencies, or values which are created by the community as a whole, should all be absorbed before any levy whatever is made which will have a tendency to restrain or restrict production or to increase cost of commodities to the people.

Some one has said that the art of taxation consists in getting the most feathers with the least squawking. But that is only a joke.

And seriously, no tax should be imposed, unless in case of extreme necessity, that is easily evaded, that is unduly costly in collection; that places a burden on production, or advances the prices of commodities.

All taxes will be more or less evaded, if humanly possible; and men are prone to deceive the tax collector and to perjure themselves to this end.

Production at this time is now carrying a maximum of burden of various kinds, imposed by the unavoidable war conditions.

Commodities were never so high in price, practically speaking, as they are at this time, and millions of our people have had very little advance in wage. We hear of the high wage paid to munition workers, and to many workers in favored fields.

But there are millions of our people who have had practically no advance in wage. An instance of that is found in the report recently made to Mr. McAdoo regarding the wages of the railroad employees, and also a report made within the last six months by the Russell

Sage Foundation, that of the 6,000,000 residents of New York City 2,000,000 of them had a per capita family income of not over \$3 per week above the rent. If that statement had been made by any organization other than the Russell Sage Foundation, I could not have credited it; but, having been made by such an organization, it must be accepted.

The expense of collection of taxes means an avoidable and useless waste of man power at this time, when the productive labor of every man is most needed.

The operation of the draft act will give us a little idea of how we can equitably assess a tax on incomes.

The dollar should only have the consideration that is given to man. They are taking from the men only the strongest and only those whose taking will least affect those who remain, and the same principle should apply to the income dollars of the Nation.

With the tremendous cost of living at present, I do not think any income under \$3,000 or \$4,000 a year is a subject for taxation. In the first place, the taxes on the lesser incomes are exceedingly expensive to collect, the ratio of expense being tremendously greater than the expense in collecting the taxes on the larger incomes.

And then I suggest that the tax on these incomes would be very rapidly accelerated as the income increases. I would like to see an income tax something like this: Three or 4 per cent on \$3,000 incomes.

Mr. SLOAN. \$3,000, or above \$3,000?

Mr. WILLOCK. A normal tax of 3 or 4 per cent on \$3,000 incomes, and above that a surtax.

Mr. SLOAN. Do you mean to tax the whole of the \$3,000 income?

Mr. WILLOCK. Yes.

Mr. SLOAN. Without exemption?

Mr. WILLOCK. Except \$500 or \$1,000 for a wife, and \$500 for each child. \$200 for a child, as in the last income tax law, is certainly not putting a premium on children.

Mr. FORDNEY. You would not get much out of my family on that proposition; there are nine in my family.

Mr. WILLOCK. Well, sir, you are patriotic without paying any taxes. Then that surtax should advance rapidly, at the rate of a least 1 per cent for every \$2,000 increased income, up to approximately \$50,000 income, and then advance 1 per cent for every \$1,000 increased income until a total of 97 per cent is taken.

Mr. FORDNEY. Will you permit me to interrupt you there?

Mr. WILLOCK. Certainly.

Mr. FORDNEY. How much money would that yield, as compared with the existing law?

Mr. WILLOCK. I have not gone into the question under your existing law, as to how much it would yield in toto, because I am not familiar—

Mr. FORDNEY (interposing). Then, so far as the new tax is concerned, you are guessing as to how much it would yield?

Mr. WILLOCK. I am not speaking of the total yield. If the total yield is not sufficient, it can be very readily cured, by a blanket surtax of 3 per cent, 5 per cent, or 10 per cent on all incomes over \$3,000.

But what I am wanting to drive at is that we must take a great bulk of the tremendous incomes of this country to carry us over this

period of stress. We have thought nothing of taking the man, the strong man; without the dependents—

Mr. FORDNEY (interposing). What percentage of the cost of this war would you raise by taxation?

Mr. WILLOCK. By taxation? I think this country could raise—

Mr. FORDNEY (interposing). It is not how much we could raise, but how much do you think we ought to raise.

Mr. WILLOCK. I would raise over 50 per cent.

Mr. FORDNEY. Why would you do that?

Mr. WILLOCK. Because now we are creating the values.

Mr. FORDNEY. Did any country in the world ever do that?

Mr. WILLOCK. No, sir; not that I know of.

Mr. FORDNEY. Why should we do it, then?

Mr. WILLOCK. America has set a mark in many things, and I believe it can set a mark in taxation. If democracy in America—

Mr. FORDNEY (interposing). Just for the purpose of setting a mark?

Mr. WILLOCK. No, sir; for the purpose of equity to our people.

Mr. FORDNEY. Why is it equity to our people to raise it all by taxes at this time, when it is for future generations that this war is being fought?

Mr. WILLOCK. We are taking the men; we have to take the men at the present time.

Mr. FORDNEY. Yes.

Mr. WILLOCK. We take the young man from his period of opportunity and we put him in the trenches.

Mr. FORDNEY. Yes.

Mr. WILLOCK. And how can we, by any logic, equity, or humanity treat the dollars more carefully than we will treat the men?

Mr. FORDNEY. Then you would make him fight and pay now, both?

Mr. WILLOCK. No.

Mr. FORDNEY. Not fight now and pay afterwards, but fight and pay now—that is your principle, is it not?

Mr. WILLOCK. The men who have the tremendously large incomes—

Mr. FORDNEY (interposing). No; we are talking about the boys in the trenches.

Mr. WILLOCK (continuing). Are to a very small extent in the trenches.

Mr. FORDNEY. Oh, no; many of them pay taxes that are in the trenches. Pardon me, will you?

Mr. WILLOCK. Yes, sir.

Mr. FORDNEY. Suppose a man of moderate means has a son or two or three or four sons in the trenches, are you going to make that man furnish those two or three or four sons, or as many as he has, and also pay for the war as it goes along?

Mr. WILLOCK. No; the man of moderate means is the man I am trying to exempt from taxation as far as possible.

Mr. FORDNEY. Your opinion and mine as to what is a man of moderate means differ very much. But perhaps that is not a proper expression for it; let us say the average taxpayer.

Mr. WILLOCK. Yes, sir; the average taxpayer has an income, according to the census of 1910 and applying the ratio of increase since—but in 1910, according to the United States census report, 60 per cent of

the workers of the United States earned less than \$625 a year and 90 per cent of the workers of the United States earned less than \$1,000 a year.

Mr. FORDNEY. Well, the income tax reports for the years since that time give a better idea of the incomes of the country than does the census of 1910.

Mr. WILLOCK. Yes; but in 1917, I believe I am within reason in stating that 40 per cent of our people earned less than \$800 a year; 40 per cent of our workers.

Mr. FORDNEY. Where do you get those statistics?

Mr. WILLOCK. That was given to me a week or two ago by a man who had prepared a statement on the subject; and he had secured it here in Washington; from what source he had secured it I do not know.

Mr. FORDNEY. You do not know whether that is theoretical or whether it is taken from actual statistics?

Mr. WILLOCK. No; but here I am referring to the report of the Russell Sage Foundation made within the last six months, that 2,000,000 people in the city of New York had a per capita family income of not over \$3 a week above rent.

Mr. FORDNEY. You do not know whether they were all workers or whether many of them were of the idler class, do you?

Mr. WILLOCK. No, sir; they were of all classes.

Mr. FORDNEY. No; but you do not know whether they were working people or idlers?

Mr. WILLOCK. No, sir.

Mr. FORDNEY. Well, those statistics are not very reliable, unless information is given as to how many of those people are employed and how many are unemployed.

Mr. WILLOCK. Well, let me say—

Mr. FORDNEY (interposing). Pardon me, will you, but I am employing labor right now. I can not get a man anywhere for less than \$3, \$4, or \$5 a day; and I can not get very many at that. Every industry in the country is short of help.

Mr. WILLOCK. I am an employer of labor, also.

Mr. FORDNEY. Well, do you get men for any such wages as that?

Mr. WILLOCK. We are paying from 37½ cents to 40 cents an hour to our labor.

Mr. FORDNEY. Can you get labor at any such prices as those statistics you have referred to show?

Mr. WILLOCK. No; there are a tremendous lot of men who do not work.

Mr. FORDNEY. And they will not work unless you make them.

Mr. WILLOCK. No; I do not find very many that are that way.

Mr. FORDNEY. Yes; the so-called "slackers"; and we are passing laws to compel them to work.

Mr. WILLOCK. Certainly, and they are very good laws.

Mr. FORDNEY. Those men should not be classed in those statistics, because if they do so class them their statistics are misleading.

Mr. WILLOCK. But still all the people in the country must live.

Mr. FORDNEY. Well, they ought to work.

Mr. WILLOCK. And we know that in our best times in America, times like these, there about 10 per cent of our people unemployed. Largely that is on account of the difficulty we have had heretofore

of getting the man and the job together. That is going to be changed, I believe, somewhat by the National Employment Bureau.

Mr. FORDNEY. It is very hard for you to get the man and the job together, unless the man is seeking the job and wants the job. Is that not true?

Mr. WILLOCK. Certainly.

Mr. FORDNEY. Well, there is where the difficulty is.

Mr. WILLOCK. But I would not charge the American Nation with being a nation of idlers.

Mr. FORDNEY. Neither am I. I am just questioning the correctness of those statistics.

Mr. WILLOCK. There is always that percentage of idlers and slackers.

Mr. FORDNEY. I am questioning the statistics; that is all; I am not reflecting on the American people. But there are men who do not want to work, and will not work if they can eke out an existence by imposing on somebody else.

Mr. WILLOCK. There is no question about that, and I have no more sympathy with those men than you have.

Mr. FORDNEY. Pardon me for interrupting you.

Mr. GARNER. May I interrupt you with a question? You say you would collect at least 50 per cent of the expenditures for this war by taxation?

Mr. WILLOCK. Yes, sir.

Mr. GARNER. Now, I agree with you on that. I would like to collect all that we can possibly collect from taxes if it will not decrease the tax-producing power next year.

Mr. WILLOCK. Yes, sir.

Mr. GARNER. But I submit to you that you can not collect 50 per cent of \$24,000,000,000 this year by taxation, without destroying, in a very great degree, the tax-producing power of the Nation for the next year.

Now, if you were convinced of that, being of the opinion that you are now, after a thorough investigation, would you insist then on levying a tax that would decrease the tax-producing power of the Nation next year, in order to carry out your theory?

Mr. WILLOCK. No. But I would have to be convinced of that. I can hardly conceive that.

Mr. GARNER (interposing). Well, if you are a fair man, and I take it that you are, when you made that investigation you would come to the same conclusion that I have come to, that you can not collect 50 per cent of the expenditures for this war by taxation, without destroying the opportunity of getting the 50 per cent for the next fiscal year.

We started out on a 50 per cent basis, to try to make it 50-50, when we first took up these questions; and I advocated that theory and the House adopted it; but as the expenses went up by leaps and bounds, we found it absolutely impossible; and I believe that if we get 33½ per cent of the expenses of this war, that is to say \$8,000,000,000 out of \$24,000,000,000, next year we are going to be very fortunate in getting that, and at the same time being able to collect an equal amount the next fiscal year.

Mr. WILLOCK. Well, my idea on incomes is, that I believe taxes can be immensely increased on incomes, and it is not going to seriously interfere with the taxing power next year. I believe that practically

all excess war profits tax can be taken, and it can not interfere very seriously with the tax returns next year, and I believe that a tremendous revenue can be secured from a land tax, that will have a tendency to increase the taxing power next year.

Mr. GARNER. Well, you have gone off into a field with your land taxes that I do not know anything about, and I would have to be educated on that subject before I could make any estimate about the revenue it would produce.

But with regard to the excess profits and income taxes, where we are bound to get the bulk of our revenue, my understanding of the figures—and they will be sent here from the Treasury Department in due time—is that it will be impossible to get the 50 per cent you speak of and still have the tax producing power for next year.

Mr. WILLOCK. It may be that that is true, but add the other tax, add the land tax, and I think you will get your 50 per cent very readily.

Mr. STERLING. Why would you tax land? Why do you pick out that form of property and tax it, and not suggest the taxation of any other property?

Mr. WILLOCK. I would tax that for several reasons. In the first place, land has absolutely no value except the value the community gives it, and therefore none of the equities are being violated by taking a part of that value for the public need.

Mr. STERLING. Well, is there a particle of difference in that regard between land and any other form of capital? Has money invested in stocks or bonds of a corporation any value except that the community gives it?

Mr. WILLOCK. Oh, yes; money invested in corporations, in stocks or bonds, must require the human intelligence, the human direction, the human management to make it at all productive.

Mr. STERLING. Well, let me say as to that—

Mr. WILLOCK (interposing). Will you let me finish and carry that a bit further?

Mr. STERLING. All right, go ahead.

Mr. WILLOCK. We all know that there is no line of business where every individual activity in it succeeds; some fail and some win, and the great majority of them fail.

Now, on land a man might be an imbecile, confined in an asylum, having title to land—and this actually happened in Seattle, Wash., where a man became a multimillionaire from the city growing up around his land, the owner all the while being confined in an asylum as an insane man.

Mr. HAWLEY. How many instances do you think would occur like that?

Mr. WILLOCK. I do not understand.

Mr. HAWLEY. What proportion of the value would arise out of instances like that?

Mr. WILLOCK. No man can do anything to improve the value of the land he owns, except in the proportion as he bears to the whole community—as one member of the whole community.

Mr. HAWLEY. Well, take this case, for example: Here is a man who buys a farm and clears it up; some of the land is swamp land; and he drains it; some of it is sour, and he limes it; and he does a lot of things to it.

Mr. WILLOCK. Yes.

Mr. HAWLEY. Now, he has done something to that land that has made the land that was worth \$3 or \$4 an acre worth from \$50 to \$60 an acre.

Mr. WILLOCK. Yes; but you misunderstand me, Mr. Hawley. All the things that he did to that land are improvements on the land, and I do not care to take them. It is not right that they should be taken.

Mr. FORDNEY. He has put his land into a high state of cultivation by the sweat of his brow.

Mr. WILLOCK. Those are improvements—they are not land.

Mr. FORDNEY. Those improvements you do not want to tax, then? You do not want to tax any improvements at all?

Mr. WILLOCK. No.

Mr. FORDNEY. You want to tax improved land the same as wild land, between here and Baltimore, for example?

Mr. WILLOCK. Yes, sir; absolutely, according to its location. Location is all that gives land its value.

Mr. FORDNEY. Does not personal property get its value in the same way that you say land gets its value?

Mr. WILLOCK. No. Let me illustrate—

Mr. STERLING (interposing). Did you ever know of an industry that grew rich and prosperous by reason of a town growing up around it and giving it a market?

Mr. WILLOCK. What was that?

Mr. STERLING. Did you ever know of an industry of any kind—a manufacturing industry, or a railroad property, or any property in which money is invested—did you ever know of an instance where it grew rich and prosperous by reason of the community growing up around it and giving it a market?

Mr. WILLOCK. The railroad, you know, is what gives the land value; the improved macadam road gives land its value.

Mr. FORDNEY. What gave the property of your corporation value?

Mr. WILLOCK. Work; human work.

Mr. FORDNEY. Not the railroads, then, and the roads that you are talking about as to other cases?

Mr. WILLOCK. Not at all; they did not add any value.

Mr. STERLING. The man who owns the land pays for the railroads, does he not?

Mr. WILLOCK. The man that owns the land?

Mr. STERLING. Yes; he helped pay for the railroad, did he not?

Mr. WILLOCK. No; he did not help pay for the railroad.

Mr. STERLING. Well, where was the wealth produced that built the railroad and the highways, if it was not from the farm?

Mr. WILLOCK. It was produced from the land, unquestionably.

Mr. STERLING. Yes. Now, another thing: You know that land returns a less profit on the investment than any other form of property as a class. Do you know that?

Mr. WILLOCK. No; I do not know that.

Mr. STERLING. You take the farms of the country and they will not pay over 3 per cent; they will not pay over 2½ per cent on the investment. Now, you would consider that a pretty small profit on money invested in stocks and bonds, would you not?



Mr. WILLOCK. Farm lands, of course, do not produce very much value; they have not got very much value. Farm land, under a land tax, would pay very little, because they have very little community value. The land value of New York City is greater than all the land value in the States that went into rebellion from 1861 to 1865. The farmer, under a land tax, would pay a very infinitesimal amount of that tax, because his community value is not great.

Mr. STERLING. Well, they pay just as much in proportion to the value of land, in proportion to their wealth, as a man who owns property on Broadway, do they not?

Mr. WILLOCK. No; you see the great proportion of value in the farmer's land is not land value; it is improved value; it is the clearing value; it is the fencing value; it is the bringing to a high state of cultivation value. Let me illustrate that—

Mr. FORDNEY (interposing). Let me ask you, first, this question: A few minutes ago you said you would not tax the improvements.

Mr. WILLOCK. No.

Mr. FORDNEY. Now, you say land has practically no value without improvement. Where in the world, then, are you going to get your value?

Mr. WILLOCK. No; the land has no value outside of what the community gives it.

Mr. FORDNEY. Well, what is the value of 160 acres of land, taken up as wild land, by a homesteader—what is the community value of that property when the man has cleared that up by the sweat of his brow and made it susceptible to cultivation, removing the stumps, putting up fences, and buildings, and so on? It had a very small original value.

Mr. WILLOCK. And the value has not—

Mr. FORDNEY (interposing). Wait a minute. The Government gave the land away years ago.

Mr. WILLOCK. Yes.

Mr. FORDNEY. Now, the man has gone on and, by his labor, improved that land. What is the community value of it? Give that in concrete figures, please.

Mr. WILLOCK. The community value has not grown in any way by that man adding the improvements to it, unless—

Mr. FORDNEY (interposing). The building up of the community and settling it up has nothing to do with the increased value there?

Mr. WILLOCK. If I could just continue and finish what I wanted to say, I could make it intelligible.

Mr. FORDNEY. Well, I will let you finish, but so far as I can see you are getting into deep water all the time.

Mr. WILLOCK. The actual value of that land has not increased any by the man clearing it up, fencing it, etc. The only increase that will come to that land in actual value is as the community grows up around that farm. If that one man clears up a farm in the midst of the wilderness, it remains a wilderness value until his neighbors begin to come in and do likewise; then there will grow up a community value. A community value comes from people, not from improvements on the land.

Mr. FORDNEY. What is that community value now, as compared with the cost of clearing the land and building roads and opening up railroads, and all of those things?

Mr. WILLOCK. That all depends on where this farm is located, and how it grows; it changes every year.

Mr. FORDNEY. Well, will you give some concrete case anywhere on earth; pick out your own place.

Mr. WILLOCK. I can illustrate that, in my own affairs. I bought a farm in southern Alabama about 10 years ago, on Pedigo Bay in Baldwin County. I bought 100 acres of land fronting on the bay. I cleared that land, fenced it, and put it under a state of cultivation. During all of those 10 years there has not been one change made within some miles of that farm of mine. Outside of my fence is still the second growth of pine wood.

Now, what is the result? That second-growth pine woods is still assessed at \$4.50 per acre, as second-growth land. My little farm there, because I cleared it, fenced it, put it under a state of cultivation, put a little shack or so up on it—my checks were the only cash current in the community down there for all those 10 years—is assessed on the basis of about \$80 an acre.

Mr. FORDNEY. That is land value now, is it?

Mr. WILLOCK. No; that is all improvement value. I am illustrating the difference between community value and land value. You understand that there is no community value there at all.

Mr. FORDNEY. Wait a minute. If you were asking this committee now to put a community value on property, how would you ask us to fix the value of your property and other like property? What tax would the Government get on the community value tax?

Mr. WILLOCK. That land would be \$3.50 land unquestionably, the same as that land on the outside is assessed, the unimproved land.

Take another instance, the Park Building in Pittsburgh, situated at the corner of Smithfield Street and Fifth Avenue. In conversation with the superintendent of that building I asked how they arrived at the rental values, and he said they put a man on the corner; they count the people that pass on both streets; they count the vehicles that pass; they get data from the railway company regarding the street cars that pass on both streets, and from that they figure the rental value.

And I made the statement that land has no value outside of what the community gives it, and he disputed it; and I said, "Now, taking that data, and knowing how you rented that corner to the Riker-Hegeman Drug Co., and suppose you would pick that whole business up and set it down in the middle of the Desert of Sahara, would the Riker-Hegeman Drug Co. pay you 5 cents a century for it? No; the only value that that property has is those people going around that corner; in other words, the community value."

Mr. FORDNEY. Will you tell this committee how to assess community value on property in the city of Pittsburgh?

Mr. WILLOCK. Community value?

Mr. FORDNEY. Yes; that is what you are talking about, is it not?

Mr. WILLOCK. Yes.

Mr. FORDNEY. Tell us now—give us some figures to show how you would impose that tax on property in the city of Pittsburgh.

Mr. WILLOCK. I would take the land value assessments of the city of Pittsburgh.

Mr. FORDNEY. You would do what?

Mr. WILLOCK. I would take the land value assessments of the city of Pittsburgh.

Mr. FORDNEY. You do not compare that with your farm down in Alabama?

Mr. WILLOCK. No; but I would take the land value assessments of the city of Pittsburgh. I am speaking very seriously. That is the community value.

Mr. FORDNEY. All the value of the property in the city of Pittsburgh is the community value, is it?

Mr. WILLOCK. Absolutely; the people of Pittsburgh; it is the city that gives it its value; nothing else; you can not give land any value without people.

Mr. MOORE. Suppose you transfer some of your Pittsburgh land over to the Desert of Sahara and use that again as an illustration.

Mr. WILLOCK. It would have no value; there is no community; that is the whole idea.

Mr. FORDNEY. Just outside of Pittsburgh, how much would the community value be on a farm that would sell at \$100 an acre? How would you figure the community value there?

Mr. WILLOCK. At \$100 an acre?

Mr. FORDNEY. Yes.

Mr. WILLOCK. There is one illustration.

Mr. FORDNEY. Notwithstanding the fact that wild land might sell for \$4 to \$5 there, but well improved land might sell at \$100 an acre, it is all community value, as long as it is outside of the city of Pittsburgh? Is that your idea?

Mr. WILLOCK. Why, you take wild land, and the wild land would not be worth \$4 an acre, unless it was situated in the United States of America.

Mr. FORDNEY. Why?

Mr. WILLOCK. Because there is wild land, untold millions of acres of it, on the desert of Sahara, that you could not sell for one one-hundredth of a mill a square mile.

Mr. FORDNEY. That land in the desert of Sahara would not be worth anything after you got it into America; after you got it here you could not raise anything on that desert land.

Mr. WILLOCK. We have had some deserts in the United States, where the land has been made valuable by irrigation.

Mr. FORDNEY. Do you compare the land in the United States with the land in the desert of Sahara?

Mr. WILLOCK. Well, take some of the good farms in Africa, that are not cleared or accessible, and compare it to those in the United States.

Mr. FORDNEY. How much tax would you put on a corporation? You are an officer of a corporation; how much tax would you put on a corporation?

Mr. WILLOCK. On excess war profits?

Mr. FORDNEY. On any kind of profits.

Mr. WILLOCK. I would not tax corporations one penny until I took as much of their excess war profits as it is possible to take.

Mr. FORDNEY. What is an excess war profit? How are you going to tell this committee to get at an excess war profit?

Mr. WILLOCK. I think the only way this committee could get at an excess war profit would be to take the average of the years 1911, 1912, and 1913.

Mr. FORDNEY. Then the existing law in that respect you think is all right?

Mr. WILLOCK. Except in one instance.

Mr. FORDNEY. Oh, except in one instance?

Mr. WILLOCK. And that is where it says it makes a minimum profit of 7 per cent for those years and a maximum of 9 per cent. That makes it very unfair. No matter what a man could earn during the prewar period, without any special privilege and honestly, that should not be taxed as a war profits tax; and that 9 per cent limitation there was unfair, because it has worked a tremendous hardship on a lot of the small firms that have not capitalized their firms in order to sell stocks to the public, but have capitalized them honestly.

Mr. FORDNEY. Let me ask you, then, would you place a heavy tax on the profits of corporations above the normal profits made during the prewar years?

Mr. WILLOCK. I would tax it just so heavily that I could get every cent of it, except to leave enough to keep the cupidity of man working. Now, that is all. Whether that would be 80 per cent or 90 per cent of the excess war profits I do not know.

Mr. FORDNEY. Let me interrupt you with a question: The farmer's wheat was selling for 80 cents a bushel before the war; now it is selling for \$2.20 a bushel. That is war profits, in your opinion, is it?

Mr. WILLOCK. No, sir.

Mr. FORDNEY. Why not?

Mr. WILLOCK. The farmer has had a hard row to hoe, and he has a hard row to hoe now.

Mr. FORDNEY. He has? Then the difference between 80 cents a bushel then and \$2.20 a bushel now is a hard-row proposition for a farmer, but not so with a corporation?

Mr. WILLOCK. I am not a farmer raising wheat.

Mr. FORDNEY. I know; but I am.

Mr. WILLOCK. I do not believe he should be taxed on that as war profit.

Mr. FORDNEY. Why should I not be taxed for my war profits on my farm, the same as I would be on stock that I hold in a corporation?

Mr. WILLOCK. Here is the way I would get it from you: I would take it from you—

Mr. FORDNEY (interposing). But I am talking about the taxes; how would you get the taxes?

Mr. WILLOCK. That is what I am telling you. I would take it from you in your income tax. If that produced for you a large income over the years I have mentioned, I would take it from you very heavily.

Mr. FORDNEY. Then you tax the farmer for his profit on that?

Mr. WILLOCK. In that way, just on the income.

Mr. FORDNEY. No; you would tax him just the same as you would in any other business.

Mr. WILLOCK. Not on the excess profits.

Mr. FORDNEY. How are you going to get the money from him then on the farm, when he makes money on the farm, or on the corporation when he makes money in the corporation?

Mr. WILLOCK. The corporation would pay its excess-profits tax before any dividends was declared to the farmer stockholder. But the farmer is an individual.

Mr. FORDNEY. Yes.

Mr. WILLOCK. The corporations that do farming are so few that we do not need to consider them, and you would take the individual income tax.

Now, you had a question here before you the other day, regarding the taxation of oil lands, under the excess-profits tax. In most cases of those corporations the honest ones, at least, the stock is very closely held. And that is where a real income tax would come in and catch those big earnings from wildcatting, etc., and still not discourage them by this war-profits tax. There is a very great difference there.

Mr. FORDNEY. You say that you would tax incomes of corporations when they get above a certain amount 97 per cent?

Mr. WILLOCK. No; incomes of individuals. I am speaking of an individual income tax.

Mr. FORDNEY. Why do you fix 97 per cent? Why not make it 98 or 96 per cent?

Mr. WILLOCK. Well, if the individual would still keep working, I would just as soon make it 98 per cent or 99 per cent.

Mr. FORDNEY. Well, do you think that if you taxed him 98 per cent he would stop working, but he would work if he was taxed at 97 per cent?

Mr. WILLOCK. Well, he might work more at one than he would at the other. These large incomes of \$1,000,000 a year and upward, taxed as they are now, it is indefensible, in view of the sacrifices the people of this nation are making.

Mr. FORDNEY. What are the taxes now?

Mr. WILLOCK. As I have the figures here, an income of \$1,000,000 now pays about \$475,000; an income of half a million dollars pays about \$192,000; and an income of \$100,000 pays about \$16,000. Now, my idea would be to tax that \$100,000 man \$33,000.

Mr. FORDNEY. Are you speaking of individuals now?

Mr. WILLOCK. The individual—not the war profits tax; the individual. That \$100,000 man ought to pay \$33,000; the \$500,000 man ought to pay \$400,000; and the \$1,000,000 man ought to pay \$850,000.

Mr. LONGWORTH. How much money would that raise?

Mr. WILLOCK. I have not the figures in my mind.

Mr. FORDNEY. If it would raise more than 50 per cent of the expenses of carrying on this war, would you still tax it in that way; in fact, would you tax it in that way, no matter what it raised?

Mr. WILLOCK. Certainly. Every dollar that can be raised by taxation without putting a burden on production—without advancing the cost of commodities to our people, and when it largely consists of community values, or war profit values, as it does in the war profits tax and in the land tax, should be taken.

Mr. FORDNEY. Well, without knowing whether it would raise a sufficient amount of money to meet the needs of the Government or not, you fix that amount, and you say that ought to be fixed; you do not know how much it would raise, whether it would be a great or a small amount; but you say we ought to fix that amount of tax, and you have not figured it out and do not know how much it would raise. Now, what have you to say about that?

Mr. WILLOCK. I have not come here prepared to suggest to you gentlemen an entire revenue bill.

Mr. FORDNEY. You came here prepared to enlighten this committee, did you not?

Mr. WILLOCK. I came here to give you—yes, sir—my ideas of what an equitable tax and a remunerative tax would be. I have suggested a very great advance on income taxes under the last bill.

Mr. RAINEY. Would you tax a man with a family on an income of \$1,000 as much as they tax him in England?

Mr. WILLOCK. I do not know what they tax him in England. What do they tax him in England?

Mr. RAINEY. We tax him more here than they do in England.

Mr. WILLOCK. Then, I would tax him more than they do in England and more than they do here.

Mr. RAINEY. The total English tax on an income of from \$500,000 to \$600,000 is 52.5 per cent; in the United States it is 54 per cent. On an income of \$1,000,000 it is 52.5 per cent in Great Britain and 65 per cent in the United States. We have gone higher than England in the tax on large incomes.

Mr. WILLOCK. I am very glad to know that; but there is no reason why we should weary in well-doing.

Mr. FORDNEY. Why are you glad to know that?

Mr. WILLOCK. Because the strong man must bear the burden of fighting in the trenches; and the strong dollar should bear the burden of paying the bills.

Mr. FORDNEY. Are you taxing the strong man by doing that?

Mr. WILLOCK. Yes.

Mr. FORDNEY. Where does he get his money—the strong man that you are talking about?

Mr. WILLOCK. Where does he get it from?

Mr. FORDNEY. Yes.

Mr. WILLOCK. From returns on his investments.

Mr. FORDNEY. Well, who pays him the returns on his investments? Who pays him his profits?

Mr. WILLOCK. The people that he does business with.

Mr. FORDNEY. Well, do they not pay it over to him when he pays it to the Government as a tax?

Mr. WILLOCK. Yes; but this income tax can not be passed to the consumer.

Mr. FORDNEY. It can not.

Mr. WILLOCK. No.

Mr. FORDNEY. My friend, can you point out a dollar of income tax that is not passed on to the consumer?

Mr. WILLOCK. That is not passed? Yes; you can not pass one dollar of income tax in an added price to the consumer.

Mr. FORDNEY. My friend, let us work that out right here. Suppose you and I are engaged in an industry producing the same article. You would charge up to your cost of production all of your costs, including your regular taxes, would you not?

Mr. WILLOCK. Yes, sir; but not my income tax.

Mr. FORDNEY. Yes, you would.

Mr. WILLOCK. No, sir.

Mr. FORDNEY. Then you would go broke, if you did not.

Mr. WILLOCK. No, I would not go broke.

Mr. FORDNEY. Then you would not be able to pay any tax next year. My friend, we are in deep water. If you do not charge up all your cost of production, you are going to go broke, are you not?

Mr. WILLOCK. Yes, sir.

Mr. FORDNEY. Then, if you do not charge up your taxes, including your income tax, you are not a good business man, and you will surely go broke.

Mr. WILLOCK. Just let me explain that to you. Suppose I have a business—

Mr. FORDNEY (interposing). Now, how can I pay a large tax, a heavy tax, and not charge it up to my cost of production and make a reasonable profit, and not go broke; please tell me that?

Mr. WILLOCK. You are not differentiating between the effect of different taxes.

Mr. FORDNEY. What?

Mr. WILLOCK. You are not differentiating between the effect of different taxes.

Mr. FORDNEY. Well, there is no way to differentiate between your income tax and any other tax in that way?

Mr. WILLOCK. Oh, yes, there is. Let me explain how to differentiate.

Mr. FORDNEY. Go ahead.

Mr. WILLOCK. If we are manufacturing socks, and there is a tax of 25 cents a pair put on socks, we immediately add the tax to the price, and the consumer pays it.

Mr. FORDNEY. Why, certainly.

Mr. WILLOCK. But if we are manufacturing socks, and there is no tax on socks, but we are each earning \$10,000 a year, and we clear that much money, and we have a 50 per cent income tax imposed on us, we each take after the year is over, the business transacted, the business done, and we take \$5,000 of that \$10,000 profits and pay it as income tax. It can not be added on the socks.

Mr. FORDNEY. My friend, wait a minute. Mr. McAdoo, a very intelligent gentleman, and a good friend of mine, of whom I am very fond, and also the President of the United States, who is supposed to be a very intelligent gentleman, have said to this committee, when we wanted to postpone the framing and passage of this bill until next winter, "It is not practicable, for the reason that we want the people of the country to know how much we are going to tax them, so that they can add it to their costs this year, and be able to pay it."

Now, that is their opinion. What do you say their opinion is worth?

Mr. WILLOCK. I say it is worth a tremendous lot. I have a great admiration and respect for the President and the Secretary of the Treasury.

Mr. FORDNEY. And then you still say that this income tax will not be added to the cost of production?

Mr. WILLOCK. Yes; but let me give you this idea: The President of the United States and the Secretary of the Treasury wanted the people to know, when they paid their income tax, when they were figuring this year on their current expenditures for this year, how to cut their cloth according to what you were going to leave them. If a man earned \$100,000 this year he knew he was earning it from time to time and he lived accordingly, and he had in his mind the income tax of 1917 under which he would pay \$16,000 or \$18,000 and he

had spent all of his income except the \$16,000 or \$18,000, and that next session you come along and put a tax of 50 per cent on \$100,000 incomes, and that would put him in a very serious position because he has spent some of the money he should have saved.

Mr. FORDNEY. You have explained that to my satisfaction but you have not changed my opinion. Suppose you are manufacturing shoes and the price of shoes—I purchased a pair of shoes of a make that I have been accustomed to wearing for several years, because they fit me satisfactorily, and I purchased them for \$4 a few years ago, and now I pay \$7. Who pays the extra cost on that?

Mr. WILLOCK. You pay it.

Mr. FORDNEY. That is just what I am talking about. You say that the manufacturer does not make it over to the consumer.

Mr. WILLOCK. You are confusing income tax and excess profits tax.

Mr. FORDNEY. Oh, no.

Mr. WILLOCK. That man would pay—a certain proportion of the excess war-profits tax would not be passed on to the consumer.

Mr. FORDNEY. Who would pay it?

Mr. WILLOCK. How would you make up your tax returns?

Mr. FORDNEY. I know that in my own case I put in all my costs of production, everything that I paid out, taxes, insurance, depreciation, labor, raw material, and every other charge.

Mr. WILLOCK. Did you put in your excess-profits taxes?

Mr. FORDNEY. Wait a minute now. When I paid my taxes it was the difference between what I sold and what the business cost me. That was my profit, and I paid all my taxes out of that. Didn't you do that?

Mr. WILLOCK. No; because the examiner would come back and bring me a refund. You can not put into a statement as an offset income tax and excess-profits tax. Those are taxes that will not be allowed.

Mr. HULL. This was in the last act, 1917.

Mr. GARNER. I would like to relieve the situation between you and Mr. Fordney, by telling you that you are both wrong. There are certain income taxes that the consumer pays, and certain others which he does not pay.

Mr. WILLOCK. I am speaking of the individual income tax.

Mr. FORDNEY. I am glad to be corrected. My wife often corrects me. But I would like to know where I am wrong, and where you are right.

Mr. WILLOCK. Let us get back to this question of holding the title to land.

Mr. HAWLEY. Before you take that up, I would like to ask you a question. If you take so large a proportion of the income as you propose, what will be left to the individual or corporation for betterments of his business?

Mr. WILLOCK. Betterments should not be made out of income. Betterments should be made out of new capital. That has been a fallacy that betterments should be made from earnings.

Mr. HAWLEY. If everybody pays his surplus income all into the treasury where is this new capital to be obtained.

Mr. WILLOCK. Here is what I meant by my remark. I live in a little community out from Pittsburgh. They spent \$5,000 about 30 years ago in cash to put in the waterworks in that community. The



earnings have been large. They have been paying 6 per cent dividends, and their surplus they have been putting back in to their business right along, been earning 110 and 150 per cent, but have been putting that right back into the business right along until now the question comes up about the rate the company is charging and that company goes before the public service commission and attempts to prove an investment of \$800,000 on the land. There was only \$5,000 put into that land, in cash money. Now they try to collect water rates based on an investment of \$800,000, the investment consisting of very large earnings taken out of the people. Those should have been proper subjects for taxation at a time of this kind.

Mr. HAWLEY. My question was not based on a business that watered its stock as you suggest, but on a legitimate business which must make some betterments in order to care for its growing business and maintain its plant. If you take all they get out of their business in the year, and everybody else what they get out of their business in a year, for taxes, where would you find that money for these betterments.

Mr. WILLOCK. The income tax law allows a proper percentage of profit. They allow them their prewar profits and then they go further than that and say we will allow you up to 7 per cent, if you do not make that much. That is an adequate return on the capital invested, and keeping up the plant is not something that comes out of the profits. It is deducted before the 7 per cent is considered earned. It is already out and into buildings in addition to the plant, and in batterments, in replacing worn out machinery. Any new machinery must be taken out of new capital, out of the savings those people make from that 7 per cent that is allowed them, because all the capital in the world, all we call property in the world is nothing but the accumulated savings from the people.

Mr. FORDNEY. You spoke about taxing corporations. How much normal tax would you put on corporations?

Mr. WILLOCK. Do you mean excess profits—excess war-profits taxes?

Mr. FORDNEY. I am talking about the normal tax. The normal tax is not an excess war-profits tax.

Mr. WILLOCK. I am not speaking of the normal tax on corporations, because I am opposed to normal taxes on corporations. Normal taxes on corporations are the kind that are always added in the profits and paid by the people. They are the taxes that are the most harmful of all taxes.

Mr. FORDNEY. I wanted to know whether or not you would tax a corporation the normal tax.

Mr. WILLOCK. No.

Mr. FORDNEY. What excess-profits tax would you put on them?

Mr. WILLOCK. I would take every dollar of excess profits, of war profits.

Mr. FORDNEY. Don't get in that war profits.

Mr. WILLOCK. That is the only way we can speak of excess profits.

Mr. FORDNEY. You can define between the two.

Mr. WILLOCK. I can define between the two.

Mr. FORDNEY. You have been so clear on the other facts I thought you might be on that. I haven't heard anything very clear from you. What do you call war profits and those excess profits?

Mr. WILLOCK. I call war profits profits earned in the great majority of manufacturing businesses since August, 1912.

Mr. FORDNEY. The great majority. What minority would you exempt?

Mr. WILLOCK. I do not have in mind any. That is the reason I spoke of the great majority.

Mr. FORDNEY. Why don't you say all?

Mr. WILLOCK. I don't want to be too inclusive.

Mr. FORDNEY. Why not?

Mr. WILLOCK. Because I might be unfair. There may be some exceptions.

Mr. FORDNEY. How would you impose that tax on excess profits?

Mr. WILLOCK. What was made over the average of the years 1911, 1912, and 1913.

Mr. FORDNEY. Suppose they didn't make anything?

Mr. WILLOCK. I would allow 6 or 7 per cent profit.

Mr. FORDNEY. You would allow them some profit.

Mr. WILLOCK. Yes. On that basis because there are many firms getting into business. I would not work any hardship on business at all.

Mr. FORDNEY. What does your corporation produce?

Mr. WILLOCK. Petroleum oils.

Mr. GARNER. Let me ask a question. You are contending that you would base the war profits or excess profits, whatever you want to term it—they are all the same?

Mr. WILLOCK. Yes.

Mr. GARNER. On the prewar period, and you would take all in excess of the average that had been made in 1911, 1912, and 1913?

Mr. WILLOCK. Yes, sir.

Mr. GARNER. Now, we will take Mr. Ford, for instance. He made a greater profit in 1911, 1912, and 1913 than he is making now. You would exempt him entirely?

Mr. WILLOCK. From the war profits tax, but you would tax him on this tremendous income tax that I propose.

Mr. GARNER. You would take a few companies that are making tremendous profits, that were making tremendous profits then, and you would exempt them from the entire excess-profits tax?

Mr. WILLOCK. This tax is called an excess war profits tax.

Mr. GARNER. There are two kinds of taxes. You use two terms. There are two well defined ideas in this country, one of them is an excess war profits tax, so called. That is based on the average earnings of corporations or individuals for the prewar period. Then there is another called an excess-profit tax which is based upon the excess of profits above a certain amount. Now, you could have two profit taxes, so-called profit taxes, one war tax, the other excess-profits tax, and apply them so as to catch them either way. It seems to me that when you levy that kind of taxes you are going to complicate the situation and have more criticism that it is so complicated that nobody could make out his returns.

Mr. WILLOCK. Let me illustrate this. Excess profits can only be earned in two ways. They may be earned perfectly honestly, economically speaking, by a man by outstanding sheer ability, like Henry Ford. I do not think the public depreciate earnings like Henry Ford has made under such conditions. We rather admire a

man that can by sheer force of ability pile up such earnings, but, on the other hand, there are some businesses that are earning excess profits by a great privilege that has been given to them. Now, I don't think it fair to put the excess-profits tax on all corporations, thereby fining the man of outstanding ability and industry in order that you may catch the man who has made unholy earnings through privilege that has been extended to him. In other words, remove the privilege and then he will not have those excess-profits taxes from wrong sources.

Mr. GARNER. You want to go before the judicial committee with reference to removing privileges.

Mr. WILLOCK. No; this last tax will do that.

Mr. GARNER. Why in war times should anybody be permitted the right to make a large profit after paying all expenses and interest charges, and have a net profit? How would you get your tax from a corporation which is honestly run?

Mr. WILLOCK. In this way, tax his excess war profits, take all that it is practicable to take, at least 80 per cent, then tax the incomes that I spoke of. All these big earnings that would not be caught as excess war profits would go into incomes and be caught there. If some poor man with an income of \$3,000 were left out, they are so few that you would have to hunt for them with a microscope, that happened to have a share in these corporations that are earning such large profits. You would find that all these big copper companies that are earning such tremendous earnings that their stock is not distributed among the poor people, but it is distributed among men who could well afford to pay it.

Mr. FORDNEY. How about the American Steel Co.?

Mr. WILLOCK. That stock is more widely distributed than any other corporation in the country, and at the same time if any little employee of the steel company has a few shares of stock, and his total income is not more than \$3,000, in times like this let him have it.

Mr. GARNER. In other words you would lose \$33,000,000 income tax paid by the Steel Corporation, because you would not levy any income tax against corporations?

Mr. WILLOCK. I would levy this excess war profits tax.

Mr. GARNER. Excess war profits would not get it out of the steel company.

Mr. WILLOCK. Aren't they earning excess war profits?

Mr. GARNER. Yes; but nothing like \$33,000,000, based on the prewar conditions as you base it.

Mr. WILLOCK. If we take 80 or 90 per cent of the excess profits of the country and the income, that won't leave any man in this Nation over \$100,000 income. We will have a tremendously greater income than we ever had before from these sources.

Mr. FORDNEY. Do you know that that is so?

Mr. WILLOCK. I know as well as I know anything.

Mr. FORDNEY. You haven't figured it out but you know it is so.

Mr. WILLOCK. Yes.

Mr. FORDNEY. You made the statement that makes me feel that I can ask the question that I am going to ask. You say this would increase your taxes. You are engaged in the oil business?

Mr. WILLOCK. Yes, sir.

Mr. FORDNEY. What were your profits before the war, and what are they now?

Mr. WILLOCK. I can give you them exactly, sir, I think.

Mr. FORDNEY. I would not ask you that question if you had not made that statement, because I think it is very personal.

Mr. WILLOCK. I do not hesitate to give you all the information that I have. In 1911 our company paid \$110,000 dividends.

Mr. FORDNEY. On how much capital?

Mr. WILLOCK. \$400,000. In 1912, \$90,000 and in 1913, \$150,000.

Mr. FORDNEY. How much since?

Mr. WILLOCK. 1914, \$90,000; 1915, \$95,000; 1916, \$240,000; 1917, \$290,000.

Mr. FORDNEY. You have made a good fair profit.

Mr. WILLOCK. Sure, and we want to pay it to the Government.

Mr. FORDNEY. Oh, we will take it; don't you worry about that. We will get it.

Mr. WILLOCK. I was very sorry you did not get it last year because you missed a fine juicy melon.

Mr. FORDNEY. You are one of the fellows that love to see the other fellow pay his money. You say that last year you made \$290,000 on \$400,000?

Mr. WILLOCK. That was the dividend. The last year, up to the end of the present fiscal year, it has been \$150,000. We jumped down on excess war profits. You see what it does now.

Mr. FORDNEY. You paid \$290,000 in dividends. How much were the taxes?

Mr. WILLOCK. I do not have those with me, but they were not much.

The CHAIRMAN. How much were the total earnings? You paid \$290,000 dividends.

Mr. WILLOCK. That was the total. But this year the excess war profits tax will cut down our earnings.

The CHAIRMAN. You are not making so much this year exclusive of the war profits?

Mr. WILLOCK. This \$290,000 only got caught to the extent of about \$30,000.

The CHAIRMAN. Before any tax levy, how much were the earnings of the corporation this year as compared with last?

Mr. WILLOCK. About the same, maybe \$300,000, about the same. I don't have it exactly in my mind.

Mr. FORDNEY. Seventy-five per cent of the capital?

Mr. WILLOCK. Yes; but that again was the personal business of my father, established 40 years ago, only incorporated at his death, 10 years ago; when it was incorporated all the stock being held by myself and my brothers and sisters.

Mr. FORDNEY. You are lucky boys.

Mr. WILLOCK. And the business was not earning as much then as it does now.

Mr. FORDNEY. The father did not make as much money as the boys?

Mr. WILLOCK. Not quite as much, but he laid the foundation, but when that business was incorporated we did not incorporate the business to sell stock. We didn't incorporate merely for the sake of incorporation. There were actual physical assets of over \$600,000 in the business.

Mr. FORDNEY. Were the profits put back into the business or was that original capital?

Mr. WILLOCK. This business was all built up out of nothing.

Mr. FORDNEY. A few minutes ago you advocated that original capital be put in.

Mr. WILLOCK. When you are taxing profits you must consider profits as not going back into the business.

Mr. FORDNEY. You would not have other corporations build up that way?

Mr. WILLOCK. Ours should not have been permitted to build up that way.

Mr. FORDNEY. Why did you do it?

Mr. WILLOCK. Because there was no tax of that kind.

Mr. FORDNEY. You were not prevented by law?

Mr. WILLOCK. Absolutely.

Mr. MOORE. You are entirely permitted by law? It was not a question of violating law, was it?

Mr. WILLOCK. There was no moral wrong there. The wrong is economic that we permit these things to happen.

Mr. MOORE. Let me ask you if other people do not do business in the same way.

Mr. WILLOCK. We compete with the Standard Oil Co., so you know we had no easy time.

Mr. MOORE. There is nothing wrong about this kind of business. It is commendable.

Mr. WILLOCK. I think if people can do that with the competition of the Standard Oil Co. they are to be commended.

Mr. MOORE. They do it in the lumber business, the cotton business, and the farming business. What is wrong about it? I think the gentleman has the right to respect for making a success of his business.

Mr. FORDNEY. The only criticism I have to offer to your statement—all corporations build up where they can as you did. It is legitimate.

Mr. WILLOCK. Absolutely.

Mr. FORDNEY. But you take the exact position that Andrew Carnegie did in occupying the spot right where you stand now, that he built up his great industry under a protective tariff and the moment he sold out he wanted free trade. You have built up this plant from the foundation, and you want to stop other people doing the same, but to pay it out of original capital.

Mr. WILLOCK. Here is the point, there was no privilege there, there was no taxing of corporations at that time at all.

Mr. FORDNEY. That has nothing to do with the principle. You say it should not be permitted at all?

Mr. WILLOCK. From an economical standpoint it should not have been permitted.

The CHAIRMAN. I think you have made a remarkable success and deserve it. What amount of taxes, income and excess-profits taxes, did you pay for the fiscal year ending this last May?

Mr. WILLOCK. That will depend, Mr. Kitchen.

The CHAIRMAN. Haven't you figured it out? It is due.

Mr. WILLOCK. We haven't figured it out closely. Our auditors are at work on the statement this week, and I expect the statement Saturday. I think it will run to \$120,000 or maybe \$130,000. The

four months' tax for last year that we had to pay in May ran \$38,000. I have those figures exactly in my mind. That is a matter of appeal now on account of our low capitalization, being under the actual cash invested. We just laid our cards on the table and asked for equity.

Mr. MOORE. I would like to ask you a question or two. Mr. Fordney has pressed you pretty hard on these questions. Of course, it grows out of a desire to fulfill the mission of this committee to obtain more revenue.

Mr. WILLOCK. I appreciate that.

Mr. MOORE. You have presented some views for raising revenue which are not in harmony with the views of this committee. You are willing to share your proportion of the increased tax?

Mr. WILLOCK. Surely.

Mr. MOORE. I do not quite understand your suggestion there as to income tax. You said in answer to a question by Mr. Fordney, if I recall, that an income tax might go as high as 97 per cent.

Mr. WILLOCK. On the very large incomes; that is what I meant.

You were probably not in when I spoke of that. Just for your benefit I will say that I proposed starting in with a tax of 3 per cent on \$3,000, with \$500 for exemption for wife or husband, as the case may be, and the same amount for each child, and a surtax of 1 per cent for each additional \$2,000 up to \$50,000, and of the same amount on each additional \$1,000 from \$51,000 to \$150,000. Under this tax a person with an income of \$25,000 would pay approximately \$2,100 against \$1,900 under the present tax, and an income of \$50,000 would pay \$7,300 as against \$5,300 under the present tax, and an income of \$100,000 would pay \$33,500 as against \$16,300 under the present tax, and an income of \$500,000 would pay \$415,000 as against \$192,000 under the present tax, and the \$1,000,000 would pay \$895,000 as against about \$475,000 under the present tax.

Mr. MOORE. You have a graduated scheme. I was thinking of the small income taxpayer in connection with the tax exemption. You think the income tax should be paid as long as the man keeps working?

Mr. WILLOCK. Just as the draft on the man. We took the strong man whose taking will least affect those that remain. We take the strong dollar whose taking will least affect these that remain.

Mr. MOORE. I understand your point as to that, but I can not see how the corporation can keep working and you tax it almost to the limit during the war period, and it still can keep working. I can understand how the strong man, the individual man, can keep on working so long as he has his strength, but there comes a time when the man of small income who pays a small income tax has no strength and is not able to go forward. He must stop; and I wanted to ask you how your scheme would work as applied to that individual income taxpayer who has been paying out all the traffic will bear up to the time he is no longer a strong man and wants to retire?

Mr. WILLOCK. My idea is that the man with \$3,000 would only pay \$90 a year, and he would have an exemption of \$500 for a wife, and he ought to have that for each child.

Mr. MOORE. He is all right so long as he is able to work.

Mr. WILLOCK. Then his income would drop below \$3,000 and he would not pay any tax.

Mr. MOORE. But he has no reserve. What are we going to give to that man who has lost the power to continue. You see you have taken away everything that he had.

Mr. WILLOCK. But only \$90 a year, that \$3,000 man.

Mr. MOORE. I understood you to say that you were willing to tax him along with the larger concern as far as he could stand it.

Mr. WILLOCK. I should want to tax him light. I should want to make it as light on the man of ordinary income as possible because of the increased cost of living. Most of the men of that character are men whose salaries have not increased with the increased cost of living.

Mr. MOORE. If in your present statement, your graduated scheme contemplated a living chance for the strong man who became weak, my questions do not apply.

Mr. WILLOCK. Absolutely. The very wealthy, a man with an income of \$1,000,000 would have \$100,000 a year left, and he ought to be able to struggle along on that and put a few cents by for a rainy day.

Mr. FORDNEY. How much do you think capital ought to be permitted to retain before it pays taxes?

Mr. WILLOCK. That develops itself into two classes, in ordinary times and in war times. I have thought a great deal about a manufacturing man that goes into business now. Unless he has some Government arrangement, under which they are going to take the plant off his hands, a man that goes into an essential industry—and a nonessential industry should not have any consideration at all—a man in an essential industry should receive very careful consideration at the hands of this committee, and he should be allowed 10 or 12 per cent before he is taxed for war profits, because we want some new industries just now.

Mr. FORDNEY. Do you think every corporation ought to receive it?

Mr. WILLOCK. No, sir. I am speaking about new essential businesses which must be established.

Mr. FORDNEY. I am not talking about the ones going into business now, but corporations that have been in business for a long time. How much income ought they to be permitted to make on the actual capital invested before paying a tax?

Mr. WILLOCK. I am not interested in taxing corporations ordinarily. Their earnings are divided into two classes. One is the exceptional class that forces its business to the front, like the Ford business, and that industry, that management should not be taxed; it ought rather to be boosted instead of fined. Then, on the other hand, there are corporations that have had large increases by holding out ore lands and coal lands and that sort of thing, and they should have that privilege taken away from them, and then we need not worry about their excess profits.

Mr. FORDNEY. Let me see if I understand you. Do I understand you to say that you think corporations should not be taxed; old corporations should not pay any tax at all?

Mr. WILLOCK. They should pay no tax at all, but the privilege extended to many of them should be withdrawn.

Mr. FORDNEY. What privilege do you refer to?

Mr. WILLOCK. The privilege, for instance, of the United States Steel Co. buying up most of the State of Michigan as ore land and

holding it as ore land, and there I should add to that tax on account of the unearned increment. Every year the value of those lands is increasing, and then adroit lawyers come down here before you gentlemen and try to prove to you how much more it costs to make iron in America than it does in other countries, when the great cost is the inflated value that they have put on their ore lands in Michigan.

Mr. FORDNEY. Suppose I agree with you on that proposition.

Mr. WILLOCK. I would be glad to have you.

Mr. FORDNEY. How did you build up your industry? The same way as the United States Steel Co?

Mr. WILLOCK. We have no privilege, and the Republican Party has been putting oil on the free list.

Mr. FORDNEY. We might run abreast on that question. How did you build up your own industry, if you did not build it up just like the United States Steel Co. built up theirs?

Mr. WILLOCK. Just the opposite way. We bought crude oil. We had no investment in oil lands.

Mr. FORDNEY. Wait a minute; don't go off half-cocked. You bought crude oil and made a profit out of it.

Mr. WILLOCK. I will have to answer it in my own way.

Mr. FORDNEY. Did you or did you not?

Mr. WILLOCK. You can almost prove that an industry wore tails and horns if you confine a person's answers to yes and no.

Mr. FORDNEY. But did you make a profit on it?

Mr. WILLOCK. We buy crude oil and we have made a profit on it.

Mr. FORDNEY. And when the steel company purchased ore in the ground, they bought it at the market value, or they could not have bought it.

Mr. WILLOCK. Yes, sir.

Mr. FORDNEY. They take it from the ground and convert it.

Mr. WILLOCK. I am not speaking of that class of the profit. I was speaking of the profit that they added to the ore before they converted it.

Mr. FORDNEY. How much?

Mr. WILLOCK. Their books would show. I do not know.

Mr. FORDNEY. No; but you are telling us. What do you know about it?

Mr. WILLOCK. I know the general facts of the case. I do not know any specific facts.

Mr. FORDNEY. Do you know whether or not they are charging up to the cost of production more than they paid?

Mr. WILLOCK. I do know.

Mr. FORDNEY. How?

Mr. WILLOCK. Because it is common talk.

Mr. FORDNEY. Common talk. What do you know about what they are doing? Do you admit that you don't know what they are charging for ore?

Mr. WILLOCK. But I do know what they are charging for ore.

Mr. FORDNEY. How do you know except by common gossip through the newspapers and talk?

Mr. WILLOCK. I know it from people whom I consider very authoritative.

Mr. FORDNEY. Then you know from the inside?

Mr. WILLOCK. From people who are closely connected with the company.



Mr. FORDNEY. Do you know anything about what they are charging on their books?

Mr. WILLOCK. I never saw their books. I know they are doing it right along.

Mr. FORDNEY. How do you know it?

Mr. WILLOCK. Do you know how the sun came up this morning?

Mr. FORDNEY. Yes; I saw it rise when it was clear. I can see the sun rise, but I can not see in the books of the United States Steel Co. I do not know anything about what they charge. I suppose they do just as you do. I don't know anything about you now.

Mr. WILLOCK. As a matter of fact the sun does not rise.

Mr. STERLING. Is that all, Mr. Fordney? You gave as your opinion that we ought to raise at least one-half of the revenue by taxation, did you not?

Mr. WILLOCK. Yes; I thought that would be possible.

Mr. STERLING. Now, you did not give any reason for that. What is your reason?

Mr. WILLOCK. We could raise billions.

Mr. STERLING. Whether we could or not, why do you think we should pay one-half of the cost as we go?

Mr. WILLOCK. Because in the trenches they are paying the price now, and the dollars at home can at least be as patriotic and pay the price now. Any tax that is left off to-day, any just tax that is left off to-day and put on posterity in the form of bonds, is simply making the world less safe for democracy, which we are fighting for. We have got to have a very real thing for those boys when they come home that have been fighting to make the world safe for democracy. We have got to give them a democracy that is worth the fight, and we can't give them a democracy that is worth the fight when we tell them that we have not taxed the dollar as we have taxed the men, when we bring them home maimed and crippled, and they have to dig and labor all their lives to pay these bonds that we should have paid out of our excess war profits, out of our tremendous incomes, out of our unearned increment. They won't respect us very much.

Mr. STERLING. Now, what difference does it make to posterity whether we save a lot of money as we go along, and let them take it and pay for the bonds, or pay as we go along and not leave posterity anything as a working capital?

Mr. WILLOCK. We will leave posterity everything. The only question is now we are leaving it on a few. If we take it in the kind of taxation I speak of, we will only bear on 10 or 15 or 20 per cent of the people.

Mr. STERLING. Do you know how much the wealth of the country increases year by year?

Mr. WILLOCK. Well, I have understood that it was somewhere about \$50,000,000,000.

Mr. STERLING. It has been estimated from \$40,000,000,000 to \$80,000,000,000, which is a good deal.

Mr. WILLOCK. A big increase.

Mr. STERLING. Do you think that it is better now that we pay all this increased wealth year by year and pay the expenses of the Government as we go along and leave no accumulations for posterity, or whether we shall only pay part of these expenses as we go along and leave some of these expenses to pay and leave them a little working capital to do business with?

Mr. WILLOCK. I would pay as we go along, so far as it may be possible. Posterity will recover a great deal more rapidly without the bonds than with them.

Mr. STERLING. It is in the Nation. We can consider it now in the sense of a great national necessity.

Mr. WILLOCK. Yes.

Mr. STERLING. And won't the boys in the next generation be just as well off if we leave a few bonds to pay off, if we also leave some wealth to pay them with? It won't make any difference one way or the other, will it?

Mr. WILLOCK. The boys will not have the money to pay off the bonds, but the people that you leave with the money won't pay them. There will be no excess war profits then to tax after the war. Why not take them now when the war creates them. Take the profits, if the war creates them, to pay the expenses of the war. Are any of the equities violated in that statement? If a war creates values, take them. Are any of the equities violated by taking those values for paying the bills of the war?

Mr. LONGWORTH. Do I understand that all the war expenses should be raised by taxes?

Mr. WILLOCK. I do not think it would be possible to raise them all, but as much as possible.

Mr. LONGWORTH. And you say that is the only way to make this country safe for democracy?

Mr. WILLOCK. Absolutely.

Mr. LONGWORTH. Was the country safe for democracy at the close of the Civil War?

Mr. WILLOCK. At the close of the Civil War we had an entirely different condition existing. The great West was open to homesteaders at the close of the Civil War. We were a new country, and very largely the West was settled by the boys who had spent four years in the war and refused to settle down to humdrum economic conditions of the home, and they went on to the West and made a great country. There is no such place for those boys to-day. Let me ask you—we have got a million men in the Army to-day and we have millions of munition workers, at high wages. Eighty per cent of those men are earning higher wages than they ever earned before. After the war is over and we ask these men, particularly these soldiers, to come back and pick up the tin dinner bucket, and go back into the mill at \$1.50 to \$3 and live in a three-room tenement, will they think that that is what they fought for in France? Will they think that that is the fruition of democracy? I can not conceive it. We have got to give them a better world than that.

Mr. LONGWORTH. Do you know of any war that was ever financed on a 50-50 basis?

Mr. WILLOCK. I am not familiar with the matter.

Mr. LONGWORTH. But you are here as an expert trying to convince the committee.

Mr. WILLOCK. No; I am here merely to make certain suggestions.

Mr. LONGWORTH. Do you know how the Civil War was financed?

Mr. WILLOCK. No.

Mr. LONGWORTH. Any war?

Mr. WILLOCK. No.

Mr. LONGWORTH. Or how France and England are financed?

Mr. WILLOCK. Not closely, only I have information that England is doing well on the excess-profits tax at 80 per cent.

Mr. LONGWORTH. But do you know how much she has received?

Mr. WILLOCK. No; I do not.

Mr. LONGWORTH. Don't know any of those questions?

Mr. WILLOCK. No.

Mr. LONGWORTH. And yet you are here to advise us on financing the war?

Mr. WILLOCK. Not wholly, only a few parts. I do not think it is altogether important what has been done. I know that is the view of lawyers—but what can be done.

Mr. LONGWORTH. You wouldn't issue any bonds at all?

Mr. WILLOCK. Oh, yes.

Mr. LONGWORTH. Why?

Mr. WILLOCK. Because we could not raise enough by taxes.

Mr. HULL. This gentleman's statement is highly interesting, but I just wanted to call attention to the fact that there are a lot of other gentlemen here.

The CHAIRMAN. The gentleman has had an hour and a half, and I suggest that if the gentlemen have any more questions, just ask them now.

Mr. FORDNEY. My good friend, I do not like to make this statement, but it is concrete. Four of my direct family are in this war, two sons, a son-in-law, and a grandson. Do you think they ought to do the fighting and I give up all my money so that when they come home they won't have anything to start with or save some and do a reasonable amount toward the financing of this war, when I have done my full share, when I have given four of my family to do the fighting?

Mr. WILLOCK. I don't think you should give up all your money. That is why I do not want a man with \$800 a year to pay anything.

Mr. SLOAN. You stated that the British have done well in taking 80 per cent of the excess-profits tax. Do you know whether or not if this Government had observed the rule that Britain did, taking 80 per cent of excess profits, whether we would have obtained as much profits tax as we do under the law now? In other words, if we had done strictly as Britain did, would we have obtained as much profit as we are obtaining under the present law?

Mr. WILLOCK. Do you mean that in relation to England's not doing that for several years after the war started?

Mr. SLOAN. I mean as a matter of dollars or pounds. I have heard a great deal of talk about that British plan, and you spoke with special commendation of that, and I want to know whether or not if we had followed the rule that England did, and levied 80 per cent on excess war profits, just as England did, we would have raised as much profits tax as we do under the present law.

Mr. WILLOCK. There may be something about the English 80 per cent tax that I am not familiar with.

Mr. SLOAN. You recommended the British system, and it has been recommended by the press and platform all over this country. I have yet failed to find anyone who suggested that if we had observed their rule, followed the same path, legislatively, that they did, that we would have raised more money from profits than we do under the present law.

Mr. WILLOCK. I do not know what their rule is.

Mr. SLOAN. You spoke in a very commendatory manner of the 80 per cent rule, because it was 80 per cent.

Mr. WILLOCK. I understood that 80 per cent covered all the war profits on a sliding scale. If my understanding is wrong, I do not commend it so highly.

Mr. LONGWORTH. How are they based?

Mr. WILLOCK. On 1911, 1912, and 1913.

Mr. GREEN. Let me suggest, perhaps to save time, for your benefit that there was a gentleman in here the other day who testified that he had made a very careful computation and we have had some others here that agreed with him, and he stated that that 80 per cent, on the system that they were imposing it, was equivalent only to 40 per cent.

Mr. WILLOCK. Then, it is not a good one. Let us have an honest 80 per cent.

Mr. LONGWORTH. Let me give you this thought, that in spite of the English 80 per cent in taxes, we are to-day raising by taxation 50 per cent more than England is.

Mr. WILLOCK. In dollars or percentage?

Mr. LONGWORTH. In percentage.

Mr. WILLOCK. Well, we must not weary in well doing.

Mr. LONGWORTH. To-day, under our present conditions.

Mr. WILLOCK. We have advanced a good deal on England in the prosecution of the war. We had a conscription act within 90 days, whereas it took England much longer.

Mr. SLOAN. Why don't you stand up for America a little now and then?

Mr. WILLOCK. That is true. I want to stand up for America first.

**STATEMENT OF MR. JACKSON H. RALSTON, ATTORNEY AT LAW, WASHINGTON, D. C., REPRESENTING THE MARYLAND TAX REFORM ASSOCIATION AND THE TAX REFORM ASSOCIATION OF THE DISTRICT OF COLUMBIA.**

Mr. RALSTON. Mr. Chairman and gentlemen, I want to invite your attention, for only a few minutes, I hope, to a consideration of a matter which has been touched in a slight degree by my predecessor, Mr. Willock, but which I think deserves the very careful attention of this committee, and which I am led to believe is receiving the careful attention of the Treasury Department.

A very large proportion of the taxes which have been levied, and perhaps a still larger proportion of the taxes urged upon this committee to be levied, are levied or proposed to be levied in one shape or another upon industries which will have the very direct effect of maintaining and increasing the cost of living and making it harder and harder for the citizen of moderate means to get on.

The form of taxation which I desire to urge upon this committee is, at least in my judgment, one which will not increase the cost of living but will have a tendency to diminish the cost of living, and which, as I firmly believe, in its final analysis is absolutely a fair and proper and just one, and exposes a source of revenue which has not yet been touched by the revenue measures of the United States.

Mr. MOORE. Do you think an income tax increases the cost of living?

Mr. RALSTON. I do not think it does, but I am not here—there is a mistake in the announcement. I am not here to discuss the income tax.

Mr. GREEN. Well, the excess-profits tax?

Mr. RALSTON. Neither am I here to discuss the excess-profits tax. If you will pardon me, the point that I want to discuss here, as briefly as I may, is the question of levying a tax upon the value of land irrespective of improvements.

The Constitution of the United States, the constitutional provision the committee is familiar with, says, in brief, that a direct tax—and a tax upon the value of land is a direct tax—must be levied in proportion to population. When it comes to a practical application of this constitutional provision there are certain difficulties, at least in my opinion. The great center of land values, the greatest center we have in the United States, is in New York City; but every large city is a great center of land values, and they are centers of land values out of proportion to the population those particular cities represent or the States in which they are located represent, whereas population in the agricultural States represents a land value proportionately much less than in New York City, as I say, the large centers of population. People gathered together in great numbers are more productive per man than when they are scattered over a wide area and not brought into close association. That makes a strictly constitutional rule, giving narrow application to the Constitution, not entirely a fair one.

Now, the idea that I want to present to this committee, therefore, is this, an idea which it seems to me is a fair one and which avoids the constitutional difficulty. Jumping to the end of things for a moment, I shall present the idea of a tax on the privilege of large land holdings, irrespective of improvements.

Mr. MOORE. That is somewhat different from the single tax?

Mr. RALSTON. Not at all, if you please, so far as its tendency is concerned.

Mr. MOORE. You are applying it only to a certain class of holdings, while a single tax would be universal?

Mr. RALSTON. The single tax would be universal. It does aim to meet the great evils that single tax proposes to meet in its entirety.

Mr. MOORE. That would raise the question, if you will pardon me, and I wish you would consider it before you get through, of driving unprofitable landholders out of business and settling them in places like New York, where land values would be excessive, and thus have a detrimental effect upon the proportion of population.

Mr. RALSTON. I shall try to make it clear. I do not think that that evil will at all be anticipated.

Mr. MOORE. If I own a piece of land in a semiarid section or a section of the country where it is unprofitable, and I am holding it only in the hope that I will be able to dispose of it, and you tax it, I would rather have you take the land. That would drive me into the large center of population, where by reason of the accretion of population my presence might add to the congestion, and that would be undesirable.

Mr. RALSTON. I am going to hope, Mr. Moore, by the time that I get through that you will see that that contention is not well founded.

I want to say that the tax which I propose—I have the draft of a bill which is expressive of the idea—is a tax upon the right to hold land and is in form and in essence an excise tax.

Mr. FORDNEY. Is there any other country that imposes such a tax?

Mr. RALSTON. No; I don't think there is.

Mr. FORDNEY. Doesn't England tax other property; isn't it true that England doesn't tax nonproductive property?

Mr. RALSTON. England has been particularly the home of land monopoly. If it were open to me—and it is not, of course—to go into the general effects of that, I think England in this war has been exceedingly a sufferer from that, because in one way or another it has reduced the physique of her people, it has driven her people to the east end of London and the slums of other cities, and has largely rendered them less capable, less efficient, in many respects than the French or the Germans.

Mr. FORDNEY. Isn't it true that she raises the major portion of her taxes from income tax, but does not tax nonproductive property?

Mr. RALSTON. That has been true, but the tendency is in the reverse direction in England; in other words, to tax this so-called unproductive property, meaning the property held out of use.

Mr. GARNER. So it is a sort of unearned-increment tax?

Mr. RALSTON. Yes.

Mr. SLOAN. Does not England collect more at her ports than we do?

Mr. RALSTON. No; England hasn't up to the time this war began collected anything at her ports, except on certain luxuries, such as tobacco and silk.

Mr. SLOAN. England is collecting more than we are. I am speaking of to-day.

Mr. RALSTON. I was speaking of prior to the war.

Mr. SLOAN. I am talking about the conditions now.

Mr. FORDNEY. Isn't it true that she collected more money at the ports before the war than we collected?

Mr. RALSTON. I beg your pardon.

Mr. FORDNEY. I beg to differ with you. She collected \$3.56 per capita during the last year of the Payne tariff law, and we collected \$2.45.

Mr. HULL. She does collect three-fourths of her \$250,000,000 on tea, sugar, and tobacco.

Mr. RALSTON. I will not undertake to say anything with regard to the present condition in England. That is quite far removed from what I had in mind.

Mr. FORDNEY. I am right, prior to the war.

Mr. RALSTON. I am exceedingly surprised if you are correct. I know I have entered English ports with practically no challenge from the customs officers.

Mr. FORDNEY. Now we are collecting \$1.68 per capita for this year at our ports, and England is collecting \$10.25 per capita at her ports.

Mr. RALSTON. Small collections would be a source of rejoicing to me, but not, perhaps to Mr. Fordney.

Mr. FORDNEY. That is true.

Mr. RALSTON. I think that we have a perfect right, and this United States has a perfect right to collect revenue or a tax upon the privilege

of land holding. The right to hold land can not be considered a natural right. Even so conservative an author as Blackstone tells us in the first chapters of his second book of Commentaries that the right to hold land has no foundation, or at least that the holding of land has no foundation in natural rights.

Mr. FORDNEY. How much, if any, would you permit our people to hold?

Mr. RALSTON. Well, I am an extreme single taxer, and if it came to the matter of land holding as a matter of abstract right, I would say that no man has an indefeasible right to even a foot of land. I would get the backing of economists and I would get the backing of such writers as Emerson.

Mr. FORDNEY. You can get the backing of Meyer London, I think.

Mr. RALSTON. Perhaps he will back some good things.

Mr. FORDNEY. All Socialists believe in that.

Mr. RALSTON. No; the socialistic idea is different.

Mr. FORDNEY. It is the socialists' principle.

Mr. RALSTON. I beg to differ from you on that point, if you will pardon me. The socialistic attitude puts the whole control in the State. The attitude of the single taxer leaves the control in the man who happens to be in control and allots it to him to put it to its best use. The Socialist interferes with the industry at every point. That is the essential difference between us. I want merely to say without elaborating it, that the right to hold land is a conventional right. If it be a conventional right it is the exercise under such circumstances as the State might say, and meaning by that the State and the United States as well. If therefore it be that conventional right, and the State has the right to those qualifications on the exercise of that right, it may require that that right be paid for, and that is the proposition involved in the bill of which I shall leave a copy with the committee.

The proposition is that the exercise of that right when carried out in excess of \$25,000 in value in the individual shall be made the subject of an excise tax which may be graduated in accordance with the desires of the committee, or the desires of Congress.

We levy certain taxes to-day upon very analogous principles. The foundation of the value of land, the foundation of the benefits to be had from land holding lies in its potentiality of income when brought to the last analysis. We levy taxes based upon exactly that principle in connection with our internal revenue matters. For instance, we tax a distillery upon its potentiality of production. It is taxed upon its production. That is one item. It is also taxed upon its capacity for production, and the capacity for production is after all at the basis of, certainly one of the bases of the value of land. So that if we were to levy, if Congress were to levy an excise tax upon the value of land, it would be a tax levied upon the potentiality of production of the land, bringing it to its last analysis.

Mr. MOORE. Isn't it a fact that under those circumstances the most industrious man would pay the most taxes. The man who made the most use of his land wouldn't he pay more taxes than the man who is shiftless and indifferent.

Mr. RALSTON. No, the proposition to be advanced is that an excise tax shall be levied upon the individual according to his landholdings irrespective of the use he makes of the land.

Mr. MOORE. Yes, Mr. Ralston, but we have two tracts of land contiguous—say 10 acres in each. One is held, according to your single-tax system, by a man who is thrifty, industrious, energetic, enterprising, who improves it in many ways. He erects buildings upon it, and if it is a farm he makes it productive and profitable. The other 10-acre tract is held by a man who is shiftless, indifferent, and a drunkard, possibly, and he leaves it to the care of his wife and children, and it grows up in rag weeds. Isn't it a fact that under that condition the thrifty man, the industrious man, the well-intentioned citizen pays the burden of the tax, while the shiftless fellow goes free.

Mr. RALSTON. Exactly the reverse. Assume two tracts to be of the same natural value, if you please, because of their location.

Mr. MOORE. In the beginning.

Mr. RALSTON. Then the tax would be upon the privilege of ownership, which would be exactly the same in either case.

Mr. MOORE. Well, that means that if the profit of a 10-acre tract has more value to me than it has to you who has developed it, then I can outbid you for the tract and take it.

Mr. RALSTON. We are not going into the question of bidding.

Mr. MOORE. That would be so according to the tenure by which you would hold, if I understand you to say that that is as far as you can go in the matter of title. If that illustration does not fit, suppose that a shiftless man had put his tract in such a need of repair, or had allowed it to run down so that no one dared to bid for it, wouldn't the condition be the same that the thrifty man who had made good would pay the tax, and the other man who had put his land out of business would not pay any tax?

Mr. RALSTON. If no one cared to bid for the land, to use your expression, because it was run down, it would simply be because it had no social value, and the same thing would be true of the adjoining tract. It would be so far from civilization, perhaps, in some ways that the land adjoining would be exactly in the same condition, that there would be nothing on either.

Mr. MOORE. What would there be to induce the improvement of the 10-acre tract that stood idle and was running to waste. What would we get out of it?

Mr. RALSTON. The longer it was held idle under the proposition I am advancing, the larger would be the burden upon it and the greater the necessity that the landowner should put it to profitable use for the benefit of the community and for his individual benefit.

Mr. MOORE. I am only getting the practicable side. We want the revenue, and you are advancing the idea of how to get it out of the land.

Mr. RALSTON. Let me speak of it in a large way.

Mr. MOORE. But if you apply this illustration to two pieces of ground on which the farmers are working, the one will rotate his crops, irrigates it, if necessary, fertilizes it regularly, so that everything is productive, and he gets crops every season, while the other man continually plants his with corn or sweet potatoes and keeps it in the same crop until he uses up the land, and it is worthless. By your system don't we transfer the burden of the taxes from the indifferent, the shiftless man, to the thrifty and industrious?

Mr. RALSTON. I think we make it very unprofitable for the shiftless man to hold his lands in a shiftless way.



Mr. MOORE. Well, he is working the ground out and getting everything out of it that was in it and leaving nothing for the Government because no one wants to take the land after he uses it, but the thrifty man still remains, is a prudent man, as well as a profit maker, and a revenue producer and the other isn't. That is what I want to bring up in a practical way, since we are considering the raising of revenue.

Mr. RALSTON. Now, let me speak of it in a large way, and perhaps some of the minor conditions will fall under the important head.

We are at the present time in the condition of increasing land monopoly in this country. One illustration of it is in the fact referred to in the Manly report for the recent industrial commission, that at the time that report was made, or shortly before, 37 per cent of the farms in this country were being held by tenants. That would seem to me to be a clear indication that our present methods of land holding are wrong; and that coupled with the fact that there had been an increase of between 20 and 30 per cent in the tenant farmers within the then preceding 10 years. So that, as far as farms are concerned, if we may trust such information as is open to us, the farms are drifting from the hands of the independent owners into the hands of men who are tenants, paying for the privilege of living to other people.

We have, of course, a similar accentuated condition in the cities. I think I am not far wrong when I say that in Mr. Moore's city, which is spoken of, by way of contrast to other cities, as a city of homes, only in the neighborhood of 30 per cent, or perhaps even less, of the families of Philadelphia live in their own homes. A few years ago in Washington, which is sometimes spoken of similarly, the proportion was 25 per cent, in Baltimore between 25 and 30 per cent, and so on. In New York City the percentage of people living in their own homes runs down to an infinitely small one. So that under our present system, which taxes industry, which does not particularly tax land monopoly, we have the land going suddenly into the hands of a comparatively few men; and unless something is done about it, when our men return, the conditions will be absolutely worse instead of better; and they, finding themselves for the time being out of occupation, desiring to use land in some shape or another, will find it still more difficult than it was when they went away to get the land on which they must live, and on which they may hope to prosper.

But I want to add this, and to emphasize this, if I may: The land of the cities has under our present system gone into the hands of relatively few, and in large tracts. Our great lands areas are either by fee-simple ownership or by the possession of unused leases, in the hands of comparatively few. You gentlemen have created taxes on war revenues. You have increased the income tax. You have plucked the flowers of industry, so to speak; you have not gone to the root or the trunk. Take, for instance, the Steel Trust, which will serve as an illustration, while I may not go into all the details of it. Take the Steel Trust; you are taxing its income or its excess profits, but you are leaving it in the absolute and uncontrolled disposition of its monopoly.

Its monopoly—and it has a monopoly, and a very dangerous one, if you please—lies in its ownership of tremendous beds of ore; lies in its ownership of leases of those same tremendous beds of ore. As I am informed, only a small percentage of those leases are being worked by it. Now, here are these tremendous beds, here are these tremendous

sources of wealth, going into the hundreds of millions and billions—and untold billions—of dollars, which remain untouched by any legislation of Congress, and you have here the potentiality of meeting the entire financial situation confronting this country by going right at the foundation of things, instead of going at the results of industry applied to that foundation. So it remains true in our cities, and you have it, if you please—

Mr. MOORE. Mr. Ralston, you are aware, of course, that real estate is taxed by the States, and rather heavily taxed at the present time. Do you think that a Government tax on real estate, if it were constitutional or permissible, would produce enough revenue to meet the situation that confronts us now?

Mr. RALSTON. It seems to me beyond all question. You have this to bear in mind. The State and county, and so on, tax—

Mr. MOORE. Would not the burden of that tax fall on communities that are already very heavily taxed—such a community as New York, for instance?

Mr. RALSTON. The word "heavily" taxed is, if you will pardon me, a rather uncertain word.

Mr. MOORE. You spoke of iron mines or beds, a while ago, controlled by large corporations. I assume that they would be practically worthless for the purpose of taxation or for the purpose of development without some corporate instrumentality for making them productive. If it should be discovered that there was an ore bed in the middle of the Desert of Sahara, for the individual prospector to derive anything from that I assume it would require corporate action to get the product?

Mr. RALSTON. Yes, altogether.

Mr. MOORE. How could we derive any taxation at all without a corporation or a united agency to get the material and put it on the market?

Mr. RALSTON. I am going to grant that, absolutely; but we do not need to have that corporate agency holding immense tracts, if you please, of ore and of coal, out of use. By its very ownership and possession it stands in the way of some other corporate agency putting that land to use.

Mr. MOORE. While the Rocky Mountains might be subject to taxation on land values now, I suppose it would be very trifling. I do not know just from whom we would collect. But it might be that somewhere imbedded in the Rocky Mountains there is very great wealth that would require a large community of interest to develop, involving the accumulation and expenditure of millions of dollars. There would be no value there for taxable purposes, I assume, until that wealth was brought out.

Mr. RALSTON. Yes.

Mr. MOORE. It could only be brought out by such agencies as are now subject to taxation. You would not discourage those agencies from getting into action—

Mr. RALSTON. No.

Mr. MOORE (continuing). By attempting to raise your national revenue from land which upon the surface is worthless?

Mr. RALSTON. No. We do discourage those agencies. Congress may not; although it does, I think, in certain ways which I do not want to enter into the argument of. The States directly and dis-

tinctly discourage those agencies in almost every way they can think of. They tax them on every single thing it is necessary to do when they start to make those developments. They do that now. I think that is a bad tax, but it is common throughout all the United States, practically. It is not common in every part of the world. It is becoming less common in certain parts of the world, but is common enough here.

I wanted to speak, if you please, of the position in which the United States is left to-day here in Washington by its present system. The Government wants to buy land here in the District of Columbia, and it does not do it; it uses land that is less available, that it can perhaps get at. Or, if it buys land, it is at an extraordinary price; and when it gets into the market as a purchaser, it immediately finds that the value of the land is so high that the Government itself is discouraged from building here in Washington and developing it. The source and cause of that wealth represented in the land values is the Government itself. It has brought its activities here; it has brought its thousands and tens of thousands of employees here. It has contributed to build up the land values of Washington; and the instant it concludes or wants to use any of those lands, the value which it has itself created is used against it. Now, that is the ordinary condition here; not particularly to be criticised if we accept the existing order of taxation; but it is the condition which exists in practically every other city of the United States. Now, the Government of the United States stumbles all over itself in the treatment of the land question in the District of Columbia; and the governments of every State and of every city in the United States are likewise stumbling all over themselves, and placing obstacles in the way of their own industry.

Now, it seems to me that a tax which will make it less profitable for the land to remain in the hands of those who are forestalling industry in the broadest and most complete way possible, a tax which will attack the forestallers while they are in the act of forestalling, will be something of the very highest possible value. And they can not complain of it—with justice. We may complain of the most just thing in the world, of course. They can not complain of it with justice, because the thing they have, and the thing which we are suggesting Congress should tax, is the creation of the community, and the proposition is that there be taxed back into the public revenues the very thing which the whole community has created. Now that, as I say, is the proposition, and it seems to me that viewing it largely, we are bound to see that a tax of that kind is going to open up opportunities, and we are going to need them opened up by the millions, very shortly. It is going to open up opportunities of every kind in the city and in the country, in the mountains and in the plains equally. And that will be done, as I say, for the use, for the benefit, of those who are coming back, and who will feel on coming back, with these opportunities opening up, that they themselves have a stake in the land, and that they are not abroad "fighting for a boarding house," as it has sometimes been expressed, but that they have their fair share, and their opportunity in life, as the result, if you please, in part, of congressional action. Now, I have spoken quite as long as I had in anticipation to speak, and I want to ask permission of the committee to submit as a part of my remarks a draft bill—suggestion—and a short article which I wrote some time ago addressed to the same general subject.

Mr. MOORE. What is the main purpose of the bill, Mr. Ralston? What is the title of it?

Mr. RALSTON. The title of the bill is "An act to provide for the raising of public revenues by tax upon the privilege of the use and enjoyment of lands of large value," commencing with \$25,000 as a minimum land value as the subject of taxation.

Mr. MOORE. I do not want to press you for an answer to the question I put to you at first. It seems to me it hits at the very marrow of the whole matter. Whether in going after the large and valuable lands for revenue purposes we do not discourage the use of poorer lands, which by virtue of the fact that their purchasers are not able to hold them and pay the taxation, would fall into the hands of the Government and would become a burden to it?

Mr. RALSTON. I can conceive that there is to-day land so poor in quality that if a tax were put upon it it would fall into the hands of the Government. I can also conceive, because I know it to be a fact—we all know it—that there are immense tracts of good land, upon which people ought to be working to-day, where they are not working, and which would be brought into use by an increased tax upon it, the present holders not being then able longer to hold the land without putting it to productive use.

Mr. MOORE. We have millions of acres along the Atlantic Coast to-day, from Maine to Florida, that is awaiting the hand of the tiller. No one comes to take it. No one wants to utilize it. Some prefer to go West and settle upon arid lands and wait for irrigation for the fruition of crops which come along in a period of five or more years. Those lands I refer to are the lands which the individuals care little about, and under such a system of taxation as you propose—or we will call it a revenue-raising system, because that is what we are interested in—

Mr. RALSTON. Yes.

Mr. MOORE (continuing). It seems to me we would add to the burden of those landowners in the neighborhood of large communities like Baltimore, Philadelphia, New York, Boston, Chicago, and other large cities, and would release from a large portion of the burden of taxation those who had been the owners or were the owners of those poor lands which by virtue of taxation—of revenue raising taxation—would now probably fall into the hands of the Government.

Mr. RALSTON. You have within the close neighborhood of New York City immense tracts of land which are out of use. If the farmer desires to go to those lands and use them to-day he is asked such a price for them—frequently unproductive; at least they have not been used for production—that he can not apply his industry to those lands and produce the food and other things that the city of New York and other parts of the country absolutely need. That is the condition to-day; and he therefore is compelled very likely to surrender the possibility of using lands at his doors, almost, and is driven out to the arid lands of New Mexico or Arizona or some other place to get land which, comparatively speaking, is after all cheaper.

Mr. MOORE. It is a fact which can not be disputed that good farming land is going begging now in certain parts of New Jersey and Pennsylvania, in places so close to markets that there is no question about the value of the land. The question of farm labor, of course, enters into it; but there is no scarcity of land. Some of it may be

poor, but it requires only cultivation to make it productive. Now, I understand that the war might put some of that land on the market if the Government should locate in a special place a shipbuilding plant or a munition plant or something of that kind. Then, of course, the idea of community value would at once arise, values would jump, and that land would become productive; but a man might wait and hold land of that kind for a hundred years and unless some such accident as that of a war came along it would be unprofitable to him, and a burden of which he might desire to rid himself.

Mr. RALSTON. I can conceive, if you please, the possibility of that existing under certain circumstances; but if it were good farm land the farmer would not go from the neighborhood of New York City or Philadelphia away out West to almost impossible locations unless the price at which this land is going begging is a price in excess, everything considered, of its real value.

The farm question, of course, is but one of a good many phases of the whole thing, and in many respects perhaps not the most important. I say that bearing in mind the fact, which is stated by Mr. Willett and is well known, that the land values of New York City are far and away in excess of the land values of many States taken together.

Mr. MOORE. That is exceptional, of course.

Mr. RALSTON. Yes; and in my own State, in Baltimore, the land values there, of perhaps 1 or 2 acres are in excess of the assessed land values of whole counties in the States.

If I may submit these matters to be incorporated in the record, I will do so.

Mr. RAINEY (in the chair). Without objection they will be incorporated.

(The papers submitted by Mr. Ralston are here printed in full, as follows:)

AN ACT To provide for the raising of public revenues by a tax upon the privilege of the use and enjoyment of lands of three value.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That for the purposes of this act land is defined to be the surface of the ground, with all easements in, on, and over the same, whether covered by water or not, and including water powers and rights, natural growths, if any, of land, and including wild forests, natural deposits of coal, minerals of all kinds, oils, gases, peats, waters and other substances, and not including improvements the result in whole or in part of the application of labor to land.

SEC. 2. All persons, firms, associations, and corporations owning land in value in excess of \$25,000, whether in possession or leased to others, shall be subject to an excise tax upon the privilege of the use and enjoyment of such excess at the rate of — per cent upon the first \$200,000 or part thereof of such excess, — per cent upon the excess over \$250,000 or any part thereof in total value up to \$1,000,000, and — per cent upon the excess in total value over \$1,000,000. Where land is leased and the value of the lease is in excess of \$25,000, such value shall be deducted from consideration in determining the tax to be assessed against the owner, and shall be charged against the lessee. Where the title to land is held in common or by entireties, or in joint tenancies or subject to estates of dower or life estates or otherwise, so that the several ownerships make up the complete legal title and the entire ownership has a value in excess of \$25,000, then the several owners shall pay an excise tax based upon their proportionate share in the ownership, and for the purpose of estimating the value of the proportionate share of those owning estates less than an unqualified fee simple, the Commissioner of Internal Revenue shall establish rules based upon average life expectancy or otherwise as the case may be.

SEC. 3. It shall be the duty of every owner of any interests in land, including those holding an active trusteeship, held either in fee or in lease, the value of the fee or lease of which is in excess of \$25,000, to report his interests therein before March

first of each year to the Commissioner of Internal Revenue on blanks to be prepared by him. Such blanks shall contain, among other things, provisions for the following information:

Tracts in which an interest is held and nature and extent of interest, price paid by taxpayer or, if he received the same by gift or inheritance, the amount paid by his predecessor in interest for the entire tract with its improvements, if any; valuation placed upon entire land (or lease or interest therein) by taxpayer; offers received by taxpayer for any parcel of such land or interest therein within the two previous years; price at which taxpayer within such period has offered land or any part thereof for sale; value of improvements upon land and price at which improvements have been reckoned in any offer of sale; amount spent by taxpayer or, so far as he knows, any other person in making improvements; net price at which owner would be willing to sell land with and without improvements; assessed value of land for all purposes with separate value of improvements if given separately on tax books. Such return shall not be conclusive of the value of the land, but the Commissioner of Internal Revenue shall determine therefrom, and from such other data as he may obtain, the true value of the land holdings of any taxpayer. The returns shall be as of the date of the preceding December thirty-first. But in any proceeding of condemnation or otherwise in which the United States may be concerned, said return may be used as evidence of facts therein stated as of the date of the return.

It shall be the duty of the taxpayer in the event of the sale of all or any part of the land of which he has reported himself the owner, or any assignment of lease thereof within the calendar year in which his report is made, to report to the Commissioner of Internal Revenue the price at which said sale or assignment may have taken place.

SEC. 4. It shall be the duty of the Commissioner of Internal Revenue on or before the first day of June in each year to mail to the taxpayer a statement showing the amount of taxes due and payable by him, but a failure on his part to mail the same or on the part of the taxpayer to receive it, shall not invalidate the assessment or relieve the taxpayer of his duty to pay, such payment in all cases to be made before the first day of July following.

In the event that the payment is not made as herein directed, the taxpayer shall be subject to an additional payment of five per cent, and an additional payment of one per cent for each month it shall be delayed, and no conveyance made by him shall be admitted to record of date on or after July first of any year, unless he shall have first procured from the Commissioner of Internal Revenue and exhibited to the recording officer a certificate that all taxes under this act are paid, which certificate may be recorded once for all in the office of the recording officer.

SEC. 5. In so far as practicable, sections thirty-one hundred and seventy-three and thirty-one hundred and seventy-six of the Revised Statutes of the United States as amended, and sections seventeen and eighteen as amended by the act of October third, nineteen hundred and seventeen, and sections nineteen, twenty, twenty-one, and twenty-two of the act approved September eighth, nineteen hundred and sixteen, shall apply to the terms of this act.

SEC. 6. The Commissioner of Internal Revenue is authorized to make all rules and regulations necessary to enforce the provisions of this act.

SEC. 7. This act shall apply to the United States, the Philippine Islands, and Porto Rico.

#### IS LAND VALUE TAXATION UNCONSTITUTIONAL?

[By Jackson H. Ralston.]

In view of the constitutional provision requiring direct taxes to be apportioned among the several States according to population, is it possible with fairness to adopt for national purposes taxation on the unimproved value of land? This question is not susceptible of easy answer.

The Supreme Court has defined direct taxes to mean taxes levied upon real estate and poll or capitation taxes. The first of these classes would undoubtedly include taxes levied either upon land or improvements, or both.

The Crosser bill proposes to apportion direct taxes on the value of land, exclusive of improvements, among the several States according to population. Undoubtedly it would seem that such a tax was absolutely constitutional, being a direct tax apportioned as the Constitution provides. It would not, however, be a fair tax because the relation between the value of land to the population is by no means uniform. A State wherein there are large cities and where consequently the ability to produce wealth is intensified and magnified, will have a land value per head, much greater

than that which exists in a State of like population, but having its inhabitants scattered among unimportant centers. The strict application of the Crosser bill, therefore, would make the tax on land values in a State like New York much less in proportion to value upon the land taxed than would be the case in Alabama, Mississippi, and Arkansas, for example.

On the other hand, a tax which would ignore State lines and be charged upon real estate or land value only everywhere, according to its value, would be so far unconstitutional that it would not receive any reasonable consideration by Congress.

Is the proposition, therefore, unsolvable? I think not. A solution, however, must be found in a direction different from those so far pursued.

The holding of land by one individual to the exclusion of all others is entirely due to conventional arrangements. Without the convention, it does not exist. This has been recognized more than once by legal writers. Blackstone maintains it in the first chapter of the second book of his Commentaries, wherein he says:

"There is no foundation in nature or in natural law why a set of words upon parchment should convey the dominion of land; why the son should have a right to exclude his fellow-creatures from a determinate spot of ground, because his father had done so before him; or why the occupier of a particular field or of a jewel, when lying on his death bed and no longer able to maintain possession, should be entitled to tell the rest of the world which of them should enjoy it after him."

The right to hold land, therefore, being purely conventional, is to be treated as a privilege, and while the land itself may not be taxed, the privilege—the franchise to hold and use—is fairly the subject of taxation. It differs in no wise from the franchise of a corporation, whose property is taxed separately from the right to hold and control its property.

The tax, therefore, which I propose is a tax upon the individual who holds land, and I would have that tax apportioned to the value of the privilege he enjoys. The value of this privilege is shown by the value of the land he owns, irrespective of the improvements upon that land. The United States, then, would not be concerned in any way with the use he made of his privilege, but only in the fact of its existence, irrespective of the place of its exercise.

The reasoning upon which such a tax would be based would be exactly parallel to that upon which inheritance taxes are based. The courts do not consider that inheritance taxes are upon the thing inherited, but upon the right—the privilege—of inheritance, the value of which privilege is measured by the value of the thing inherited.

An interesting illustration of the underlying principle is afforded by certain distillery taxes which are estimated, not upon the amount of whisky produced in the distillery, or upon the value of the machinery, but by the capacity of the distillery. Laying aside the element of speculation, this is the groundwork of the value of land—its capacity to produce wealth.

Another suggestion remains to be made. If I am right in my premises, it is not necessary that all classes of landed privileges should be taxed at the same moment. The experiment may be made progressively. We can start, for example, by a tax upon the privilege of holding land primarily valuable for mineral productions. We can tax the privilege of holding agricultural lands in excess of 1,000 acres, and other modifications may be possible.

The Industrial Commission in its latest report has pointed out the terrible effects of land monopoly, ownership extending even to tracts comparable in size with States of the Union. This problem can be met and with tremendous efficiency, if we have the courage to address ourself to it, in the manner I have outlined.

#### STATEMENT OF MR. WILLIAM KENT, A MEMBER OF THE TARIFF COMMISSION.

MR. KENT. I want to speak to some rather general principles which you gentlemen have heard over and over, and realize thoroughly, I am sure. Of course the taxes that we are talking about raising are now primarily for the purpose of raising revenue. We want to get all the revenue we can.

Taxes have another function, and that is as a corrective or a remedy. The protective-tariff tax is upheld on the basis of a corrective or a remedy. Other taxes are upheld for the same reason. Just now we are trying to get all the revenue we can. Now, revenue can come from only

one source, if it is to be permanent revenue, and that is out of production; and therefore in framing any tax legislation the primary thing to render that source permanent is to see that production is not crippled or destroyed; that enough is left to continue that production, and enough is left to furnish funds for the increase of that production. And when in a time like this we come to applying what we might call the corrective remedial idea of taxation, it should be along the same line, of driving people into production, of driving land into production, and of increasing the fund thereby out of which permanent revenues can be obtained.

Now, for the purposes of revenue for this war, I believe, without having definite figures—and I suppose I should have to confess to entire ignorance if cross examined, rather than to stultify myself by definite answers, when I do not know the answer—it is my belief that one third of the revenue to pay for this war can be raised. If more could be raised, I should be in favor of raising it, provided always it can be raised without destroying production, and I should hope to see every means taken that would drive people and resources into production.

You take the case of men of large incomes. They have around them something they are not to blame for—it is a matter of custom that has grown up—a large fringe that is unproductive; men working for them that are ministering to their own comfort and luxury, unnecessarily. They may have private yachts with whole crews doing no good. They may have landed estates that are unproductive. I should like to see an income tax placed high enough to drive these unproductive people into industry. There ought to be no such thing as a butler or a footman. The class of chauffeurs should be pretty severely cut into. And it seems to me that these things can be automatically arrived at, to a certain extent, by a large income tax.

Mr. MOORE. Mr. Kent, you are familiar with the present tariff law, being a member of the Tariff Board?

Mr. KENT. I helped pass the present tariff law, and I have read it; yes.

Mr. MOORE. The so-called Underwood law?

Mr. KENT. Yes.

Mr. MOORE. Does it not provide that personal servants, such as footmen, coachmen, and butlers, may come in?

Mr. KENT. I did not recollect that clause. Is not that in contraction of the contract-labor clause?

Mr. MOORE. It may not have been in that law.

Mr. KENT. I do not think it is in there. I never remember seeing it, if it is.

Mr. MOORE. I beg your pardon; it is not in the Underwood tariff law; it is in the naturalization law.

Mr. KENT. That is an entirely different matter, that I do not want to get into.

Mr. MOORE. I withdraw that question. You are an expert on the tariff, and I will ask you if you recollect the Burnett immigration bill?

Mr. KENT. What is that?

Mr. MOORE. Do you recollect the Burnett immigration bill?

Mr. KENT. I do not recall all the clauses of it, Mr. Moore.



Mr. MOORE. Was not provision made in that bill for the exemption of such employees as butlers and others who might come in as personal servants of American citizens?

Mr. KENT. I am talking about another matter now, and not about sociology.

Mr. MOORE. I know you are. You are talking about the propriety of having these personal appendages.

Mr. KENT. I am talking about putting them into production work. I am talking about forcing them economically into production work by limiting incomes that can afford to sustain such people. The immigration law brings up a whole series of other questions which I am not prepared to discuss at the present time, although I am perfectly willing to do so; but the day would be too short.

Mr. MOORE. You remember the discussion over that law, do you not?

Mr. KENT. Yes.

Mr. MOORE. Do you recall that provision was made for the admission of such employees of American citizens?

Mr. KENT. I had forgotten it.

Mr. MOORE. It was catering to a rather fastidious taste with which I assume you and I did not quite agree at that time. I do not know whether you did or not. I know I did not.

Mr. HELVERING. The conditions are different now.

Mr. MOORE. Yes, we have war now; and I think we may probably amend some of the laws which we passed heretofore.

Mr. KENT. Now, the question brought up by Mr. Ralston of taxing unused land into use is one of the corrective phases. It is necessary socially and will eventually be valuable economically. Our population in this country, from various reasons prior to the war, was badly distributed, and even if we had had no war we should have been obliged to face this question of badly distributed and therefore comparatively unproductive population with laws that would drive into use—with appropriations and laws that would encourage and make possible the use—the vacant land in this country, to the end of reaching greater production.

This would have been necessary even without the war. But in view of the war, and in view of the tremendous dislocation of population, I conceive that one of the greatest problems we have to face, and one of the greatest possibilities that will arise out of the war, will be a great Federal land policy, and I believe that Mr. Ralston's suggestion of Federal taxation of land beyond certain limits will have a tendency in this direction. I do not know the contents of his bill, I do not know how his bill is worked out, and therefore as a matter of course I am not at all in position to indorse or to criticize that bill, but one of the correctives that we must apply by taxation will be found to be applied to privilege in natural resources, the holding of natural resources for speculation, or, as it has been stated, in forestalling industry. Those natural resources have been heedlessly scattered and there has been a constant tendency among the competent and the farsighted to gather them up and get them in large holdings. In some cases this, as in the case of accumulating enough lumber for an operation, is an economical matter, and justifiable. In many other cases it represents an oppressive privilege that cuts the average of our people off from what a few of our people, owing to their

financial condition and their foresight, and other things less creditable, have been able to secure for themselves.

In general terms, while you are going into this taxing business these things should be considered along the line of remedial taxation.

Now, I do not know if there are any questions you gentlemen want to ask me. If so, I shall be very glad to answer them. I just came here to make a general statement. First, that I hope the maximum possible without destroying production will be raised by taxation; that taxation will be applied to drive men and resources into production, and that those principles will be followed through as vigorously as they may be in the course of the formulation of your policy. Certain it is that this easy borrowing of money for posterity to pay is piling up principal and interest in discouragement for those coming after.

I have known people to leave a church because the church was so badly in debt, and I hope that we will maintain, through these troublous times a country that will not be so burdened that those after us will have a harder time than is necessary in living under its conditions, and I further hope that as has been well stated, our finances will be so conducted that we will be solvent at the end of the war, and there will be no repudiation.

Mr. CRISP. Mr. Chairman, I would like, in order to understand Mr. Kent, to ask him a few questions.

Mr. RAINEY. Very well.

Mr. CRISP. I know that Mr. Kent is a man of large affairs, and there are two or three questions that I would like to ask him.

Which, in your opinion, Mr. Kent, is the most equitable way for the basis of an excess-profits tax under the present law, allowing certain earnings on an invested capital, or the English system, taking the earnings for, say, three years or five years prior to the war, and levying the tax on the excess profits made over the average made before the war?

Mr. KENT. You are bringing up a complicated question there. It is not as easy as it sounds. In other words, under the stress of war conditions we are asking people to produce stuff below what economists call the margin of operation. We are asking people to produce coal that they could not have economically produced before. If the capitalization were not watered, and you asked a man to continue his coal operation in a place where coal could not have been competitively produced, then I think you should allow that man a profit for his operation, and the use of his capital, although he might not have made a profit prior to the war, although he was working in good faith and his capitalization is not watered.

Mr. CRISP. You understand the practical situation, or the practical proposition that confronts this committee, and you are one of the officials of the Government, and I wanted, for myself, your judgment under existing conditions. We are in war. I wanted to ask you which was the most equitable basis.

Mr. KENT. Getting back to my original proposition, the encouraging of production, it seems to me that you should treat with latitude those who are now engaged in production that did not have a profitable business prior to the war.

Mr. CRISP. What percentage of the expense of the war do you think should be raised by direct taxation?

Mr. KENT. I should hope it is possible to raise one-third, as has been suggested, without damaging production. I only have a loose opinion about it, but I believe it can be done.

Mr. CRISP. I understand, but I have confidence in your opinion, and I am asking these questions to get your views. Have you given the question of what the tax rates of the income tax and excess-profits tax should be?

Mr. KENT. No.

Mr. CRISP. Have you any opinion as to what should be the normal rate of income tax?

Mr. KENT. What do you mean, the limitation? You mean how much should be laid?

Mr. CRISP. No; the present rate is 4 per cent. You understand that the duty confronts this committee of raising practically \$2 where \$1 is now raised, and I think it is the universal opinion that a great part of this amount must be raised from income and excess profits taxes.

Mr. KENT. I should go light on the small incomes, and raise it in increasing measure as you get up to the larger incomes, and I have no objection to taking everything above \$100,000, for instance. I do not think there would be any hardship inflicted. If you wanted to get down to \$50,000, I would not complain.

Mr. CRISP. You have never given any attention to the question of graduated rates of taxes?

Mr. KENT. I have not given it any attention; no.

Mr. MOORE. I want to correct my question about domestic servants, and state the law, so that there will be no misunderstanding about it. You yourself raised that question, because you thought we might get along very well without butlers and chauffeurs and other such luxuries.

Mr. KENT. I never owned a butler. I have a chauffeur.

Mr. MOORE. I think you are a pretty good one yourself, judging from the way you go down the Avenue sometimes.

The Burnett immigration law provides as follows:

That the provisions of this law applicable to contract labor shall not be held to exclude professional actors, artists, lecturers, singers, ministers of religious denominations, professors of colleges and seminaries, persons belonging to any recognized legal profession or persons employed as domestic servants.

Mr. KENT. I think if we have them over here we ought to put them to work, including the lawyers.

Mr. MOORE. I am glad to have your opinion as to them, as well as some of these other ornamental persons who come over here from the other side to tell us what to do on this side. But I want to ask you a question or two about your main line of reasoning, which I understand to be that we should encourage production, with which I agree, and that we must raise our revenues by a tax on production.

Mr. KENT. We have to raise it out of production. It is the only place it can come from, but I do not say that I believe in a tax on production. I believe in taking a part of the products. It is all you can get. It may be in terms of money or in kind, but the only thing you can take, in terms, is product.

Mr. MOORE. Exactly; and you said in your general statement you would apply a tax on consumption, and restrict it to production

only, and I wanted to get your meaning—whether you intended that we should endeavor to raise the revenue exclusively from production.

Mr. KENT. I do not say—I say the only way you can get it is out of production. Now, I have no objection to a consumption tax on certain things. I have no idea but that a semiluxury, like coffee, might properly have a consumption tax placed on it. I think it is proper that an item like sugar, which can be dispensed with to a certain extent without damage, might temporarily, as one measure, pay a consumption tax. But that consumption tax is collected in terms of money, and that has to come out of production somewhere, somehow.

Mr. MOORE. Referring to terms of money, I understand you would be willing to take everything a man earns above \$100,000?

Mr. KENT. Provided it were not needed in his productive business; yes.

Mr. MOORE. That is to say, if it were not to be used over again in producing more?

Mr. KENT. In producing more stuff; yes.

Mr. MOORE. Would you, then, eliminate some of the taxes that are now imposed? In your general tax on production would you eliminate the war excess-profits tax, for instance?

Mr. KENT. No; I think that is a good way to get at it.

Mr. MOORE. Then you would hold such taxes as we now impose?

Mr. KENT. And I would put on all that the traffic would bear without injuring production.

Mr. MOORE. And seeing that we have to raise \$2 next year for every one raised this year, would you simply add that to the tax on production already existing, leaving the other taxes to stand as they are?

Mr. KENT. I do not like the term "tax on production." "Taxes," we will say. The revenue has got to come out of product, but that is a different thing. I say if we can stand it without injuring production, I would double them up; but I would want to be mighty sure that we were not going to destroy production in doing so.

Mr. MOORE. I say, continuing your production.

Mr. KENT. I never used that term, "tax on production."

Mr. MOORE. You said that we had to raise this out of production.

Mr. KENT. Out of products, yes.

Mr. MOORE. You would raise it out of the ore that goes out of the mine, for instance? You would tax that?

Mr. KENT. It depends on what the result would be.

Mr. MOORE. That would be production, and it would be the employment of capital.

Mr. KENT. I have not gone into the detail of specifying how that would come. That ore might come in on excess-profits tax—war-profit tax. It might come in a number of ways. These people who get that ore out of the ground might accumulate a large profit. I might take it out of them with an income tax or profits tax, or any way you could get it.

Mr. MOORE. You would take it out of the profit or the money?

Mr. KENT. I would take it out of the ore mine's income; out of the dividends of the stockholders.

Mr. MOORE. Would you take it out of the product of a farm?

Mr. KENT. I would take it out of everything that pays income above a certain amount.

Mr. MOORE. I want to know if that is as specific as you care to be, because it would be very helpful to us, knowing you as we do and understanding your experience in this matter. Would you take it out of grain, for instance, if we could put grain in such unit form as to be able to tax it?

Mr. KENT. You are figuring now to put the tax back on the consumer.

Mr. MOORE. No; I am trying to put it on the production.

Mr. KENT. If the farmer by his operation made a large net income, I think he should be taxed on his income. I would not want to put a tax on grain and then have that shifted over onto the consumer again.

Mr. MOORE. That is it. Suppose we could group the grain in bushels, or in whatever shape we might make a unit, for purposes of taxation for revenue, would you tax that kind of production?

Mr. KENT. Tax grain?

Mr. MOORE. Yes.

Mr. KENT. No; I would not. I would tax the result, the profit of the operation, the same as I am taxed now in my cattle business. I have to pay large taxes on my cattle business; and at the same time if I had been taxed on the cattle themselves and there had been an open market—I am saying “if,” of course—which there is not, but if there had been a production tax on cattle, I would have put that tax back on the consumer. I do not like that kind of taxation.

But they come to me and say, “Here, you have made money this last year, and we want a large excess profits tax from you,” and I say, “Go to it; and if you want to increase it, go to it;” but I do not want to lay a tax on the product that goes back to the consumer. We want to take the money out of the net that the man has and force the man toward greater economy of living.

Mr. MOORE. You have been studying cotton and wool both in your tariff commission, have you not?

Mr. KENT. We have not had anything whatever to do with cotton.

Mr. MOORE. Cotton comes in unit form.

Mr. KENT. We have not taken up cotton at all. We have done some work on wool.

Mr. MOORE. Would you approve of a tax on cotton?

Mr. KENT. A consumption tax?

Mr. MOORE. Yes.

Mr. KENT. Meaning, thereby, that you would add to the price to the consumer?

Mr. MOORE. Yes.

Mr. KENT. No; I would not. I would tax the surplus profits of the cotton grower. I would not lay a tax that would increase the price to the consumer. I would lay a tax that would take away the excess profits of the man that raised the cotton.

Mr. MOORE. You would tax the products of the mill?

Mr. KENT. I would not tax production of the mill, but tax the resulting dividends or resulting earnings of the mill over and above a reasonable return on capital and replacement.

Mr. MOORE. I may have misunderstood you.

Mr. KENT. I never said I was going to tax the products.

Mr. MOORE. I understood you to start out by saying that we had to increase this revenue by a tax on production.

Mr. KENT. No; I said it must be paid out of products; not by a tax on production. I would not levy taxes that would go back on top of the consumer on top of all these things.

Mr. MOORE. This is one thing that troubles some of us, if we are to raise this revenue, as we must raise it out of products, as you indicate—

Mr. KENT. It can not come from anywhere else.

Mr. MOORE (continuing). If we go and exempt certain products along the line, it is a question how far we can go in raising it.

Mr. KENT. I have never insinuated or said that I wanted to tax the products.

Mr. HAWLEY. Do you think it is possible to frame a system of taxation in which there would be no shifting of the tax burden to the ultimate consumer?

Mr. KENT. There are means whereby a large proportion would be shifted to the ultimate consumer. You take my own personal case; if I am charged a big income tax, what do I do? I shut down on my expenses. I save that. I have very few people connected with me that are not profitably or productively employed, but I will find out where those unproductive people are and turn them into something else; and I can not shift that on to anybody else, and that is taken out of me, that is taken out of my personal economics, out of my method of living; and that is what ought to be done.

Mr. HAWLEY. It has been urged that taxes which would be shifted to the ultimate consumer created a situation in which the general people bore a proportionate share of the burden of carrying on the war. What do you think of that?

Mr. KENT. You can figure out certain things, as I suggested before, that are along the line of what you might call relative luxuries. The nearest to a necessity of those would be sugar. Tea and coffee would be nearer luxuries than sugar. There are some things of that sort where you probably could place a consumption tax that would raise large revenues without any extreme privation to the great body of our people.

Mr. HAWLEY. You would not levy a tax to be shifted to the consumer on the necessities of life, but you would levy one that would be shifted on the nonnecessities?

Mr. KENT. On the relative luxuries. Of course, sugar is now more of a necessity than a luxury.

Mr. HAWLEY. Do you think it possible to frame a tax on that basis?

Mr. KENT. I think so. I think you could frame a consumption tax on those items. I do not see why not.

The CHAIRMAN. Are there any other questions?

Mr. KENT. Thank you, gentlemen.

(Thereupon, at 1 o'clock p. m., the committee took a recess until 2.30 o'clock p. m.)

## AFTER RECESS.

The committee resumed its hearing at 2.30 o'clock p. m., pursuant to recess, Hon. Claude Kitchin (the chairman) presiding.

The CHAIRMAN. The committee will come to order. We will now be glad to hear Mr. Baker.

**STATEMENT BY GIBBS L. BAKER, ATTORNEY AT LAW,  
WASHINGTON, D. C.**

Mr. BAKER. I desire to direct the attention of the committee to—

The CHAIRMAN. Will you please first give your position or what interest you represent?

Mr. BAKER. I represent in this hearing 14 fire insurance companies, as follows: Assurance Co. of America, Colonial Assurance Co., Century Insurance Co., Merchants Fire Assurance Corporation, London & Lancashire Life & General Assurance Association, General Fire Insurance Co., Urbane Fire Insurance Co., Eagle Star and British Dominions Insurance Co., Underwriters at American Lloyds, Underwriters at Great Western Lloyds, Underwriters at New York and Boston Lloyds, the National Underwriters of America, and the Union Underwriters of New York.

I would also like to say that there is present here to-day Mr. John T. Barker, of New York, representing about 20 more fire insurance companies, and Mr. Robert O. Dyer, who is an expert accountant in tax matters, and who has been advising the different insurance companies from time to time.

The matter to which I direct the attention of the committee is rather one more of the administration of the law than any change in it, and grows out of the construction placed on the law by the Treasury Department, which has resulted, as these companies feel, in inequality of taxation. The tax, of course, being levied upon net income permits certain deductions to be made, and under the law of 1916, as amended by the law of 1917, those deductions, as found in Part II, section 12, are—

In the case of a corporation, joint-stock company, or association, or insurance company, organized in the United States, such net income shall be ascertained by deducting from the gross amount of income received within the year from all sources—

First. All the ordinary and necessary expenses paid within the year in the maintenance and operation of its business and properties, including rentals or other payments required to be made as a condition to the continued use or possession of property to which the corporation has not taken or is not taking title, or in which it has no equity.

Second. All losses actually sustained and charged off within the year and not compensated by insurance or otherwise, etc.

And, under section C in this same second clause, there is provided:

In case of insurance companies, the net addition, if any, required by law to be made within the year to reserve funds and the sums other than dividends paid within the year on policies and annuity contracts.

Mr. STERLING. What are you reading from?

Mr. BAKER. From the revenue laws compiled by the Treasury Department from the act of 1916, as amended in 1917.

Mr. STERLING. Is that the law itself?

Mr. BAKER. Yes, sir; this language is identical with that contained in the original act of 1909, and it has gone through all of the acts and has been subject to no change that I am aware of.

Now, a controversy has arisen in the Treasury Department as to what this expression "required by law" contemplates and means, and with what intent Congress enacted it. The Treasury Department in pursuance of that act in its regulations provided, as applying to insurance companies, that returns of insurance companies must be rendered in conformity with reports made to State insurance departments. It further provides:

As all insurance companies are required by law to render their reports to the various State insurance departments for the calendar year, their returns of annual net income for the purpose of income tax should be made for the same period, unless their books are actually kept on a fiscal-year basis.

So that in administering that law the Treasury Department has taken the returns made by the various insurance companies to the State insurance commissions as the basis for the levying of the tax. It happens that in some States the law requires a reserve to be set up by these companies, not only in form but in fact, for unpaid losses—the losses that have accrued but not yet paid. The law of California requires it specifically, and perhaps the law of Illinois, and also Missouri, require these reserves to be set up by insurance companies that have accrued but have not yet been paid; I mean at the end of the year. In all cases arising from these States the Treasury Department permits the deduction from the income of those reserves set up in accordance with the requirements of the State.

There are, perhaps, 135 or 140 fire insurance companies in the United States. Of course a great many of them center in the East, and I presume a very small proportion of them in the States I have mentioned. Under the laws of most of the States, while the reserve is not actually required by law in plain, unambiguous terms, yet it is required in a sense, because the commissioner has instructed that if reserves for these unpaid losses are not set up by the companies it shall reflect upon their solvency, and if found insolvent they must, of course, reinsure or go out of business.

Therefore the practical effect in all of the States, either by virtue of plain, express provision of the law or by virtue of some provision the insurance commission makes pursuant to the law, these insurance companies are compelled to set up reserves for unpaid losses. Yet in three or four States, where no State statute requires a reserve specifically, they are permitted to set it up in deduction of their income for purposes of Federal taxation, whereas in all other States, where they do set it up, they are not permitted by the Treasury Department to deduct it.

Mr. STERLING. You are speaking simply of unpaid losses.

Mr. BAKER. Reserves for unpaid losses.

Mr. STERLING. That is, the next year you get it.

Mr. BAKER. If you make any money from which to deduct it.

Mr. STERLING. You would pay it for the next year?

Mr. BAKER. Yes.

Mr. STERLING. And then you would deduct it?

Mr. BAKER. Yes; if he had income to deduct it from. I am coming to that in a moment and will explain it.

Mr. STERLING. All right. I just wanted to understand that.

Mr. BAKER. Now, gentlemen of the committee, this matter has gone to the Supreme Court on the contention between the Treasury Department and the taxpayers, the taxpayers contending that the



reserve was required by these various States and insurance regulations in effect, and therefore they should be allowed to deduct it. The Supreme Court, in a decision in the matter, in the case of William McCoach, collector of internal revenue, *v.* Insurance Co. of North America, has held that it was evidently not in contemplation by Congress that any reserves should be set off against income, except those specifically required by law, and the decision gives to the law the technical meaning that its words imply and does not give to those companies the benefit of all the requirements made by State regulations in pursuance of State law which would result in an equitable distribution of this tax.

After paying this tax, I assume it is the desire of this committee, and of the Treasury Department and the court, to administer it equitably and distribute it pro rata among the people who have to pay it. We are not here to discuss the amount of the tax or to complain about the tax; we are here to ask that the committee shall so express what the intention of Congress was in the passage of this act, or will incorporate such an amendment in the new law as will cause this tax to be equitably distributed among all the companies affected by it.

The result of the matter is that all the companies that I represent are compelled to pay a tax without the deduction of these reserves for unpaid losses, while in many other parts of the country they are permitted to deduct the losses.

In answer to the question by Mr. Sterling as to why it would not be just as well to have the rule prevail that the loss should be charged off in the next year, I will state that that would be true if these companies made any money in the succeeding year out of which they could charge off these losses that had accrued during the preceding year. As a matter of fact I am informed—and I will submit for the committee's interrogation an expert on this subject—these companies do not earn sufficient money as a rule to permit the carrying over of these losses with any hope that they will be deducted from any income that will be left over and above ordinary expenses and losses during the forthcoming year. I am informed that the average rate of losses is about 60 per cent, and the cost of doing business is about 40 per cent initially, and on a final accounting that the losses are in the neighborhood of 53 per cent on an average throughout the country, while the expenses of operation are about 40 per cent, making a total of 93 per cent, and the total amount of income that these companies receive is less than 5 per cent on the invested capital. So it is not possible as a practical matter to carry over these losses from one year to another and hope to get the benefit of the deduction from the next year's income, because there probably will be no income from which to pay it.

Mr. STERLING. What would you pay them from if you did not have any income?

Mr. BAKER. You could not pay them unless you had income.

Mr. STERLING. I mean the losses?

Mr. BAKER. Oh, the losses. They would be paid out of income from the current year if you deducted them for that purpose.

Mr. STERLING. It seems to me the amount of taxes would be just the same in either case?

Mr. BAKER. If the companies are making money for that year; but suppose a company made money this year and had funds out of which to deduct these reserve-fund losses but were not permitted to do it, and paid taxes and distributed their income as dividends, and then suppose the next year it did not make any money, it would have losses to pay the succeeding year but have no funds out of which to deduct them.

It is not possible that the committee would want the companies to assume any such risk as that when all might easily be obviated by a simple amendment to the law which would provide that these companies could deduct the net addition if any required by law, or regulations made in pursuance of law, which would cover the whole situation.

Mr. STERLING. Have you indicated where you would insert such an amendment?

Mr. BAKER. I would suggest that the law be amended as follows:

Amendment to Part II, section 12 (2), paragraph 2, of the act entitled "An act to increase the revenue and for other purposes," approved October third, nineteen hundred and seventeen.

Amend that portion of the said second paragraph, under subdivision (c) by adding the words "or regulations in pursuance of law" after the word "law" in said subdivision (c), so that the said subdivision will read as follows:

"(c) In the case of insurance companies, the net addition, if any, required by law, or regulations made in pursuance of law, to be made within the year to reserve funds and the sums other than dividends paid within the year on policy and annuity contracts."

That would give these companies the benefit of the requirements of the various State insurance commissions, and would put them exactly on a parity with all those companies where the express language of the statute requires these reserves to be set up.

As to the practical operation of the fund affecting income and the taxation of these companies I desire the committee to hear for a moment Mr. Stewart, who is an expert accountant in the employ of these insurance companies.

Mr. STERLING. Let me ask you another question before you retire: Suppose the committee felt it absolutely necessary to get more revenue from the insurance companies, and we feel that we must ask the insurance companies for more revenue in order to help the Government at this time, have you any suggestions as how best to do it?

Mr. BAKER. Yes; by taxing these companies. But I want to suggest in doing so you should apply it equitably among the companies. If it is the desire of the committee to do that we are not here to object to the rate of taxation, but we do ask that it be distributed equally among all of the companies and be distributed in such fashion that it can be paid out of the profits and not out of invested capital.

I will now ask that you hear Mr. Stewart.

The CHAIRMAN. The committee will hear Mr. Stewart.

#### STATEMENT OF ROBERT L. STEWART, ACCOUNTANT, MAIDEN LANE, NEW YORK.

Mr. STEWART. Mr. Baker has stolen all my thunder—

The CHAIRMAN. I would like you to state whom you represent?

Mr. STEWART. The Colonial Insurance Co. As I said, Mr. Baker has stolen all my thunder. He has covered the point that I had

to make, and that was that the application of the law as it is now made, possibly may, and in fact does, work injustice to the companies. As long as the companies make money year in and year out the amount of the tax will not be reduced, but if at the end of a given year they should have a large sum of unpaid losses which had accrued, and the next year they should have unfavorable experiences, then they could not, under the present method of administration, get back the tax which had been exacted in advance, so to speak. By putting it on an accrual basis—that is, by receiving credit for the unpaid losses year in and year out, the amount of the tax would not be lessened provided the companies made money. On the paid basis if they lost money in any one year they would be out of pocket. In other words, they would pay the tax in advance, which does not seem fair.

Mr. STERLING. Did very many insurance companies last year come up against the difficulties that you have mentioned?

Mr. STEWART. In the year 1917 for something like 135 companies the loss ratio was 57 per cent and the expense ratio was 42.4 per cent I think, which made about 99 per cent. The larger part of that 57 per cent of accrued losses was unpaid during the year, yet the tax has been paid on it. If they run into another year with the same experience there is nothing to get that tax back from, there will be no profit, and it is not unreasonable to suppose that that condition might occur. I think, as Mr. Baker mentioned, the percentage of losses, or the loss ratio, as we term it, for the period of years since the companies have been in business is something like 53.6 per cent, and the expense ratio runs around 40 per cent.

Mr. STERLING. Do you mean to say that insurance companies pay losses amounting to 57 per cent and it takes 42 per cent to operate the companies?

Mr. STEWART. Yes, sir. These are statistics compiled by the National Board of Fire Underwriters, for one, and then again, I have here a table, an exhibit, I will say, showing something like 135 domestic insurance companies, and their loss ratio for the period that they have been in business, not taking into account unpaid losses they had outstanding at the end of the period, is 53.6 per cent; and the experience of these same companies for the year 1917, as I mentioned, shows a loss ratio of 57 per cent and an expense ratio of 42.4 per cent.

Mr. STERLING. It takes almost half the premiums that they collect in order to run the companies?

Mr. STEWART. Yes, sir. The average expense ratio is around 40 per cent.

Mr. MOORE. Is that expense made up chiefly of salaries?

Mr. STEWART. That includes salaries, commissions, taxes, fees, and charges of any and every kind.

Mr. MOORE. What relation do salaries bear to commissions, as a rule?

Mr. STEWART. That I am unable to say.

Mr. MOORE. Commissions, of course, are paid for drumming up business?

Mr. STEWART. Yes. Some companies are operated on a commission basis altogether and pay no salaries.

Mr. MOORE. Some of them are perpetual, run as long as they do business?

Mr. STEWART. What do you mean, commissions?

Mr. MOORE. The commissions run as long as the policies are in effect, do they not? I mean, as long as the premiums are collected?

Mr. STEWART. Yes.

Mr. MOORE. A sort of perpetual commissions?

Mr. STEWART. Yes, sir; and the same commission applies to renewal premiums.

Mr. MOORE. Have you any idea, taking any given company, how much is paid in commissions and how much in salaries?

Mr. STEWART. No, sir; I have no statistics available for that, not to my knowledge.

Mr. HAWLEY. How do you create reserves? If your operating expense is 42 per cent and your losses amount to 57 per cent how do you create a reserve?

Mr. STEWART. These losses are all reported to the various companies through which they operate, with the estimated amounts. As to some losses, of course, it is impossible to tell just what they are going to work out, but experience has shown that the companies come within about 10 per cent of the actual amount of losses paid.

Mr. HAWLEY. Fifty per cent is the estimated loss?

Mr. STEWART. That is the incurred loss, which includes both the losses actually paid and those which are unpaid. The paid amount generally comes within 10 per cent or 12 per cent of the estimate which the company originally charged off.

Mr. HAWLEY. I do not yet see how you create a reserve under those conditions. You must have some reserve funds out of which to pay an unexpectedly large amount of losses in any one year.

Mr. STEWART. Yes, sir; that is what we are required to set aside each year by the State insurance departments.

Mr. HAWLEY. Is that included in the 42 per cent?

Mr. STEWART. No, sir; that is included in the 57 per cent.

Mr. GIBBS L. BAKER. In order to clear that up, may I ask a question? What effect would this amendment have on the revenue as to reducing it or increasing it?

Mr. STEWART. As long as the companies make money it would not reduce the revenue. It is only in event of a company losing money whereby it would be penalized, having already paid the tax on the previous year's business.

Mr. GARNER. Do you mean that the position of the insurance company is this: If you lose money this year, and make money next year, you want the law so drawn that you may have credit for what you lose this year out of next year's income?

Mr. STEWART. No; we want credit for it this year, not next year.

Mr. GARNER. Do they charge you anything if you make a loss this year?

Mr. STEWART. Yes, sir; they do. Perhaps I can give it to you in concrete form: Assume that a company writes a premium income of \$100,000. Our experience shows that it costs 40 per cent, or \$40,000, to get that business. The loss ratio averages around 60 per cent, which would be \$60,000. Now, at the end of the year if we had paid out \$40,000 of these losses we would still have unpaid \$20,000 of accrued losses which we are not allowed to deduct, though on that amount we pay taxes.

Mr. GARNER. Well, wouldn't you be allowed to deduct it next year, that \$20,000?

Mr. STEWART. Yes; if we make enough money.

Mr. GARNER. Suppose you have the same condition next year; you would have a deduction on next year's business of \$20,000 coming over from the previous year?

Mr. STEWART. Providing it was paid during the next year we could deduct it, but if we had the same experience, the ratio of 60 and 40, there wouldn't be any income to deduct it from.

Mr. GARNER. We have had a great many gentlemen coming before us, asking if a man in business loses \$100,000 this year and therefore pays no taxes, and next year he makes \$100,000 profit and pays taxes, and the next year he loses \$100,000, and the following year makes \$100,000, that he be allowed an offset. If we followed that plan we would never get any money, would we?

Mr. STEWART. We do not want that. We just want each year to stand on its own business.

Mr. CRISP. Is this your position? If your income is \$100,000 and \$40,000 represents your expenses and \$60,000 your losses, that you want to be charged on what you do? I mean, if you had deaths during the year sufficient for you to pay out \$40,000, or that you actually paid out for death benefits or fire losses, as the case may be, and in your case it means fire losses, representing \$40,000, and if there were \$20,000 more to be settled for that year, you estimate that you would lose \$20,000 that you have not actually lost and have not actually paid out but you have paid taxes on? Am I correct in that?

Mr. STEWART. Yes, sir.

Mr. CRISP. In making your tax return for that year you want to be allowed to deduct that \$20,000 that you have not paid out and have not lost except theoretically?

Mr. STEWART. Yes; which we have been compelled to set up a reserve for by the workings of a State law.

Mr. CRISP. I thought that was your position.

Mr. STEWART. That is the point.

The CHAIRMAN. Does any other gentleman want to ask Mr. Stewart any questions? If not we will hear Mr. Dyer.

**STATEMENT BY ROBERT O. DYER, ACCOUNTANT, NO. 10 WALL STREET, NEW YORK CITY.**

Mr. DYER. The question involved is largely one of accounting. The general principles laid down in the more recent acts permit corporations to elect upon which basis they will make their returns—an accrual or a cash basis. These fire and marine insurance companies keep their books of accounts by approved methods, and, necessarily, they follow accruals throughout. They make their reports as required by State laws and regulations, on the forms prescribed, which are changed at the whim or caprice of the insurance department of any State. Therefore there is no uniformity of State reports, which State reports are the basis of their tax return to the Federal Government. All other corporations are permitted to make returns on the basis of their books of account, and as a rule I suppose 90 per cent of them make

returns on the accrued basis. The regulations have been quite liberal.

Mr. STERLING. Please explain the accrued basis.

Mr. DYER. That is on a double-entry set of bookkeeping. Take taxes, for instance, accrued but not paid. They are liabilities set up and acknowledged in the books and recognized by the board of directors and officers of the corporation. The Treasury Department has been quite liberal in recognizing charges or liabilities of that kind in the treatment of practically all corporations until they reach fire and marine insurance companies. Under the head of "deduction," as found in the revised regulations of the Treasury Department we find "paid" or "actually paid" dealt with. I will read:

ARTICLE 126. "Paid" or "actually paid."—"Paid" or "actually paid," within the meaning of this title, does not necessarily contemplate that there shall be an actual disbursement in cash or its equivalent. If the amount involved represents an actual expense or element of cost in the production of the income of the year, it will be properly deductible even though not actually disbursed in cash, provided it is so entered upon the books of the company as to constitute a liability against its assets, and provided further, that the income is also returned upon an accrued basis.

It is generally understood, and I do not think there is an exception to the rule, that these 100-and-odd insurance companies all keep books on that accrued basis; and further, the act of 1916 recognized the necessity of establishing a basis for accounting, and there is a provision in the law that the regulations deal with and interpret pertaining to the accrued basis and the cash basis. I would like to read further under article 126:

If in the course of its business, a corporation credits the accounts of individuals, firms, or corporations with the amount of any expenses, interest, rentals, wages, etc., due them, thereby making them subject to the personal drawings of such creditors, or if expenses actually incurred are vouchered in definite amounts, the amounts so credited or vouchered may be treated as paid, and if the amounts so credited or vouchered are expenses incurred concurrently with and in the production of the income of the year, they may be allowably deducted therefrom.

This ruling must not be construed to allow as a deduction any accrued charges which if paid in cash or otherwise would not be deductible.

Of course, that is understood. The language of the excise tax, and pertaining to insurance companies, is practically the same that we find in the act of September 8, 1916, and of October 3, 1913, and the recent act of October 3, 1917, amending the act of 1916. Practically all corporations are permitted to make their returns as they may elect, and to claim liabilities that are properly recognizable and chargeable in their books of account, and such deductions are practically in every instance allowable unless open to question in the examination made by the Treasury Department.

The intent evidently of Congress when the question was first considered was to permit the deduction from their earnings of reserves required by law. It is a very broad term. It did not say "State law" or "Federal law." In the administration of the act under the Treasury Department it was recognized that they had many State laws to deal with. Very few are identical. A few States, as Mr. Baker has recited, California, Illinois, and Missouri, require specifically that if such is the claim reserves shall be set up.

Other States, New York, Pennsylvania, Maryland, and probably all the Eastern States, by indirection require the same thing, but the department is limited to the language of the act "required by law." These regulations have the force and effect of a statute until over-

turned by the courts or reversed by a successor in office. Regulations of insurance departments made in pursuance of law have the force and effect of law, and the law by indirection requires these reserves to be set up. Fire and marine insurance companies are paying taxes often on an actual deficit rather than on income, by reason of the fact that the loss reserves they are compelled to set up in their books are not specifically required except by statute, or only by indirection I mean. Therefore the remedy we ask is that you interpret the meaning of Congress "reserves required by law."

Mr. Barker, of New York, representing about 20 insurance companies similarly situated, would be glad to be heard on the same subject.

The CHAIRMAN. We will be glad to hear Mr. Barker.

**STATEMENT OF JOHN T. BARKER, NO. 27 WILLIAM STREET,  
NEW YORK CITY.**

I represent the following insurance companies:

Norske Lloyd Insurance Co. (Ltd.), of Christiania; Whist & Co. (Inc.), United States manager, marine department.

International Fire & Marine Agency Corporation, United States manager, fire department.

Norwegian Assurance Union (Ltd.); Robert Van Iderstine, United States manager. Western Assurance Co. of Toronto; Whist & Co. (Inc.), United States manager, marine department.

Union Insurance Society of Canton; Willcox, Peck & Hughes, United States manager.

Yang-Tsze Insurance Association of Shanghai; Willcox, Peck & Hughes, United States manager.

Northern Insurance Co. of Moscow; Fester & Folsom (Inc.), United States manager.

Warsaw Fire Insurance Co. of Warsaw; Fester & Folsom (Inc.), United States manager.

Union & Phenix Insurance Co. of Spain; Fester & Folsom (Inc.), United States manager.

Salamandra Insurance Co.; Meinel & Wemple (Inc.), United States manager.

Second Russian Insurance Co.; Meinel & Wemple (Inc.), United States manager.

American Equitable Assurance Co. of New York.

Equitable Underwriters of New York.

Knickerbocker Insurance Co. of New York.

New York Fire and Marine Underwriters.

Norwegian Underwriters.

Assurance Underwriters of America.

Lloyds New York.

Norwegian Globe Insurance Co.; Robert Van Iderstine, United States manager.

European Accident Insurance Co. (Ltd.); Fester & Folsom (Inc.), United States manager.

There is very little that I can add to what has been said by the gentlemen who have preceded me. They have covered the ground so carefully that if I should attempt to extend my remarks it would merely be by way of repetition, and I do not think the committee would care to listen to repetition.

I would like to add, however, that what we wish is to have the law made specific, so that we can understand it. To-day as I understand the law, and I have had some experience with it though not as much as these other gentlemen, we are practically paying a tax upon a loss. As things stand to-day that is the situation at the end of the year when we go to make up our accounts and I might suggest, by way of illustration, suppose we find we have losses not yet paid to the extent of \$100,000. As the law reads to-day we have no right whatever to

make a deduction, and the result is that \$100,000 goes into the returns exactly as it is. The following year on the face of our own return we are taxed upon the full amount of that loss. The next year we pay the tax. We are denied the right to deduct the tax from the income tax return. As a matter of fact almost every single dollar, and perhaps every single dollar, is an absolute liability upon the books and which we are compelled to meet in one way or another.

Mr. GARNER. Is that the fault of the present statute or the fault of the Internal Revenue Department in the construction of the statute?

Mr. BARKER. We are inclined to think it is the fault of the statute. You know as well as I do that we sometimes differ in the construction of statutes, and we think frequently, and perhaps it is true in this instance, if it were made more specific and definite in its language we would be sure of a uniform construction of it. As it is to-day every State in the Union may, if we do business in all the States, cause us to make different returns. As has been well stated by Mr. Baker and Mr. Stewart separate returns may be required according to the desire of the commissioner of any State. I think Illinois requires one statement, and Pennsylvania another, and some other State will require another one.

Mr. GARNER. How could that be regulated by the Treasury Department? You don't think the commissioner of insurance of Pennsylvania, or of Illinois, would require you, if there were a general order issued that an insurance company would report at its own home place?

Mr. BARKER. There is no law of the Federal Government on reserves, and the result is the only law we can conform to is the law of the State in which the business is transacted.

Mr. GREEN. Have you gentlemen prepared an amendment that you think would fit the situation?

Mr. BARKER. Yes, sir; and it has been submitted by Mr. Baker.

Mr. GREEN. All right. That must have been done before I came in.

Mr. BAKER. Now, gentlemen of the committee, we want something definite in the statute, and to be allowed a deduction for these losses when they come. If they are put off to the time actually paid, and will not be paid until next year, we do not think in the meantime we should be taxed.

Mr. DIXON. You want a deduction on the face of the policy?

Mr. BARKER. We want a deduction on the accrual basis of our returns. The accrual basis is simply double-entry bookkeeping, and merely takes in everything that is brought up to the day. It is not necessarily due.

Mr. DIXON. Don't you adjust losses as rapidly as you can?

Mr. BARKER. That is the policy.

Mr. DIXON. About how rapidly do you pay them?

Mr. BARKER. Just as fast as they can possibly be determined.

Mr. DIXON. Then the amount carried over must necessarily be limited to the last one or two months in the year?

Mr. BARKER. Yes; it should be that way, and I think perhaps on the whole would be true, because it is the policy of all insurance companies to settle losses as quickly as possible.

Mr. DIXON. If the losses for the month of December were \$100,000 and unadjusted losses were \$75,000 you would ask a deduction for \$100,000 in December?



Mr. BARKER. Well, we would ask for a fair deduction. I don't know just exactly what the amount would be. It would have to be reasonable. We would have to swear to the returns. The reserves themselves would require that. We would pay upon them.

Mr. DIXON. It could be adjusted in the return for the next year?

Mr. BARKER. Yes. When we come to pay taxes the tax would be fair. We do not want to escape taxation, and believe in taxation, but would like it to be uniform and definite and positive so as not to be taxed upon obvious losses.

Mr. RAINEY. This is not exactly appropos to what you have been discussing, but for the information of the committee in making up the next war revenue bill I want to take up with you, and have no doubt you are advised about it, the subject of insurance which is written in this country by foreign insurance companies who are not authorized to do business here and have no domicile in any of our States. Do you know about that?

Mr. BARKER. How is that?

Mr. RAINEY. Do you know of any business of that kind which we have not so far reached in our tax provisions? We have no law which prevents the owner of a ship from taking out a policy in a foreign country, direct in that foreign country, through its foreign office. I understand of this class of insurance, called transportation and marine insurance, one of your insurance presidents not long ago said with reference to the subject that \$25,000,000 went abroad each year in premiums. These companies do not do business in this country at all; that is, so far as maintaining an office here, and are not authorized to do business in any State of the Union, and yet it seems that they are impinging on the business of foreign companies which are authorized to do business here, and on the business of our own domestic companies. Do you know about business transacted in that way, and how we can reach it for taxation?

Mr. BARKER. I have no information that I could advance to the committee to-day upon which it might depend. I should be very glad to appear before the committee at any time it might have a hearing on that subject.

Mr. RAINEY. If you can get up some data I would like to have it. I favor taxing that business.

Mr. BARKER. I think conditions have changed very largely in the last few months. Of course foreign companies issue what they call "cover notes," perhaps bought by cable. But the funds themselves are reached by taxation. When you go to remit, the amounts received on these notes are taxable at the source. Foreign corporations and foreign individuals are reached at the source. Domestic corporations and domestic individuals are reached by information indirectly at the source.

Mr. RAINEY. We will say that A owns a ship or some sort of floating structure and he takes out a policy directly from some Liverpool company, doing business only in England and not authorized by any State of the Union to do business here. If that ship is lost you say in some way it is taxed?

Mr. BARKER. Well, of course, the premium is collected at some place.

Mr. RAINEY. He remits the premium abroad.

Mr. BARKER. If he remits you see you have your remedy there under the—well I do not know what you call it, but I believe the alien enemy law, or whatever it may be. They have their remedies there to reach funds which are remitted.

Mr. RAINEY. What is the remedy? I do not know of any remedy.

Mr. BARKER. You see insurance companies here doing business abroad through foreign correspondents are required to furnish statements to the Alien Property Custodian, or whoever the proper man may be—

Mr. RAINEY (interposing). But that is not the situation here, and I do not think you understand the question. The insurance contract is made in a foreign country, and although the man taking out the contract is an American citizen he pays nothing here but pays it on foreign soil.

Mr. BARKER. He has a return to make.

Mr. GARNER. He has it paid by exchange in Liverpool.

Mr. BARKER. I do not mean by that that you should not amend the law to cover any such case.

Mr. GARNER. Where, Mr. Rainey asks, is it covered by the present law?

Mr. BARKER. In the making of his return. It is his duty to see that taxes are deducted and paid to the United States Government, because he is liable for the return; he is the source.

Mr. RAINEY. I do not think you can reach such a case in this revenue law.

Mr. FAIRCHILD. We have nothing here to cover that situation that I know of.

Mr. BARKER. He must make a return for payments made. Even domestic companies have to do that.

Mr. FAIRCHILD. You are talking about an altogether different matter I think.

Mr. BARKER. Perhaps I am. I think perhaps I have a different point in mind. As a matter of fact he is paying out funds, he has got to make his returns for payments made.

Mr. FAIRCHILD. You are talking about an altogether different matter I think.

Mr. BARKER. Perhaps I have got the wrong point in my mind.

Mr. RAINEY. I have been informed different individuals in this country take out marine and transportation insurance abroad without the intervention of any agency here at all and from companies that don't do business here at all.

Mr. BARKER. That I believe to be true.

Mr. RAINEY. And that the premiums they send abroad some companies estimate it as high as \$50,000,000 a year and we can't reach them at all.

Mr. BARKER. That is a matter I would have to look up.

Mr. RAINEY. I wish you would. We want to get all the taxes we can.

Mr. BARKER. There are quite a number of people—new companies being organized in this country to-day—within the last few months, and it is to the interest of the people whom I represent to see that the taxation is made fair. I can't speak from positive knowledge to-day, but I may at some later time.

**STATEMENT OF MR. CLARENCE E. REID, OF NEWARK, N. J.,  
REPRESENTING THE NATURAL CARBONIC GAS CO. AND  
ALSO COMPRESSED GAS MANUFACTURERS' ASSOCIATION  
OF AMERICA.**

Mr. REID: Mr. Chairman and gentlemen of the committee, I have only a few words to say, assuming that it is the intention of the committee to tax the soft-drink industry along the same lines as in the present bill, and I have put this in the form of a short brief which I will read, and that is about all the time I will take up [reading]:

I am pleased to accept the opportunity offered, to present to you facts for your consideration in connection with additional revenue tax legislation. I represent the Natural Carbonic Gas Co., at Newark, N. J., also the Compressed Gas Manufacturers' Association of the United States, whose membership comprises 90 per cent of the manufacturers of carbonic gas in the United States.

It has undoubtedly been evident to you from the statements made by the several gentlemen who have been heard by your committee in connection with the soft drink industry, that said industry is willing and anxious to pay the limit of the tax that it can stand without destruction of the business. I will not repeat the arguments of the other gentlemen who have been heard in connection with the soft-drink industry, but would say that I, representing the carbonic-gas industry as a whole, support their position and statements as presented at the hearing held by your committee on the 14th instant.

I, however, respectfully submit that in the drawing of a new bill, there are certain things which should be corrected which appeared in the previous bill:

First, I suggest that a proper ratio be established between the tax on carbonic gas sold in drums and the carbonic gas manufactured by the bottler for use in his own beverages.

It was conclusively shown to the committee at the hearings in connection with the previous bill and recommended to the House in report No. 45 on H. R. 4280 that the proper ratio of tax was 1 cent per gallon on the beverage manufactured by the manufacturer, producer, or importer of carbonic gas, as against each 4 cents per pound taxed on carbonic gas in drums for the carbonating of soft drinks.

Therefore, I respectfully submit that the proper basis should be one to four; that is 1 cent per gallon on the beverage for each 4 cents per pound on the gas. If the tax in the new bill is to be 6 cents per pound on the gas sold in drums, it should be 14 cents per gallon on the beverage manufactured and sold by the manufacturer, producer, or importer of the gas, or whatever the amount of the tax, this ratio should be maintained.

Second, There is a discrepancy in the present revenue tax bill, H. R. 4280, in sections 313 and 315, as follows. Section 313, paragraph (b), reads:

"Sec. 313, paragraph (b). Upon all unfermented grape juice, soft drinks, or artificial mineral waters (not carbonated), and fermented liquors containing less than one-half per centum of alcohol, sold by the manufacturer, producer, or importer thereof, in bottles or other closed containers, and upon all ginger ale, root beer, sarsaparilla, pop, and other carbonated waters or beverages, manufactured and sold by the manufacturer, producer, or importer of the carbonic acid gas used in carbonating the same, a tax of 1 cent per gallon."

Section 315 reads:

"Sec. 315. That upon all carbonic acid gas in drums or other containers (intended for use in the manufacture or production of carbonated water or other drinks) sold by the manufacturer, producer, or importer thereof, there shall be levied, assessed, collected, etc."

The intention of your committee at that time, as expressed in your report No. 45, was to tax soft drinks, and beyond question it was the intention that both of these paragraphs should apply to the same class of beverages, but you will note that the expression "containing less than one-half per centum of alcohol," was not entered in paragraph 315. This causes a discrimination against the manufacturer of beverages containing one-half per cent of alcohol or more, who purchases the gas in drums, and in favor of the one who manufactures his own gas.

I, therefore, respectfully submit that section 315 should read as follows:

"That upon all carbonic acid gas in drums or other containers (intended for use in the manufacture or production of carbonated water or other drinks containing less than one-half per centum of alcohol) sold by the manufacturer, producer, or importer thereof, there shall be levied, assessed, collected, etc."

There are two inconsistencies in the present bill that we think should be corrected. The other matters I think are pretty well covered by other members representing the soft-drink industry here on the 14th.

Mr. STERLING. Would your suggestion reduce the revenue from that source or increase it?

Mr. REID. The other gentlemen connected with the industry suggested an increase.

Mr. MOORE. That is to say, if your suggestion is adopted, you would get more revenue?

Mr. REID. Get more revenue.

Mr. GARNER. That is not necessarily true with the change of the wording of it but the change of the rate. Suppose you leave out the words "one-half per cent alcohol" in section 315 as it is in section 313, what difference would that have?

Mr. REID. That the manufacturers of drinks containing one-half per cent of alcohol or more if they manufacture their own gas they are not taxed and no revenue is produced. The result, of course, is no revenue will be gotten.

Mr. GARNER. If we want to get more revenue and based on the same law as now, we would simply leave out the words "one-half per cent alcohol."

Mr. REID. Then it would be a soft-drink tax.

Mr. GARNER. But we would get more revenue out of that?

Mr. REID. Yes, sir. Carbonic gas, no matter in what manner used, if it is taxed the 100 per cent it now carries would produce more revenue.

Mr. GARNER. If we put the provision in 313 that is in 315, then all carbonic gas used in—in section 313 you only pay tax on the gas that goes into soft drinks; that is less than one-half per cent alcohol, is that true?

Mr. REID. Yes.

Mr. GARNER. All the carbonic gas that goes into drinks above that don't tax?

Mr. REID. Yes, sir.

Mr. GARNER. If you made it in 313 so that the only tax on carbonic gas would be the tax that went in below one-half per cent alcohol?

Mr. REID. Yes, sir.

Mr. GARNER. And above that there is no tax?

Mr. REID. Yes, sir.

Mr. GARNER. Whereas if you cut it out of 315 and 313 you get more revenue?

Mr. REID. Yes; but I imagine it was put in for this reason: A great many of the ingredients put in there are carbonated with their own gas, like alcoholic drinks, champagne, or beer. Beer, some of it, is carbonated artificially by simply collecting it in one part of the brewery and putting it in another part of the brewery, and some it is simply fermented and not carbonated. That would permit the one and not the other. My idea on this was that it was a soft drink.

Mr. FAIRCHILD. You want to keep up the distinction?

Mr. REID. That is the idea. The idea is to have the two paragraphs consistent, not let the soft-drink manufacturer who produces his own gas be free of the tax—that is, if we assume it is a soft drink, or any other drink above one-half per cent alcohol—and the other, who purchases in drums, have to pay the tax on it. That was the whole point in that first suggestion.

Mr. GARNER. And you have no objection to going up on the rate of taxation?

Mr. REID. No. Anything that the industry will stand without destruction. Of course, you gentlemen appreciate there is a limit and you can make the tax so high you will get no revenue.

Mr. GARNER. Then you are perfectly willing that the soft-drink industry be put on the same basis as beer, liquor, and cigars; that is, that the taxation shall be that rate that will get the largest amount of revenue into the Treasury?

Mr. REID. That is our idea.

Mr. GARNER. The carbonic gas going into one will be the same as the other. They are all put on the same basis. Our basis of taxation of beer, cigars, and liquor is the rate that will get the largest amount of revenue into the Treasury, and if you make that difference there will be no—

Mr. REID. No; but as I take it from this present bill, this one-half of 1 per cent alcohol distinguishes the soft-drink business and what was the hard drink, as it were. That was my only point. It should be consistent.

Mr. GARNER. We were not taxing the soft drinks as much as we were the hard drinks.

Mr. REID. You are taxing here the soft drinks through carbonic gas entirely.

Mr. GARNER. I understand we are only taxing soft drinks at its source, as it were, not by the gallon. What would you say about taxing them by the gross receipts—soft drinks?

Mr. REID. When I came down here with some other members of the carbonic-gas industry a year ago and you gentlemen shoved this bomb under our noses—200 per cent tax on our products—we tried to find a way out, putting it on someone else. I mean not putting it on someone else except the burden of collecting it. But when we had canvassed the matter from every standpoint possible, we could walk the man up to the soda fountain and have him take the glass of soda water, but there was no registering machine or anything that would tabulate how many drinks of soda water he put down, and we could not see how you were going to collect it. That was the reason given for putting the tax on carbonic gas. We could not understand why we must pay so heavy a tax. When we came down here we were given to understand it wasn't carbonic gas that was being taxed, but soft drinks being taxed at the source. It is quite a burden to the carbonic-gas industry. We would like to be relieved of it if there is any better way of collecting it. But from what I can understand I fear that the Treasury Department will be up against the providing of the machinery necessary for collecting it. I remember when I came down a year ago I was told that in the Spanish-American War the stamp tax cost 30 to 35 per cent of the total receipts to collect it, and that was

one of the reasons why you were going to put it on carbonic gas. There are hundreds of thousands of handlers of soft drinks in the United States. Mr. Cummings, I believe, made the statement the other day that there were 100,000 soda fountains.

Mr. GARNER. One hundred and ten thousand.

Mr. REID. That is a very small number of the sellers of soft drinks. We take practically every grocery store, every drug store, every confectionery store, every stand, every general store.

Mr. FAIRCHILD. Every little stand.

Mr. REID. Every little fruit stand until it runs up to about 400,000 in the United States, people in the retail business that resell the soft drinks.

Mr. MOORE. Have you any idea how large a proportion of these soft drinks at stores were sold, where they don't bother to drink out of a glass, but drink out of a bottle?

Mr. REID. That is becoming more and more the habit, because of the sanitary laws. Our sanitary laws make it necessary to either use a straw or have some very elaborate system of cleansing glasses, as provided in some States. The result is that—

Mr. MOORE (interposing). Are you aware that all over the country, out-of-way places, where soft drinks are sold, boys will buy it and pick it up and drink it out of bottle?

Mr. REID. Yes, sir; and on the trains. I would like to see it go the other way, but that is the—

Mr. MOORE. To what extent is that done?

Mr. REID. Why, it would only be a guess, but I should say pretty close to one-half of the business.

Mr. MOORE. That would be important in consideration of ways and means to reach those matters, to check them up.

Mr. REID. I notice a suggestion made that the soda fountains wanted you to put it on the other side. It isn't in my province to find reasons why you can't. But I noticed a remark about the soda fountains and their checking system, but even the soda fountain mentioned, I believe, Ogram's, here in Washington—I am not familiar with it and I don't know what their system is, but knowing the business somewhat I would say if you go by there the chances are the checks that are working through that cash register, working all the day long, do not represent soda water only, but they represent ice cream, cigars, lunches, drugs, and everything else.

Mr. MOORE. That is true, but they could easily check it up there.

Mr. REID. You could check it more easily with the larger concerns and the more systematic concerns; yes.

Mr. MOORE. I wanted to know if you had any suggestion for checking up those concerns that use carbonic gas drinks in cases where they drink out of bottles?

Mr. REID. Of course if the bottles were checked that would be only a very small per cent of it. The bottles are supposed to come back.

Mr. FAIRCHILD. About the only way to do that would be to have a system on it?

Mr. REID. The trouble is this: Most of these soft goods are handled in open wagons, in bottles without stamps on them, and I understand that was the trouble in previous years, a rain would come up (?) and the bottles all had the stamp on before, but they were gone.

The CHAIRMAN. That was what they claimed—that they had stamps on.

Mr. REID. I said they had them on. I haven't anything further unless you gentlemen have got some other questions. But we would like to get rid of the burden if the Treasury Department can produce greater revenue through putting it some other way, and if they can handle the proposition.

The CHAIRMAN. All right, Mr. Reid. We are much obliged.

**STATEMENT OF CAPT. WILLIAM P. WHITE, UNITED STATES NAVY, RETIRED, TREASURER AND GENERAL MANAGER OF THE LOWELL PAPER TUBE CORPORATION, LOWELL, MASS.**

Capt. WHITE. I seem to have an advantage over some of those who come before you, because I am not only a business man, but I have also been a professional man, so that I can bring the two point views to this question. I feel one of the questions at fault is a question of fundamentals.

Recently, in Indianapolis, this was promulgated:

There must be a single test and standard for every public policy. Every measure must be put to this test: Is it just? Is it for the benefit of the average man without influence or privilege? Does it in real fact embody the highest conception of social justice and of right dealing without regard to person or class or special interest?

Mr. DIXON. That is part of the Democratic convention.

Capt. WHITE. But that is real good Republican doctrine. I am willing to subject my arguments to that test.

Mr. MOORE. Are you willing to state your authority for that suggestion?

Capt. WHITE. I got it from a newspaper. It is supposed to be a report of the meeting of the Democratic convention.

Mr. GARNER. What do you mean by report, platform, or what?

Capt. WHITE. Embodied in the platform, that is the idea I got.

Mr. GARNER. One of the planks in the Democratic platform adopted in the State of Indiana?

Capt. WHITE. Yes, sir.

Mr. SLOAN. How long since was that?

Capt. WHITE. Last month, I think.

Mr. SLOAN. It is not older than 30 days, is it?

Mr. MOORE. Did you come all the way down here from Massachusetts to discover for us that there was a plank in the Democratic platform demanding fairness and justice?

Capt. WHITE. I thought it would be well to state that because some of the gentlemen that have been before you don't seem to understand the meaning of that statement.

Mr. SLOAN. That is just a matter or a bit of Indianapolis humor you are reading, isn't it?

Capt. WHITE. I hope we may be guided in the consideration of this question by that principle enunciated.

Following that, I believe our Government is founded on the equal privilege of its citizens to a voice in its government; to equal protection of its laws; to equal duty of service to protect the Government; and to equal responsibilities to contribute through taxation to the support of the Government, and I am sorry to say that some of the arguments used this morning do not contain that, I feel, fundamental

principle, because some of our friends have been recently reading literature and haven't profited by the example or doctrine they preach of what is going on in Russia. It is the test of that and the effect that doctrine will have in the United States as in Russia. It might not be so rapid, but the ultimate effect will be the same.

Mr. **FORDNEY**. One man stated this morning he built up a great industry by adding to the industry the money he made in the business.

Capt. **WHITE**. That has been one of the fundamental principles of American business, to put the profits into the business so as to build it up. In fact, all our previous taxation has been with the tendency to promote thrift, and that is one of the fundamental principles of taxation, to promote thrift and if we depart from that principle we are not going to have the means of financing this war through the borrowing which the Government must necessarily make in order to pay the enormous bills that are rolling up, and that has to be thought of in your taxation.

Mr. **DICKINSON**. You can't put it all back. You have got to keep out enough to meet the necessities of the Government and the public in time of war.

Capt. **WHITE**. I say I feel it is necessary. It may not be necessary, but I feel it is necessary for the Government to borrow. The Government has got to borrow. It has already borrowed, and the response has been very general, and the last response has been more unusual, but not more generous, than the previous ones.

Mr. **DICKINSON**. Then, if you borrow the money to carry on the war, you have got to meet the interest some time, and then you must keep out enough to meet these interest demands and the ordinary taxes of the Government and not put all of that back into the business. It would be impossible.

Capt. **WHITE**. We will get to that presently. A tax should be so laid as to conserve the industries of the country and it should be so laid as to be equitable to each one of us so that we should contribute in proportion to our abilities to contribute. Taxes should be so formed that it would not interfere with the economic principles.

Tax law should be simple in form so as to be readily understood and without the necessity for legal interpretation. I do not know what it will cost to collect the income that has accrued to the Government during the last year, but it cost the people who made out their returns ten times what it cost the Government to collect it, and it isn't yet definitely settled what that tax is going to be, and it will probably be years before it is definitely settled what the tax law that you passed last session means to those who pay the tax.

Mr. **FAIRCHILD**. Is that surprising? Hasn't that occurred every time that any nation has suddenly undertaken to increase its taxes very largely?

Capt. **WHITE**. I feel probably that the Members of the former majority that were in Congress belong to the legal persuasion.

Mr. **FAIRCHILD**. Yes; because in ordinary legislation one sees no connection with taxes. We have never been able as legislators, either in State or National legislation, to lay down principles that are so delightfully plain and easy that a wayfaring man can understand it.



Capt. WHITE. I understand it is no longer apparently just to hang a man for obeying a law that was issued some three or four thousand years ago. We have gotten past the law—

Mr. FAIRCHILD (interposing). We have got treatise after treatise on murder as we have on taxation, and the difficulties of solving it are still very great. Another law is the statute of frauds law, which reads just as delightfully plain as possible; still we have great shelves filled with books over here in the library interpreting it.

Capt. WHITE. I feel we can pass a law that is much simpler in its location than the present law, and one that would continue after the present Congress.

The CHAIRMAN. What is the special provision of the existing law you desire to call the attention of the committee to as being so unjust and inequitable?

Capt. WHITE. I take your tax on excess profits and incomes from corporations.

The CHAIRMAN. What is your company?

Capt. WHITE. Lowell Paper Tube Co. We make tubes anywhere from the size of a knitting needle up to 40 inches in diameter.

The CHAIRMAN. What is it used for?

Capt. WHITE. For winding paper and for yarn, and things of that kind.

The CHAIRMAN. How much taxes for this year, fiscal year ending June 30, 1918, will you have to pay for excess profits?

Capt. WHITE. We didn't make any excess profits.

The CHAIRMAN. Were you making any excess profits before the war?

Capt. WHITE. I don't know what you call excess profits.

The CHAIRMAN. What percentage on your capital did you make last year?

Capt. WHITE. I say that varies from year to year. Normal years about 20 per cent on the invested capital.

The CHAIRMAN. How much this last year?

Capt. WHITE. It was about one-tenth.

The CHAIRMAN. About one-tenth?

Capt. WHITE. About 1 per cent of the invested capital—no; 10 per cent of the invested capital.

The CHAIRMAN. You mean you are making less net profits this year than you did before?

Capt. WHITE. Than ever before since I have been in the business; net profit.

The CHAIRMAN. Why was that?

Capt. WHITE. Because we had to pay a great deal for paper in the middle of last year and the value of paper shrunk and business fell off, nobody knows why. We did about the same volume of business as the year before, but we had to pay enormously more for our materials and labor, and we were not able to add it on to the consumer.

The CHAIRMAN. How much did you increase your price; what per cent?

Capt. WHITE. During last year from 10 to 20 per cent, I think.

The CHAIRMAN. How much is the capital of your company?

Capt. WHITE. I prefer not to state the capital of the company, if you please.

The CHAIRMAN. What part of your capital is water?

Capt. WHITE. There isn't any water.

The CHAIRMAN. I know, but how much stock did you really issue in excess of the actual cash you put in?

Capt. WHITE. I have been in the business for six or seven years and when I entered the business I reorganized the business in a way; and for the valuation I received I paid actual cash value for what I received, and what I have received since then I paid actual cash value or the value in service.

Mr. GARNER. Do you mean that you paid 100 per cent for each dollar of stock you received?

Capt. WHITE. For each dollar of stock I have received I gave 100 per cent cash on the stock.

Mr. DICKINSON. Did I understand you to say you had no excess profits this last year?

Capt. WHITE. Yes, sir.

Mr. DICKINSON. So you paid no excess-profits tax?

Capt. WHITE. No, sir. I don't come here to argue in regard to the taxes or the taxes on the Lowell Tube Paper Co. I am only interested in the principle of the thing.

The CHAIRMAN. How much stock have you issued out represented by surplus there?

Capt. WHITE. We have not issued any stock to cover surplus.

The CHAIRMAN. But you have a surplus?

Capt. WHITE. We have a surplus; yes.

The CHAIRMAN. Is your stock issued on the market?

Capt. WHITE. No; no stock on the market. It is closely held and is not for sale. There are a half a dozen stockholders.

The CHAIRMAN. Do you mind telling how much cash was paid into the company before you reorganized it?

Capt. WHITE. I say the value that I accepted as being the value of the company was the cash value in the company when I came in and when I reorganized it it was simply to change the form of the stock.

The CHAIRMAN. You issued no more stock when you came in?

Capt. WHITE. No. I say there was preferred stocks given so as to equalize the common stock I acquired, so as to give me control of the corporation.

The CHAIRMAN. When you went into the corporation how many of the old stockholders remained?

Capt. WHITE. They all remained. I simply put so much new capital into the corporation.

The CHAIRMAN. The old stockholders became new stockholders. Now you see you are not interested in the whole company, so you don't mind telling so we can catch some other company. It don't affect you at all. How much stock did you issue after the reorganization in excess of the stocks then outstanding?

Capt. WHITE. I can give you that in proportion. We will suppose that the stock represented the—the ordinary stock represented 100 per cent, the value of the corporation represented 150 per cent, so that in order to distribute the value equitably between the incomer who is going to take 50 per cent of the company's stock, we had to issue to the members who are in the corporation already 50 per cent

of preferred stock. It simply changed the voting power. The preferred stock does not have voting power.

The CHAIRMAN. When was it you reorganized that corporation?

Capt. WHITE. In 1911.

The CHAIRMAN. Did you have any patents that followed that old company?

Capt. WHITE. No patents. We had machinery and processes, good will, and things of that kind.

The CHAIRMAN. Good will; that is the thing I am coming down to. What proportion of the total value of the assets was the value of the good will and processes?

Capt. WHITE. None.

The CHAIRMAN. I thought you said you had bought good will?

Capt. WHITE. I did buy good will but it went in with the company's stock I took, but I say that was not an assessable value, nor was it a value in assessing the——

The CHAIRMAN (interposing). Did the new company buy or issue any stock or pay anything for good will in these processes when it was reorganized?

Capt. WHITE. If I had purchased the entire plant I would have paid 150 per cent on the original capitalization for capital represented by machinery.

The CHAIRMAN. And not by processes or good will?

Capt. WHITE. Not by good will or processes.

The CHAIRMAN. You mentioned good will as one of the elements of valuation in that?

Capt. WHITE. It should have been considered, but it was not considered, because in estimating the thing the corporation was not in a very good financial condition.

The CHAIRMAN. These what you call processes, were they capitalized at all?

Capt. WHITE. No.

The CHAIRMAN. All right, sir. Now, about your excess profits, what provision in the excess-profits tax do you think is so unjust and inequitable?

Capt. WHITE. Because it doesn't apply to all corporations in an equal way. You have got 48 different States under which corporations are organized. Some of them incorporate different ways. Some of them put in as capital stock, or are allowed to, good will or patents.

The CHAIRMAN. You evidently haven't read the bill. Didn't you know there was a provision that you couldn't put good will in?

Capt. WHITE. You couldn't now, but that law was passed after they were organized.

The CHAIRMAN. Is that unjust to prevent them doing so hereafter?

Capt. WHITE. The unjust part of it is when people go into a business on a certain basis and you pass a law of taxation on that basis; it is unjust to people who are in that kind of business; it is inequitable.

The CHAIRMAN. You mean unjust because we don't allow this good will and trade-marks and trade brands that had been capitalized before the war, to permit corporations to deduct in arriving at excess profits tax the amount of the valuation of the good will and trade-marks?

Capt. WHITE. I think it was unjust, yes; but there isn't any adequate way of determining—

The CHAIRMAN (interposing). In other words take the Woolworth Co. It has got \$30,000,000 worth of assets. It put in \$60,000,000 of good will. Do you think it is very unjust not to permit the Woolworth Co. to have a deduction of 9 per cent on that \$60,000,000?

Capt. WHITE. No; I am not defending that; because that good will is a matter of guesswork.

The CHAIRMAN. I thought you said that was the injustice of it in not permitting these gentlemen—

Capt. WHITE (interposing). I didn't say that. The difficulty is arriving at the value of good will.

The CHAIRMAN. How do you measure it?

Capt. WHITE. By the return the business brought in.

Mr. GARNER. Suppose the business earned a revenue on the \$60,000,000 at 10 per cent, would you give them that exemption?

Capt. WHITE. I say if, when that business was incorporated, that question of good will had been considered in capitalizing, then they are justified in selling the stock and saying to their stockholders this stock will pay 5 or 6 or 7 or 8 per cent on this capitalization and the capitalization consists of so and so and so, and enumerate the elements of the capitalization.

The CHAIRMAN. Woolworth never paid a cent for that \$60,000,000. He just put the stock in for what the public generally call water.

Capt. WHITE. I don't agree with you, Mr. Kitchin.

The CHAIRMAN. I know you don't agree with me, but here is your position, that if the Woolworth Co. was making 10 per cent on \$90,000,000, although they only put in \$30,000,000, they should be allowed to capitalize at the rate of \$90,000,000, \$30,000,000 for the real stuff they put in and \$60,000,000 for good will.

Capt. WHITE. You are reorganizing the company now.

The CHAIRMAN. I understand, but your position is that if they were making this much for years and years, this 10 per cent on \$90,000,000, that they should be allowed to capitalize it at \$90,000,000 and have a deduction on the total \$90,000,000.

Although they had only invested \$30,000,000 and \$60,000,000 they regard as trade-marks, trade brands, and so on?

Capt. WHITE. Organization, organized business, and so on.

The CHAIRMAN. Is that your position?

Capt. WHITE. No; it isn't my position.

The CHAIRMAN. I misunderstood you and the committee did, a moment ago.

Capt. WHITE. My position is that when that business was organized, it was organized with certain capital and part of that capital represented the business ability of the men who went into it. They call it good will as it developed. That is where good will comes from, business ability. When it is put in a business it becomes good will, part of it, and those men are entitled to a return just as much as on any other capital put in, but after the business becomes prosperous and is built up in a certain series of years, a volume of business—I will give you an example or exactly what I mean—

The CHAIRMAN (interposing). Take the Woolworth Co. Let's take your proposition. Suppose you and myself and Mr. Garner were to form a corporation and put \$100,000 in that corporation. We would

go to work and we were to make 30 per cent the first year, 30 per cent the next year, and 30 per cent the next year. Now, then, you think it is all right for Mr. Garner and you and myself to issue stocks to ourselves to the amount of \$300,000?

Capt. WHITE. If you please, yes, so far as that is concerned.

The CHAIRMAN. Because it is paying 30 per cent, that is, it is paying 10 per cent on \$300,000, when we only put in \$100,000. That is all we had invested there.

Capt. WHITE. Yes.

The CHAIRMAN. And in the excess-profits tax you and Mr. Garner and myself should have a deduction on 9 per cent of the \$300,000 instead of 9 per cent on \$100,000.

Capt. WHITE. If that is the value of the business, they are entitled to a business return on that valuation.

The CHAIRMAN. Then, if after we issued this \$300,000 stock, instead of \$100,000 as it was when we began it, it is now \$300,000. We are still making \$30,000, 10 per cent. You would think that that stock, every dollar of it, was worth dollar for dollar if it was making 10 per cent?

Capt. WHITE. It may or may not be, depending on future business.

The CHAIRMAN. If we were making it for years?

Capt. WHITE. It must be, or you wouldn't make it.

The CHAIRMAN. If we were depending on a 10 per cent exemption, we would never get any tax from that corporation.

Capt. WHITE. No, sir.

The CHAIRMAN. If we had 9 per cent exemption, we would only get 1 per cent taxes?

Capt. WHITE. Yes, sir.

The CHAIRMAN. That is your position?

Capt. WHITE. Yes, sir. On the other hand, suppose Mr. Woolworth had put in his \$100,000 and had taken out of that \$100,000 invested capital nothing but the most meager returns that would maintain his soul and body together, and had put all his energies and profits back into the business and it comes to a question of where his business is finally extended to \$30,000,000. When you come to measure by your excess taxes you say he should only have an excess tax on \$100,000?

The CHAIRMAN. No. You haven't read the bill. Every one of those 10 years, he would have a deduction for all of that. You come here and denounce this bill. You have just read the newspaper accounts of it. Do you think that is fair for the Congress that passed it practically unanimous and the President that approved it, such a tax as that, do you think it is fair for you to make that statement?

Capt. WHITE. I read as much of that bill as I could probably digest at one time, at one reading.

The CHAIRMAN. You have got the poorest mental digestive capacity of any man that ever appeared before us. If you think the bill wouldn't permit in the case mentioned to deduct that \$100,000 he has put in his business every year, I would suggest that before you come before us to inform us as to the inequities of this bill, that you give it a little more time and digest it a little bit better than you have. Don't you think that you owe us that, and in all good humor

don't you feel that you owe us that much? If you will do that and come back here any time from now till August the 1st—

Capt. WHITE. I think you are in duty bound to hear what I have to say before you commence your questions.

The CHAIRMAN. Go ahead. You said you denounced it as inequitable or unjust, and I asked you to point out an instance, and you pointed out a provision of it, and you show it, and we show that you hadn't read it. Your principle of taxation is just. Be sure the next principle that you denounce as inequitable and unjust that you have read it.

Capt. WHITE. The question comes in as to the form of taxation. The principles that are involved here are as between income taxes and corporation taxes.

The CHAIRMAN. We would like to hear you on that.

Capt. WHITE. Income taxes—and I will say specifically in regard to corporations, because I wish to bring out the corporation income tax. The income taxes of the income of a corporation are not exact entities. They are matters of bookkeeping, even where the conditions are identical, the material is identical, the valuation of that material is a matter of judgment. I will give you specifically, to illustrate, where those inequities may arise. Up in our part of the world we have big cotton mills and we have to carry large stocks of cotton. One of our mills when cotton was low, was able to lay in a large supply of cotton at 10 cents. That cotton has been kept in the storehouse and unused for the last three or four years because they have taken the new product that came in and made it up and sent it out. New sales contracts have been made on the basis of the cost of the cotton in hand. They may have calculated it more than the increased cost of cotton, but when they came to make up the increased return each year—we will suppose two mills had each 500 bales of cotton and one of them paid 26 or 30 cents for that cotton and the other one obtained it at 10 cents a pound. What is the fair valuation to be adjusted according to law of the material in hand? The law provides that you can either take the market value or the invoice value on it. Here are two companies, one of which shows the measurable return which may be subject to excess-profits tax and the other because it is served with cheaper cotton is it not? It is paying a less tax, perhaps, than before the war.

Mr. LONGWORTH. What provision of the law is that?

Capt. WHITE. The interpretation of the law allows as to either the value of the sale stock you have in hand or the invoice stock. The income tax, the excess-profits tax, are on the same basis.

Mr. LONGWORTH. I wish you would tell us what section you are referring to.

Capt. WHITE. I couldn't offhand.

Mr. LONGWORTH. If I show you the law can you?

Capt. WHITE. I suppose I can. No; I can not do it.

The CHAIRMAN. Let's see about the cotton. Here is a mill man that bought his cotton at 10 cents and held it there. And here is another fellow that bought his cotton at 26 cents. The manufacturer that bought it at 10 cents, he manufactures it with a lower raw material and he makes a great deal more profit than the fellow who sold manufactured products made out of the 26-cent cotton.

Capt. WHITE. If he used up his 10-cent cotton, yes.

The CHAIRMAN. Do you think there is any injustice in both of those concerns paying the same rate of income tax?

Capt. WHITE. That their income is determined by the values of the cotton they keep in hand. One man may have used up his cotton and the other may not, and when values are increased it doesn't show. But when they commence to decrease, this man that has a supply of cotton at 26 cents and it goes down to 10 cents, he is going to sustain a loss.

The CHAIRMAN. Yes. Just like I would buy Bethlehem steel at 300 and it goes down to 50. I would sustain a loss if I sold at 50.

Capt. WHITE. The Government doesn't allow you anything for your loss.

The CHAIRMAN. If I sold it when it got up to 500, I would pay a great big tax on that. Is there anything wrong on that principle or not?

Capt. WHITE. I think the principle is wrong; yes.

Mr. LONGWORTH. The reason I asked you the provision of the law you were referred to is the fact that there is no such provision.

Capt. WHITE. I have been misinformed.

The CHAIRMAN. You have been misinformed. They don't consider what you have got on hand. They just consider what you pay for it and what you are getting for your products. That is all.

Capt. WHITE. You have got to keep a reserve of so many bales of cotton. One man has sold his cotton and realized a profit on it; the other hasn't.

The CHAIRMAN. You simply pay a tax on what you put it on your books for. Then, when you sell it, if you have a profit you pay a tax on it, and if you have a loss you don't. I know you are in just as good faith and some of the principles you refer to are just and fine, but you have been misled as to the provisions of this bill by newspapers and by magazines. I know you haven't had time to go down and thoroughly digest that bill, because it is a very difficult proposition to do.

Capt. WHITE. I only asked the advice of a lawyer that I had access to in regard to it.

The CHAIRMAN. There is nothing in the regulations carrying out your suggestion at all.

Capt. WHITE. How, then, is a man to determine the value of his material at the end of the year?

The CHAIRMAN. I tell you the regulation you got mixed up on—it is a regulation of dealers in stocks and bonds and securities, but not on manufacturers at all. Your lawyer had his mind on securities and stocks and bonds.

Capt. WHITE. Well, I will say the question is simply a question of bookkeeping.

Mr. FORDNEY. Let me ask you a question. I think I am right. If I am not, the chairman and other gentlemen of the committee will correct me. In manufacturing an article, if you purchase your raw materials since March, 1913, you may charge for your raw material just what you paid for it, no more and no less.

Capt. WHITE. You mean as a taxable entity?

Mr. FORDNEY. No; just suppose your cotton case, and made so much money out of your business. The way you determine your profit is by way of taking the cost of your raw material and your

labor, and all that. If between what you pay for it and what you sell it for there is a profit, you pay a tax on it. If you purchased your cotton prior to March 1, 1913, the law permits you to value it as of March 1, 1913, and whatever its real market value was that day that value you can put in as a cost charge in your cost production.

Capt. WHITE. Suppose we are buying through the year the same kind of material from one end of the year to the other, and at the beginning of the year the material is worth 10 cents and at the end of the year 20 cents, and we have bought it as we went along, and at the end of the year it is very simple to determine what our manufactured gains are. But suppose at the end of the year we lay in a large supply of this 10-cent material and keep it in stock, and then during the year go and purchase a more valuable material and use it as we go along—

Mr. FORDNEY (interposing). I think under the existing law in a case of that kind you would show what your raw material cost you on an average during the year and that would be the basis of your deduction, not what you paid for the highest price or the lowest price but what did your raw material cost you on the average during the year and how much did you use. You would use as a basis for your valuation the average cost during the year.

Capt. WHITE. Suppose we use during the year the material that we paid 10 cents for—

Mr. FORDNEY (interposing). Suppose during the year you had a certain amount of cotton at 10 cents a pound, during the year you purchase another 50 per cent at 20 cents your average cost of cotton during the year would be the difference between 10 and 20, or, 10 plus 20 divided by 2 or 15 cents.

Capt. WHITE. You started in at 10 and you go up during the year. We may have kept some of this cotton that we paid 26 cents for.

Mr. FORDNEY. In your return you put in what your average cost of raw material was and the Government will allow you for that.

Capt. WHITE. Then I say you wouldn't be fair as regards another industry who had done business in a different way, who had accumulated a large supply of cotton during the year and was entirely without cotton at the end of the year.

Mr. FAIRCHILD. Do you think we could make a law or regulation so as to fit the way of doing business of the business men of the whole country?

Mr. WHITE. I think we can, yes; but not on the basis which you have designed.

Mr. GREEN. No; nor not on any other.

Mr. FORDNEY. On what basis would you recommend that we write it?

Mr. WHITE. On consumption tax. For 50 years we have paid expenses on the basis of consumption tax, and we have collected it when the material consumed came into the United States.

Mr. FORDNEY. Oh, no; I want to differ with you. That is not a consumption tax.

Mr. WHITE. It isn't?

Mr. FORDNEY. No.

Mr. WHITE. We call it a tariff tax. It is paid by the consumer and I call it a consumption tax.



Mr. FORDNEY. I beg to differ with you. Are you a protectionist, or a free trader?

Mr. WHITE. I have voted the Republican ticket all my life.

Mr. FORDNEY. So have I. Let me tell you the difference. A consumption tax is a tax on an article made in this country and consumed here. Germany had a consumption tax of one-half cent a pound on sugar consumed at home; the sugar sent away did not pay that tax.

Mr. WHITE. Mr. Fordney, I agree with your idea in general. But what I mean is a tax on material consumed and paid by the consumer.

Mr. FORDNEY. The point I am making is this: You and I are in the same business, and we pay the same tax. The man that buys our product has to pay the tax; that is, an internal tax. But you may be engaged in this country and I across the sea in the same line of business, and your production is away below mine, but I have to pay a tax to get my goods into this country, and my cost comes up to your cost, due to the tax I have to pay; my Government has permitted you to have that advantage over me; that is the difference in the two taxes. One is an import tax for protection and the other is an internal tax to apply to everyone.

Mr. WHITE. I know, but I say that difference in price is paid by the consumer of the article. If I buy an imported cloth which pays a duty I pay the difference.

Mr. FORDNEY. Unless, Mr. White, that same article is made in this country and would be sold at a higher price, or a lower price, the consumer would not pay it if the foreigner pays it. In most instances the foreigner pays it and makes less profit on it than if there were no tax upon it.

Mr. WHITE. He pays it whenever he didn't have stimulus enough to his business to demand a sufficient increase to take care of the tax.

Mr. FORDNEY. For instance, you take hosiery. Under the old laws hosiery valued at less than a dollar a dozen pairs paid a certain price. This same class of hosiery were made in this country and sold at 25 cents a pair, although the value of those were less than a dollar per dozen pairs abroad. Now, then, the foreigner could not put our men out of business in this country, because a tax put his cost up equal to ours. Now, in such a case the consumer has to pay that; but where it can be made in this country and sold, if you permit the industry to go on, and made and sold as cheap as anywhere else in the world, that tax—

Mr. WHITE (interrupting). Mr. Fordney, in the case of certain cloths made in the United States in imitation of cloths made in England, those cloths sold for a little less than the foreign goods. The foreign goods commanded a higher price because they bore a foreign trade-mark.

Mr. FORDNEY. Not because they were any better?

Mr. WHITE. Not because they were any better. In fact, they might not have been so good. Now, in that case you do concede there was a tax which must have been paid by the consumer, although he could have bought the same goods in the United States at a less price.

Mr. FORDNEY. Yes. Just as with the hosiery; when the domestic hosiery was selling for 25 cents a pair the foreign hosiery sold for 40 cents a pair, and the consumer paid the difference.

Mr. GREENE. He didn't need to?

Mr. FORDNEY. He didn't need to. It was made here, and he bought the foreign goods.

Mr. WHITE. What I am driving at is, whoever paid that paid a cost tax added to the production.

Mr. FORDNEY. The same as internal revenue.

Mr. WHITE. Exactly the same as internal revenue. Then what I would suggest instead of a tax on corporations, on their income, tax them on the gross.

Mr. FORDNEY. Before you get away from that, Mr. White, let me point out the effect of such a tax. Take the wholesale grocery trade of this country. The average wholesale grocery in this country makes about 2 per cent on a sale; but they turn their money over several times a year and on the actual capital invested they make 10, 15, or even 20 per cent; whereas, if you tax them on their gross sales 2 or 3 per cent, you are going to take all their profit, therefore a gross sale tax is very dangerous; but if you tax them on their income——

Mr. WHITE (interrupting). Doesn't it depend on the rate of the tax? Suppose instead of taxing them 2 per cent, you tax them one-half of 1 per cent?

Mr. FORDNEY. Suppose you take the tax on automobiles, which is 3 per cent, and they passed that on to the consumer?

Mr. WHITE. They do it anyhow.

Mr. FORDNEY. Not in all cases. But they have in automobiles, although they said they didn't think they could. Now, that tax was 3 per cent. If you put that tax on everybody in business, you will put some of them out of business.

Mr. WHITE. Mr. Fordney, it is not necessary to put so high a tax on all business; but if it was taxed in that way the business would adjust itself to that.

Mr. FORDNEY. That might be possible, but it is impossible for this committee to know what tax to put on the various industries, or the various products, and the only hope we would have of not putting them out of business would be that the business would adjust itself to the tax. Now, if you tax me on my gross sales, you may take all my profit and my capital, but if you tax me on my income you tax me only a portion of my income, and leave my capital unimpaired.

Mr. WHITE. If the profit is represented by funds that you really have in money and have it in your pocket——

Mr. FORDNEY. You will have the money invested, I mean.

Mr. WHITE (continuing). But, unfortunately, the profits are sometimes represented by the materials on hand, and it is a question how much the corporation is going to make in any one year, unless the business is wound up in that one year.

Mr. FORDNEY. Mr. White, I think the consumption tax is a very dangerous tax.

Mr. WHITE. We are doing it right along. On freight rates, for instance, 3 per cent. On railroad fares, 10 per cent. On Pullman fares, 10 per cent. People are paying that and I haven't heard any complaint about it.

Mr. GREEN. You are not in the position of the Ways and Means Committee, or you would have heard it.

Mr. FORDNEY. I heard a man damn the administration yesterday because of that tax.

Mr. WHITE. But we have got to raise \$8,000,000,000 and you put it on profits and income; where are you going to get the money to float another \$8,000,000,000?

Mr. FORDNEY. Mr. White, there were 210 people in the year 1916, according to the Internal Revenue Commissioner's report, who paid taxes on \$1,000,000 or over.

Mr. WHITE. How did they get that income?

Mr. FORDNEY. I don't know. I know how I got mine. I worked hard for it.

Mr. WHITE. I can get you the information and tell you how it is impossible to prevent enormous incomes of that kind from having to pay out of dividends they get out of business.

Mr. FORDNEY. Let me see, Mr. White. You ask where they get that. I can tell you where some of it came from. I presume, although I do not know—no Government official is permitted to give that information under penalty, heavy fines, and imprisonment. But I presume Mr. Morgan was one of those men who paid taxes on more than \$1,000,000, on account of his very large amount of business. I presume Mr. Rockefeller was another. I am quite certain Mr. Ford was one, because in his own statement for 1916 he showed where his income from the business—not his particular income, but the income from the business—was between \$60,000,000 and \$70,000,000; if his company made \$60,000,000, he held 58 per cent of the stock; therefore he made approximately \$33,000,000.

Mr. WHITE. That is 50 per cent on the invested capital.

Mr. FORDNEY. Yes; and more than that. They made \$60,000,000 that year; so I say the men with a very large amount of capital invested and large profits should pay larger taxes.

Mr. WHITE. I think the case of Mr. Ford is an apt one for my illustration. I suppose Mr. Ford, as any other business man going into business, should be allowed a dividend on his invested capital.

Mr. FORDNEY. You believe he ought to be, you say?

Mr. WHITE. I think he ought to be. Any business man going into business ought to be allowed a fair return on his capital.

Mr. FORDNEY. A fair return on his invested capital.

Mr. WHITE. Yes, sir.

Mr. FORDNEY. If you have more capital than I, that is no reason why you should be penalized?

Mr. WHITE. No, sir; but gains should be made on other things than capital.

Mr. FORDNEY. This existing law, Mr. White, is intended to tax Mr. Ford and other people with such incomes very heavily, because the income, based on the capital invested, is very great.

Mr. WHITE. I know; but suppose a case where the capital has not been distributed, as in the case of Mr. Ford?

Mr. FORDNEY. What?

Mr. WHITE. I say, it is in the distribution of the capital that it can be assessed directly and won't weigh unduly on business. And that is what we should do. Now, in the case of the express companies, they were compressed into one company and were allowed 5 per cent on the capital invested by the stocks of that new company, and if they made any more, and suppose it were subject to distribution, that the Government took three-fourths of it and the express company got one-fourth. Now, why not use that same principle in

business in general, and say, if you have distributed 5 per cent on a business during the year on your capital, and then the Government steps in and says, "If you want to distribute 6 per cent you have to pay so much additional, and if you want to pay 7 per cent, you pay so much," and so on, until it will be no longer profitable for the company to distribute it in that year.

Mr. FORDNEY. This law provides he must distribute it or pay heavy taxes on it; that is the present law.

Mr. WHITE. Then you tax out of existence the people who make these expenses. Think of the slumps after the war is over.

Mr. FORDNEY. Oh, no; he can put money back into the business, and use it as surplus. The law permits him to do that. But if he doesn't put it back, then he must pay an extra tax on it, if he doesn't distribute it.

Mr. WHITE. I say, make the law so that when the dividend is distributed by the corporation the tax is paid for the privilege of distributing it, and not taken from the man to whom it goes.

Mr. FORDNEY. The money doesn't belong to the corporation.

Mr. WHITE. No, not to the corporation.

Mr. FORDNEY. The money doesn't belong to the corporation. The corporation is trustee for the stockholders, to handle their money, and to make money for them, and to pay its debts. Why not, then, tax the money, as the law now does, in the hands of the man individually after a reasonable tax has been paid as an excess profits tax and as a corporation tax; and then it goes to the individual, and on that he pays a tax?

Mr. WHITE. Because it is not profitable for the corporation, if they are going to go on and pay a profit.

Mr. FORDNEY. The law and regulations permit you to keep a certain reserve on hand.

Mr. WHITE. Yes, sir.

Mr. FORDNEY. And protect your business.

Mr. WHITE. I say, they should be allowed to keep enough to protect it against future depreciation.

Mr. FORDNEY. The law permits that now.

Mr. WHITE. I say all right; then let the stock going to the stockholder be taxed.

Mr. FORDNEY. That is existing law.

Mr. WHITE. I say no; because after it goes to the stockholder, if John Jones is the owner of two shares he gets off and doesn't have to pay any more tax; he goes and spends his money as he pleases, or reinvests it; but the other man, who has a hundred shares, he has 100 times as much as the other man, and he has to pay an additional tax.

Mr. FORDNEY. I beg to differ with you. Whatever the share may be, it goes into the general pot and the taxes are paid out of that. It doesn't go into the normal tax.

Mr. WHITE. The normal tax has been already collected.

Mr. FORDNEY. Yes; but when that gets to you you pay a tax on it, except you don't have to pay a normal tax on it. It goes into your income, and whatever the law says you must pay you pay a tax on that. You are not exempt because you get the money from a corporation any more than if you got it from some other source.

Mr. WHITE. No; and no matter what your outgo is nor to whom it goes.

Mr. FORDNEY. I beg to differ with you about that.

Mr. WHITE. Oh, yes; to certain charities.

Mr. FORDNEY. Certain expenses you are permitted to charge.

Mr. WHITE. I say if they be charities, or expenses attached to the business; but as far as income is concerned you pay a tax on that income?

Mr. FORDNEY. Yes.

Mr. WHITE. Now, what I protest against is that one section of the community should be taxed for its income and another section of the community is not taxed at all and has expensive tastes and goes to work and gratifies them, whereas a person with an income goes ahead and does not gratify his tastes and lives economically and then by that means acquires a competence.

Mr. FORDNEY. I don't understand that. Everyone pays a tax alike; isn't that true?

Mr. WHITE. Everyone that has the same income is taxed alike, but what I protest against is that a man should be taxed on his income, when he should be taxed on his outgo.

Mr. GREEN. You think the provisions for this income tax are wrong—

Mr. WHITE (interrupting). Because they are basically wrong.

Mr. GREEN. Well, in the first part of your paper you read a statement that people should pay according to ability?

Mr. WHITE. Yes, sir.

Mr. GREEN. And yet you say there should be a consumption tax. A consumption tax is not based on the ability to pay at all.

Mr. WHITE. How are you going to determine the way for each person to pay their relative share?

Mr. GREEN. You are begging the question. You are talking now about the relative share.

Mr. WHITE. I am talking about the equity.

Mr. LONGWORTH. Your idea is to have a consumption tax and transfer the consumption tax to the consumer?

Mr. WHITE. Entirely. It goes there eventually.

Mr. GREEN. A consumption tax is the most inequitable tax that could be devised and paid.

Mr. WHITE. Why?

Mr. GREEN. Because it is not paid in by people according to their ability to pay, but according to their needs. For instance, the section man may pay as much as John D. Rockefeller pays.

Mr. WHITE. Let me put it differently. Suppose we put a consumption tax on beef. We want to send to the other side certain cuts and pieces of beef; say, the hind quarters, which I understand are the most profitable for export to the other side. Suppose we put a consumption tax on that part of the beef and do not touch any other part of the beef. If anybody wants that part of the beef he has to pay the increased cost, because of the tax on that part of the beef.

Mr. FORDNEY. That is a consumption tax.

The CHAIRMAN. Your remedy for the tax we now have is to put a tax on gross sales?

Mr. WHITE. Yes, sir.

The CHAIRMAN. On everybody's gross sales?

Mr. WHITE. Yes, sir.

The CHAIRMAN. And then wipe out the excess-profits tax?

Mr. WHITE. Yes, sir.

The CHAIRMAN. You think that would get the money?

Mr. WHITE. Yes, sir.

The CHAIRMAN. And more of it than we get now?

Mr. WHITE. Yes, sir.

The CHAIRMAN. You represent a very respectable class of people in the United States. I have letters from a large number of people advocating that same thing; and I have heard Members of Congress argue that same thing.

Mr. GREEN. Yes; when we had the bill up that was discussed.

The CHAIRMAN. If you have a tax on shoes, say, of 10 per cent, when the Douglas Shoe Co. makes that shoe and puts it out he puts on an extra 10 per cent on the price; and then Tom, Dick and Harry will pay that, according to what they buy. Of course, if they didn't pay it—if the people who bought didn't pay the tax—if the consumer didn't pay it—

Mr. WHITE (interrupting). The corporation would have to pay it.

The CHAIRMAN. But in your opinion the corporation would not pay it, but the people would pay it.

Mr. WHITE. They would do that, or buy somebody else's shoe, that didn't have so much tax.

The CHAIRMAN. A cheaper shoe?

Mr. WHITE. A cheaper shoe.

The CHAIRMAN. But your idea is for the consumer to pay that 10 per cent, added to the sale price?

Mr. WHITE. Yes, sir.

The CHAIRMAN. A great many rich people favor your proposition, because it would not decrease their income any at all. For instance, the corporations made a net income in 1915 of \$3,019,000,000; for the calendar year ending June 30, 1917, they had gone up to \$8,069,000,000, and this last year, which will end June 30, they will make, in round numbers, \$10,000,000,000; that is almost three times as much as they made when the war began. Your proposition would not touch any of that, but would permit these corporations to continue to pile up and pile up profit, and without taking one penny from them. Now, that is your proposition, isn't it?

Mr. WHITE. Not exactly, Mr. Chairman.

The CHAIRMAN. Now, that is what you said.

Mr. WHITE. No.

The CHAIRMAN. Your proposition appeals to all these corporations and other individual tax payers who make those large profits and do not want the profits interfered with during this war. Some of them who agree with you want to make this war an opportunity to get fabulously rich; they want to coin money out of the blood and flesh of the boys at the front.

Mr. WHITE. I wish you would take that—

The CHAIRMAN (continuing). You have some of the richest corporations of the country agreeing with your propositions.

Mr. WHITE. I don't think they agree with me.

The CHAIRMAN. They do agree with you. The result of any gross sales tax is that the people pay all of it. As Judge Green says, the laboring man who is working for \$2 or \$3 or \$4 a day, will drink as much coffee and tea, and need as much sugar—

Mr. GREEN (interrupting). And shoes; he will wear out more than Rockefeller.

The CHAIRMAN. Yes, he will need more shoes; and his buying provisions, the ordinary laboring man, making perhaps \$2 a day, will pay more taxes than John D. Rockefeller, and you think that is right, don't you?

Mr. WHITE. You start out by laying the rate of taxation on the things consumed by the great mass of people, rather than on the luxuries.

The CHAIRMAN. You don't care what it is; you advocate a consumption tax?

Mr. WHITE. Yes, sir.

The CHAIRMAN. That doesn't interfere with any concerns in the United States; all the profits will be as great, because they will add that tax to the article they sell. But the income tax and the excess-profits tax will be paid by the proper persons.

Mr. WHITE. But you didn't get the whole argument.

The CHAIRMAN. I didn't get the whole argument, but I got your position.

Mr. WHITE. The income that comes to the corporations is only to help carry on the business. When it comes to distribute it then there should be a tax paid to the Government.

The CHAIRMAN. I thought your proposition was to do away with the income and excess-profits tax?

Mr. WHITE. Oh, no; I said there should be a tax on certain distributed income.

The CHAIRMAN. What do you think the rate should be on the distributed income in order to raise \$8,000,000,000?

Mr. WHITE. I should say to start with 10 per cent; if 10 per cent doesn't get enough money, make it 20, or 30, or 40, or 50, or, as in the case of the Adams Express Co., 75 per cent; but if you make it too high—

The CHAIRMAN. So you are for a gross-sales tax and a corporation distributive tax?

Mr. WHITE. Yes, sir. So that when the corporation makes money, before it can distribute it to the stockholders it has to pay a tax to the United States for the privilege of distributing it; and you will get more money than you are getting now.

Mr. GREEN. I think it would, perhaps, because that shows how little you understand the excess profits' tax.

Mr. WHITE. One per cent over the five per cent additional tax.

The CHAIRMAN. Then, would you let them distribute all the earnings?

Mr. WHITE. No, sir.

The CHAIRMAN. You would let them carry as much of a surplus as they thought necessary?

Mr. WHITE. As much as they needed to carry on the business.

The CHAIRMAN. Then, under your plan they wouldn't distribute any.

Mr. WHITE. It is no good to the stockholders unless it is distributed.

The CHAIRMAN. Your philosophical taxation principles are very fine, but your practical taxation methods will, I think—really, I think you ought to think more about it and come again.

Mr. WHITE. Now, tell me, why did you levy a tax of 3 per cent on freight rates?

The CHAIRMAN. Because that is really a part of the people's consumptive tax. We said that when we presented the bill that all the people ought to share in financing this war; most of it to be paid by the people who are able to finance it—that is, from income and excess profits taxes—but we did not want to relieve all the people of all taxation altogether, and that is one of the forms of tax which the people pay. The small earner pays something. We thought that he ought to pay something, the poor man as well as the rich man, and that this small tax would make him pay something.

Mr. WHITE. Then, why did you put a tax of 5 cents on telephone messages where the charge is 15 cents or more?

The CHAIRMAN. The people generally don't use the telephone for toll calls; that is an excise tax to help pay the war. If I want to use the telephone I can pay 5 cents for it. People as a rule, one in a thousand, don't telegraph or telephone once in a month.

Mr. WHITE. Why shouldn't he pay?

The CHAIRMAN. If he uses the telephone he does pay that. The people generally have to wear shoes every day, and have to wear clothes every day, and have to wear hats every day, and underwear, and every man has to eat something every day to live, and it is your proposition to tax the one who has to buy these things as a consumption tax.

Mr. WHITE. I am only proposing to tax him on the more expensive cuts of meat and articles.

The CHAIRMAN. Well, we will not agree on the principles of taxation, but we will agree that you have made a very interesting speech.

Mr. FORDNEY. England, with less than half the population that we have in this country, collected four times as much money last year from telephone and telegraph messages as was collected in the United States. Great Britain last year collected over four millions. I want to ask you, Mr. White, how would you put a consumption tax on banks? I mean, a gross sales tax?

Mr. WHITE. On their gross loans.

Mr. FORDNEY. On their gross loans.

Mr. WHITE. On their gross loans; yes, sir.

Mr. FORDNEY. Then you would have to raise the rate of interest to the people of the country?

Mr. WHITE. Naturally. You are raising it now.

Mr. FORDNEY. Oh, no.

Mr. WHITE. Well, they raise it as high as—what they do now, instead of loaning money and paying an increased rate, they go to the Federal reserve and inflate our currency.

The CHAIRMAN. You have made a very interesting speech. The committee will adjourn, to meet to-morrow morning at 10 o'clock.

Mr. MOORE. Mr. Chairman, may I put one question to Mr. White?

The CHAIRMAN. Yes.



Mr. MOORE. In your remarks you suggested that you thought it would be possible to raise \$8,000,000,000 by taxation, but you inquired, "Where will we get the remainder?"

Mr. WHITE. By borrowing.

Mr. MOORE. I want to ask you if you have any doubt about our ability to do it?

Mr. WHITE. Well, we will say you have \$8,000,000,000, and \$16,000,000,000 to raise—suppose they propose to raise that. It is going to be difficult to raise that \$16,000,000,000, possibly. I say, if you increase the taxation by excess profits tax it is going to be difficult to float the loan.

Mr. MOORE. I took it that you had doubts about our ability to raise that additional.

Mr. WHITE. I have very grave doubts, if you increase the tax on income and excess profits.

Mr. MOORE. As the President has called for that amount of money, what would you suggest if the loans are not sufficient?

Mr. WHITE. That we start in and put on, as I have said, a tax on gross sales, 1 per cent a month.

Mr. MOORE. That is, increase the volume of taxation?

Mr. WHITE. Increase the volume of taxation; but put it where it belongs, and not put it on the people who are trying to conserve their incomes, but out of the people generally who do not save.

Mr. MOORE. Do you think that would be destructive of business to any large degree?

Mr. WHITE. It would check some branches of business. For instance, if you increase the theater tax it would reduce that to some extent.

Mr. MOORE. \$8,000,000,000, I think you will concede, will tax business pretty heavily next year.

Mr. WHITE. It will tax it very heavily. I don't know whether we will be able to get it or not.

Mr. MOORE. I thought you had some suggestions to make as to where it could be had?

Mr. WHITE. No; the only place I can see to get it is to put on a consumption tax. The tax this year is not necessarily paid out of the profits of this year—that is, when it is increased they must necessarily increase the prices so as to pay the taxes of this year.

Thereupon the committee adjourned to meet at 10 o'clock, Wednesday, June 26, 1918.

# REVENUE BILL

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No. 17

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## HEARINGS

BEFORE THE

## COMMITTEE ON WAYS AND MEANS

HOUSE OF REPRESENTATIVES

WITH REFERENCE TO

## THE NEW REVENUE BILL

[THIS PRINT OF THE HEARINGS IS SUBJECT TO REVISION  
BEFORE THE FINAL PRINT]

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JUNE 26, 1918



**COMMITTEE ON WAYS AND MEANS.**

**HOUSE OF REPRESENTATIVES.**

**SIXTY-FIFTH CONGRESS, SECOND SESSION.**

**CLAUDE KITCHIN, North Carolina, *Chairman.***

**HENRY T. RAINY, Illinois.**

**LINCOLN DIXON, Indiana.**

**CORDELL HULL, Tennessee.**

**JOHN N. GARNER, Texas.**

**JAMES W. COLLIER, Mississippi.**

**CLEMENT C. DICKINSON, Missouri.**

**WILLIAM A. OLDFIELD, Arkansas.**

**CHARLES R. CRISP, Georgia.**

**GUY T. HELVERING, Kansas.**

**GEORGE F. O'SHAUNESSY, Rhode Island.**

**JOHN F. CAREW, New York.**

**GEORGE WHITE, Ohio.**

**JOSEPH W. FORDNEY, Michigan.**

**J. HAMPTON MOORE, Pennsylvania.**

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**WHITMELL P. MARTIN, Louisiana.**

**WILLIS C. HAWLEY, Oregon.**

**ALLEN T. TREADWAY, Massachusetts.**

**JOHN E. WALKER, *Clerk.***

# REVENUE BILL.

COMMITTEE ON WAYS AND MEANS,  
HOUSE OF REPRESENTATIVES,

*June 26, 1918.*

The committee met at 10 o'clock a. m., Hon. Claude Kitchin (chairman), presiding.

There were also present Representatives Rainey, Dixon, Hull, Garner, Collier, Crisp, Oldfield, Helvering, Dickinson, Fordney, Moore, Green, Sloan, Longworth, Fairchild, Sterling, Martin, Hawley, and Treadway.

The following letter was submitted by Mr. Hawley to be made a part of the record:

IRRIGATION DISTRICTS ASSOCIATION OF CALIFORNIA,

*Stockton, Cal., June 20, 1918.*

Hon. WILLIS C. HAWLEY,

*House of Representatives, Washington, D. C.*

DEAR SIR: As I understand you are the Pacific coast Representative on the Ways and Means Committee, I am sure you will be interested in the inclosed copy of a letter which I have sent to the Commissioner of Internal Revenue in response to one from him under date of June 8. He advised me that the matter of assessments levied by irrigation districts had been fully reconsidered, and it was now held that such assessments are not deductible for income-tax purposes since they constitute assessments against local benefits. This reverses a ruling made by him last February to the effect that such taxes paid to meet current expenses of operation of irrigation districts were deductible. He also says that Treasury Decision 2090 with regard to special assessment districts is held to be applicable under the present law.

As there are a number of irrigation districts in Oregon, and in practically all of the Western States, the matter is of direct interest to you and your constituents.

We are sure Congress did not contemplate such discrimination as is explained in my letter to the commissioner, and if the ruling is not modified, we believe the law should be amended to remove any doubt as to its meaning. Inasmuch as Congress is to revise the revenue law this summer, the time is opportune for such action.

I presume that the ruling in regard to irrigation districts applies also to reclamation and drainage districts, and other similar taxing subdivisions. It has been suggested that the law should be amended by eliminating the words "not including those assessed against local benefits" from the section authorizing the deduction of all taxes in computing net taxable income, and by inserting the words "and assessments" after the word "taxes" so as to make it clear that all taxes and assessments are to be deducted. While some assessments against local benefits, such as those for street improvements, do increase the value of the land assessed, yet they constitute a heavy burden upon the land, which results either in great public benefit, or in an increase in the productiveness of the land. To tax money spent for increasing the productiveness of land, and then to tax the increased income resulting from that increased production seems like double taxation.

If, however, Congress does not desire to go so far, it surely ought to be willing to amend the law so as to exempt taxes levied by any district to meet such expenses as would be deductible if incurred by farmers outside of such a district.

I have written to several members of the California delegation in regard to this matter, and have told them I would write to you. It seems to me the subject might well be taken up with Representatives of the States in the West, the South, and the Mississippi Valley where there are numerous irrigation, reclamation, and drainage districts that will be affected by the commissioner's ruling. I would appreciate any suggestions from you as to how we may most effectively present the matter to the Ways and Means Committee.

Very truly, yours,

A. L. COWELL, *Secretary.*

STOCKTON, CAL., June 18, 1918.

HON. DANIEL ROPER,  
*Commissioner of Internal Revenue,*  
*Washington, D. C.*

DEAR SIR: I am in receipt of your letter of June 8 advising that the matter of assessments levied by irrigation districts has been fully reconsidered and it has been decided that such assessments are not deductible for income tax purposes since they constitute assessments against local benefits.

Permit us to suggest that this ruling involves consequences which we are sure were never contemplated by Congress in the enactment of the income tax law, and we therefore respectfully ask that further consideration be given to the matter to determine whether the wording of the law requires an interpretation which penalizes the farmers who have adopted the plan of public ownership of their irrigation facilities.

Take the cases of four farmers, Smith, Jones, Brown, and Black, all having irrigated farms. Smith is a member of a mutual water company, Jones obtains water from a private corporation selling water for profit, Brown has a large pumping plant on his place, and Black is in an irrigation district. In computing their taxable incomes, Smith will deduct as business expenses the assessments which he pays to the mutual water company, Jones will deduct his water rates paid to the private corporation, and Brown will deduct the cost of operation and upkeep of his pumping plant and something for its depreciation. The payments by Smith and Jones will probably go in part into funds for the payment of interest on bonds and for sinking funds to redeem those bonds, and if Brown has borrowed money to pay for his pumping plant, he will deduct the interest paid on it. Why, then, should Black be denied the right to deduct similar amounts for the same kind of business expense merely because he pays for irrigation service in the form of taxes?

Under the law of California our irrigation districts may charge tolls for the use of water. Tulare district does this. Such tolls undoubtedly are deductible in computing net income. If the farmer in the Tulare district is allowed to deduct what he pays for irrigation service, why should the farmer in the neighboring Alta district, whose cost of similar service is covered by his district taxes, be denied the right to a similar deduction.

North of this city is a territory now served with water by a private corporation. A farmer in that territory would undoubtedly have the right to deduct from his income what he pays the corporation for the use of water, even though part of the payment goes to meet interest on the company's bonds and presumably to build up its sinking fund. It is proposed to organize an irrigation district in that territory and take over the private system. If that should be done, why should that farmer be denied the right to deduct the cost of the same service because he would then pay for it in taxes to the irrigation district?

That it was not the intention of Congress so to discriminate against the people of irrigation districts is evident from the fact that mutual nonprofit-making organizations are especially favored by exempting their incomes from taxation. Furthermore Congress in 1916, after providing for the deduction from incomes of taxes levied by counties, municipalities or school districts, inserted the significant words "or other taxing subdivision of any State." We respectfully submit that your ruling leaves these words without any meaning, although in the act they are emphasized by the repetition of the conjunction "or." To what form of organization can these words refer except such subdivisions as irrigation, reclamation, and drainage districts, which unquestionably exercise the taxing power? It seems clear to us that Congress regarded the phrase, "not including those assessed against local benefits" as well understood to mean taxes levied to pay for permanent improvements designed to increase the value of certain land and assessed in accordance with the benefits supposed to be conferred on the property taxed. Such taxes were undoubtedly regarded as a part of invested capital or for the personal comfort and convenience of the taxpayer. But Congress, of course, knew that considerable portions of the levies made by such districts are not of that character, but are to meet administrative and operating expenses and interest on bonds, and that in some districts even taxes for constructing works are levied on an ad valorem basis, without any consideration of the benefits to individual holdings. Congress must have meant to allow the deduction of at least some such portions of the taxes levied by "other taxing subdivisions of any State," for only by so assuming can we conceive of any good reason for inserting in the law the words quoted.

In considering the deductibility of irrigation district taxes paid for interest on bonds, it does not seem to us to be material that income derived from interest on such bonds is not taxable. A farmer may borrow money for a pumping plant from a Federal farm loan bank or from a mutual savings bank or building and loan association, whose

incomes are exempt from taxation, but that will not affect his right to deduct from his income the interest on the money so borrowed.

Therefore, as the rule is that in case of doubt, such statutes are to be construed in favor of the taxpayer, we respectfully urge that it is possible to construe the law so as to give effect to what seems to be the intent of Congress and so as to be consistent with the policy to encourage, and not to penalize, cooperative effort for increasing the productivity of the soil.

I have been unable to obtain here a copy of Treasury Decision 2090, referred to in your letter, but have written to the collector at San Francisco for it. If there are any other opinions or rulings throwing light on the matter we should be glad to have them.

Respectfully,

A. L. CORNELL, *Secretary.*

The CHAIRMAN. The committee will come to order. Is Mr. Zoller present?

**STATEMENT OF MR. J. FRANK ZOLLER, ATTORNEY, SCHENECTADY, N. Y.**

The CHAIRMAN. Mr. Zoller, state to the committee your name, address, and the business in which you are engaged, and whom you represent at the hearing.

Mr. ZOLLER. J. Frank Zoller, Schenectady, N. Y. I represent the National Conference of State Manufacturers Associations. The National Conference of State Manufacturers Associations represents manufacturing associations of 28 States. These State associations met in conference and appointed a committee to present their views concerning the new revenue bill which we understand is to be drafted and passed by Congress at this session. None of these manufacturing corporations appearing are asking for exemption from taxation. We hope to present to this committee certain ideas and information that may be helpful in drafting the bill which we understand is to raise the revenue required by the Government for the prosecution of the war.

In the first place, we believe that a great deal has already been accomplished in the preparation, passage, and construction of the revenue bill that is already law. It is probable that a great deal could be said in favor of the present law from the standpoint of the Government, because it has exceeded the amount of revenue anticipated; and also from the standpoint of the taxpayer, for the reason that its construction has made it possible for the manufacturer to pay his taxes and at the same time keep his manufacturing plant in operation. There are, however, necessarily inequities and complexities in the present law which we think might be remedied in the prospective act and at the same time not interfere with the purpose of Congress, which, we understand, is to increase the amount of revenue that has been raised under the existing law.

In raising a large amount of revenue in taxes from the manufacturing industry, we believe that it is first necessary to insure to each manufacturer a certain return upon the capital invested free from the so-called "excess-profits" tax. If the manufacturing industry does not receive some assurance that, notwithstanding the tax, a fair return is to be had on the investment, then we believe the law would necessarily result in materially decreasing throughout the country the value of the securities held in these corporations, making it difficult for manufacturers to finance themselves for the requirements of the business that they are required to transact, with the result that

production would be decreased rather than increased at a time when increased production is vital to the success of the Government in winning the war.

The present law provides for a certain deduction based upon prewar earnings, but such deduction is to be not less than 7 per cent nor more than 9 per cent upon the invested capital of the taxable year. It is noted that under the present law the average manufacturer does not receive the benefit of this deduction except under the bracket imposing the 20 per cent rate on excess profits. In other words, if the total net income of the manufacturer exceeds 15 per cent of the invested capital the manufacturer is subject to a tax at rates varying from 25 to 60 per cent, taking into consideration the whole net income, and the 9 per cent deduction in no way affects the amount of income subject to tax at the rates beyond the 20 per cent bracket. We submit that the object of an excess-profits tax ought to be to tax profits beyond a fair return on the capital invested, and for that reason we believe that there should first be a deduction representing such fair return, and that then the balance only should be taxed as an excess profit.

Mr. HELVERING. If it won't interrupt you——

Mr. ZOLLER. It won't interrupt me.

Mr. HELVERING. You stated that the 9 per cent as I understand, did not affect the war profits in excess of 15 per cent. Would you mind giving an illustration to show what you mean?

Mr. ZOLLER. I think I could. You remember the law says that applying these rates, 20 per cent upon such a proportion of the net income in excess of the deduction, but not in excess of 15 per cent of the invested capital. Twenty per cent is the rate under that bracket. Then it says upon such a proportion of the invested capital that is in excess of the net income, that is in excess of the 15 per cent of the invested capital, but not in excess of 20 per cent of the invested capital, the rate shall be 20 per cent. You see the deduction is gone. You are considering the whole income in applying the tax and not the 20 per cent bracket. That is the point I wanted to make, and it is a great difference. Take a corporation that earns \$100,000 net income. Suppose that the deduction on that was to be \$10,000. It is a great difference whether you deduct that \$10,000 and then take the \$90,000 and tax that at rates from 20 per cent to 60 per cent or any other rate, or whether you undertake to tax that whole \$100,000 allowing an exemption under the first bracket only.

Mr. GARNER. May I ask you a question now?

Mr. ZOLLER. Yes, sir.

Mr. GARNER. Your plan, as I understand it, is based on the graduation of the excess profits?

Mr. ZOLLER. Yes.

Mr. GARNER. Suppose this committee should decide that they would have no graduation, only flat excess-profits tax, then there would be no complaint?

Mr. ZOLLER. No; my complaint was not on the graduated scale. I am perfectly willing and these associations are perfectly willing to leave that feature of it to Congress. My plan was in not allowing absolutely a certain deduction.

Mr. GARNER. Suppose you say allow an 8 per cent deduction and take 80 per cent over that? Somebody suggested that. Would that suit you?

Mr. ZOLLER. I do not agree on the 8 per cent, but that is the theory that I have in mind here.

Mr. GARNER. You think that policy would be a good policy to adopt with reference to excess profits?

Mr. ZOLLER. But I would want the 8 per cent figured on the total net income, and then deduct from the total net income, and the balance only subject to tax either at the graduated or flat rate, as Congress may determine.

As the matter of referring to the prewar earnings is difficult and complicated, we suggest that no reference be made to prewar earnings at all for the purpose of determining the deduction that should be granted these manufacturing corporations in ascertaining the amount of income subject to the excess-profits tax; but, on the other hand, that all these corporations be permitted to earn, free from any excess-profits tax, a reasonable return on the invested capital and that the balance be made subject to excess-profits tax at rates to be determined by Congress as sufficient to raise all revenues that reasonably could be expected to be raised from this source, taking into consideration the total earnings of the manufacturing industry. Under the present law the amount of the deduction, we think, in a majority of cases for manufacturing corporations, is 9 per cent of the invested capital of the taxable year. We submit that this allowance should be increased to at least 10 per cent upon such invested capital and that such allowance should be permitted regardless of the prewar earnings. Since the last revenue bill was enacted the interest rates upon money borrowed have steadily increased, and the cost of doing business has also increased. Therefore, assuming that 9 per cent upon the capital invested was a fair allowance at the time the present law was enacted, it is submitted that such allowance is insufficient under present conditions to represent a return on capital invested sufficient to stabilize the present market for industrial securities.

The United States Treasury Department has determined that unless a manufacturer earns at least 10 per cent upon the original investment of the corporation the stock is not worth par. It is therefore submitted that this finding is some proof of the contention that 10 per cent on the actual capital invested does not constitute an excess profit, and for that reason the excess-profits tax should only apply on profits in excess of 10 per cent on the invested capital.

Congress is now in a position to ascertain the total earnings of corporations subject to Federal taxation.

Mr. RAINEY. May I interrupt you? Do you discuss the question of capital invested?

Mr. ZOLLER. I am coming to that.

Mr. RAINEY. All right.

Mr. ZOLLER. Congress can, therefore, determine what the earnings amount to that are in excess of 10 per cent on the invested capital and also what the rate or rates would have to be upon such earnings in order to raise the proper amount of revenue from such source.

The scheme which we advocate of substituting an allowable deduction without regard to prewar earnings we believe would do much to simplify the present law, and no taxpayer under our scheme could



feel aggrieved because his prewar earnings were not equal to those of his competitor because of special or local conditions.

In regard to "invested capital" we are of the opinion that as a general proposition the provision in the present law as construed by the Treasury Department is fair to the average taxpayer. That it is also fair from the standpoint of the Government is manifest from the fact that the present law exceeded in revenue the amount anticipated by the Government. Some attorneys are taking the position that the Treasury Department has exceeded its authority in connection with rulings under the present law. In order to avoid ill-advised litigation at a time when our whole purpose is to raise revenue in an equitable manner and unnecessary confusion, we suggest that such rulings in cases of doubt be clearly incorporated in the new act.

In regard to the income tax, we believe that corporations should be permitted to deduct as a loss the difference between the present cost of property purchased for capital account and the average cost of such property under normal conditions to avoid increasing the capital account beyond an amount that would fairly represent the average going value of the plant, so as to insure solvency of the business after the war. The Government would not necessarily lose revenue as a result of such a provision because the write-off would reduce for all time the invested capital for the purposes of the excess-profits tax.

We further submit that under the new bill which is to produce much more revenue than the present law, all dividends received from other corporations subject to the income tax be deducted in ascertaining the net income taxable under any income-tax act, in order to avoid a multiplicity of taxation upon the same income. At present dividends so received are not deductible in ascertaining the 2 per cent income tax under the act of September 8, 1916.

Corporations are now called upon to make contributions to corporations or associations engaged in charitable enterprises which have to do with rendering valuable assistance in connection with the prosecution of the war. Many States have passed enabling acts making it lawful for the directors of corporations to contribute to these enterprises. Under the present income-tax law individuals who contribute to such enterprises are permitted to deduct such contributions in an amount not in excess of a certain percentage of the total net income, in ascertaining the taxable net income. We believe that a similar privilege should be afforded corporations in connection with like contributions.

Prior to the payment of the income and excess-profits taxes, some banks were of the opinion that it would be difficult for them to loan sufficient funds to meet these taxes on June 15, the time provided for payment under the present law. Many taxpayers at that time asked the Treasury Department to defer the payment of a part of these taxes beyond June 15, charging interest at rates to be determined by the Treasury Department upon all installments paid subsequent to June 15. The Treasury Department answered this request by saying that it had no authority under existing law to defer the payment of such taxes and that the financial condition of the Treasury was such that it could not sanction an amendment to the present law permitting the payment of any part of such taxes beyond June 15. As the new bill, as we understand it, is to produce much

more revenue than that provided in the present law, we think it more important than before to provide in the new law that the taxes thereunder may be paid in installments on and after June 15 in order to avoid any unnecessary strain upon the finances of the country.

There is one other suggestion and it has to do with the administrative machinery in collecting the tax rather than with the tax. After the present law had been enacted, there was appointed an administrative board to advise with the honorable Commissioner of Internal Revenue concerning proper rulings to be made under the law. We would like to suggest that the new law create a permanent board of this character with powers not only of an advisory nature, but also of a judicial nature, to whom any taxpayer who felt aggrieved because of any decision of the commissioner might appeal before bringing his action in the Federal court.

The foregoing is substantially the position of the manufacturers here represented. We have no violent complaint to make to this honorable committee and we do not ask exemption from taxation. We believe that there is nothing in our position that is in conflict with the address of the President of the United States before Congress upon this subject or in conflict with the recommendations which we understand have been made by the honorable Secretary of the Treasury concerning this matter.

In imposing any corporate tax we believe the vital thing to have in mind is an assurance that, notwithstanding the tax, there will be a return reasonable under the circumstances upon the capital actually invested. Without this assurance corporate securities fall in value, thereby wiping out without any adequate return to the Government a substantial part of the Nation's wealth and placing the corporations affected in a position where they can not make and distribute the income which we expect to tax to meet the requirements of the Government in the winning of the war.

I thank you.

Mr. STERLING. Do you suggest that we pass a law giving corporations the right to contribute to charitable purposes?

Mr. ZOLLER. Yes; within certain reasonable limitations.

Mr. STERLING. Do you think Congress would have any right to do that outside of the national banks?

Mr. ZOLLER. Well, I do not think that it is a question. I think they would have a right to do it, so far as the income tax is concerned. Whether they have a right to make any contributions is a matter which seems to me determined by the law, not by Congress, but by the State under which they are created.

Mr. STERLING. Why, certainly; but if we should pass a law to that effect, it could not be binding on stockholders?

Mr. ZOLLER. No.

Mr. GARNER. But I do not understand that he suggested that Congress pass a law, but suggested that we give corporations the same exemption that we now give to individuals, so that where they contribute a thousand dollars, when they come to make their statement of income they can deduct that the same as the individual does now.

Mr. ZOLLER. That is as far as my suggestion was intended to go.

Mr. HELVERING. Mr. Zoller, as to installment taxpayers, you are not of the opinion that the present ruling allowing payments as they are now allowed meets the situation?

Mr. ZOLLER. I am afraid that it does not with a number of taxpayers. Every taxpayer is zealous to use all the capital he has in extending his plant for the purpose of carrying out Government contracts, and he does not seem to be able to arrange in advance. This is merely asking the Government to finance him for a short period, but charging him interest, of course, during that time, and it puts him in a better position to meet this great pressure for capital that is now being put upon the industry.

Mr. HELVERING. It is simply a matter of deferred payment?

Mr. ZOLLER. Yes.

Mr. GARNER. Suppose you give a man the right to pay the tax on the 1st of March and give him 6 per cent discount, then you would provide that if he wants to pay it after June 1, charge him 6 per cent?

Mr. ZOLLER. That is all right.

Mr. RAINEY. Of course, in these tax bills we are doing new and novel things, and would you consider it best in arranging this bill to ignore capital investments entirely with the difficulty of intangibles?

Mr. ZOLLER. I do not see how you can do it and have an excess-profits tax. We hear so much about the English system, and some people would lead us to believe that under the English system they do not consider the capital invested. They do. If capital remained constant all the time, it would be possible to ignore it because you could compare the earnings, having the same amount of capital all the time. Capital is all the time changing, and certainly if a man makes \$100,000 with \$1,000,000 he is not in the same position with a man who makes \$100,000 with an investment of \$2,000,000. I do not see how it is possible to levy an excess-profits tax without considering the capital invested.

Mr. RAINEY. Do you think it would be possible to ignore these distinctions between excess profits, war profits, and all kinds of profits, and simply say that this Nation is at war, ignoring invested capital, and appeal to every individual partnership and corporation to contribute a certain amount of its profits, no matter how much he has invested?

Mr. ZOLLER. Yes; have an income tax at a rate sufficient to get what money you want. That is your proposition?

Mr. RAINEY. That is it, permitting him to put it back into his business as the money he needs to keep his business going in order to make a reasonable amount of new capital.

Mr. ZOLLER. You can not graduate taxes on profits. You have got to have a flat rate if you are going to bring corporations, copartnerships, and individuals in all together. You can have a flat rate income tax of 40 per cent of the total net income, ignoring all these excess-profits taxes and all other kind of taxes, and raise enough revenue, but, of course, that does violence to the fellow who makes a small profit as compared with the one who makes a big one.

Mr. RAINEY. Couldn't it be arranged so as not to do any violence, tax everybody 40 per cent, we will say, whose income is in a certain bracket, whose income is between \$60,000 or \$70,000, and tax everybody a smaller amount whose income is between \$20,000 and \$30,000 in that bracket.

Mr. ZOLLER. You can not apply that to corporations, however, with any degree of equality, and I will tell you why you can not. When you reach an individual you know how much money he is to

got, and you can tax him at either a flat rate or a graduated rate, but the corporation is a combination of a thousand or more individuals, perhaps, and according to your scheme a corporation—

Mr. RAINEY. That is not my scheme.

Mr. ZOLLER (continuing). According to your proposition as I understand it, you take a corporation that earned a million dollars, regardless of the capital invested, and you would tax that corporation at a graduated rate. Now, another corporation might earn \$1,000,000 with twice the investment, and they ought not to pay the same tax as the other one, because if you do that you are going to discriminate against larger aggregations of capital. Where the income is large they have got to split it up and have the income small or they will be penalized.

Another thing, a tax on a corporation is necessarily a tax upon the individual stockholders, and the theory of additional tax is that no individual shall be taxed unless his income exceeds a certain amount. But if you put that tax upon the corporation you are taxing all the stockholders, regardless of whether their return of income is on a million dollars or fifty dollars. Both of those, through the corporation, have been subject to the additional tax, which is contrary, as I understand it, to the theory of a surtax.

Mr. GARNER. You do not object to the necessities of the Government compelling Congress to go up in the normal tax.

Mr. ZOLLER. No.

Mr. GARNER. But you would not want a graduated tax as to corporations, but would so far as individuals are concerned?

Mr. ZOLLER. That is true.

Mr. GARNER. But the normal tax would be applied, and the surtax.

Mr. ZOLLER. Yes.

Mr. GARNER. You would rather have one tax, an excess profits' tax, than a graduated tax?

Mr. ZOLLER. I did not say that.

Mr. GARNER. I know you didn't say that, but your argument would lead one to believe that that was in your mind.

Mr. ZOLLER. If I was speaking selfishly I would say yes. But I do not think there is any argument that can be made upon the graduated tax upon excess profits, providing deduction is first allowed, and the balance subjected to tax.

Mr. GARNER. Suppose we should say we would want \$2,500,000,000 out of the excess profits. Would you have it a flat excess profits' tax, or a graduated tax, your associations?

Mr. ZOLLER. Now, the associations do not agree on that. Personally, if I was drawing a law I would graduate it. There are members of the association that I represent that would have it flat.

Mr. GARNER. Your association is not a unit upon that?

Mr. ZOLLER. Not upon that one thing.

Mr. RAINEY. Do you think we could stand a normal tax as high as they do in England on corporations?

Mr. ZOLLER. Why, I think we can stand a normal tax if properly levied on corporations, individuals and copartnerships, just about as high as is necessary to raise all the revenue the Government needs.

Mr. RAINEY. It is 25 per cent in England, up to \$12,500.

Mr. ZOLLER. Now, you are talking about excess profits.

Mr. GARNER. Twenty-five per cent normal.

Mr. HULL. Of course, the normal tax in England on corporations is different from the normal tax here. There the corporations pay 25 per cent, now 30 per cent, on the total net profit. When they go to distribute interest and dividends, they are allowed to deduct that 30 per cent on the entire amount that is paid out for interest and dividends, but that only leaves the corporation subject to 30 per cent on what it retains in the business.

Mr. ZOLLER. There is great danger of taking the law of any country and just taking the rates and applying them here or anywhere else. You have first got to take into consideration the base. When the base is proper and equitable the rate would take care of itself. It doesn't make any difference what the rate is if the base is equitable and just, and when I say it does not make any difference, I mean within reasonable limits. Of course, there is a limit to Uncle Sam's pocket, the same as there is to everybody else's, but within certain limits the rate will take care of itself if the base is just and equitable, but it is not fair to take a rate in one law, which has a different base, and apply it in this country.

Mr. LONGWORTH. I didn't have an opportunity to hear all of your opening statement. I understood that you figured a deduction of 10 per cent regardless of war profits in all cases. Would you think it would be fair to segregate certain classes of industry, say like oil production, zinc and lead products, from other industries, and allow a greater deduction in their case than in others? That is, would you advocate a classification of industries?

Mr. ZOLLER. Yes; and, of course, as a part of that same proposition, would lower the exemption in the case of public-utility corporations that have not made up to the present time—and it looks as if they never would make—10 per cent. I don't suppose—I am not trying to get at a fair return on capital here—that many would admit that 10 per cent is a fair return on capital under ordinary conditions, but we are trying to get at what would be a fair return under the circumstances in connection with raising this revenue. It seems to me that in that case you have got to reach a point that would be fair in the majority of cases. Now, personally I would not worry if a lot of corporations were exempted from the excess-profits tax, because they do not make 10 per cent. My opinion is that under present conditions any corporation that does not really make 10 per cent upon the capital invested ought not to be subjected to excess-profits taxes, and I may say that I do not want to advocate a tax on anybody else here. I have tried to keep away from that sort of thing. In regard to oil companies and what they make, I am not in a position to know what should be done in that case, but I do believe, as a general proposition, that an exemption of at least 10 per cent would tend to meet the situation.

Mr. MOORE. Now, that you are away from your paper, several gentlemen did not hear it who have come in, and I wish you would restate your proposition about the allowance of 10 per cent. How are we going to raise the money, according to your plan, after we make an allowance of 10 per cent?

Mr. GARNER. Mr. Moore, just before he leaves the statement of policy that Mr. Longworth asked about, you do not care to express your opinion of what the exemption should be on oil, zinc, or lead? I understand you do believe it would be a good policy to classify the business and apply a different exemption according to the business.

Mr. ZOLLER. No, that is not hardly my opinion.

Mr. GARNER. Would you classify the business with reference to exemption?

Mr. ZOLLER. I don't think I would.

Mr. GARNER. What would you say about public-utility corporations, railroads of the country, banking interests of the country, putting them on the same parity with the oil industry or any other kind of hazardous business, or making exemptions to take care of them? If you take care of them all you wouldn't get any money, that is the trouble.

The CHAIRMAN. If I understood you, if you have an exemption of 10 per cent, it would insure capital some return.

Mr. ZOLLER. Yes, sir.

The CHAIRMAN. And you base that upon the idea that we are going to raise considerably the corporation tax. Suppose you raise it 20 per cent instead of 30 per cent like Great Britain has. Now, if you deduct that corporation tax of 20 per cent and the excess-profits tax, give an exemption of 10 per cent, it only leaves you 8 per cent exemption because you see the corporation tax would take 2 per cent.

Mr. GARNER. That is on the assumption that you are going to raise it.

The CHAIRMAN. If I get your idea, if you allow this reasonable exemption which would be enough to be of some little inducement to continue the business, you would expect the rate would be considerably increased.

Mr. ZOLLER. Very high.

The CHAIRMAN. And you would have as few brackets as possible?

Mr. ZOLLER. Yes, sir.

The CHAIRMAN. I think the committee is with you on that proposition. Then the rate is whatever amount we absolutely need?

Mr. ZOLLER. Yes, sir.

Mr. MOORE. Let me restate your proposition.

The CHAIRMAN. That was the purpose of the House Committee in conference, exactly as you have stated it.

Mr. MOORE. Starting with the allowance of 10 per cent how will we raise the tax?

Mr. ZOLLER. First you know how much you are going to get from the income tax.

Mr. MOORE. That you would have constant?

Mr. ZOLLER. Yes, sir. You know how much you are going to get from the income tax, then you know the balance you must raise from this source.

Mr. MOORE. Then starting with your 10 per cent, you would have a corporation income tax?

Mr. ZOLLER. Then I would raise the balance upon the income that is over this 10 per cent allowance.

Mr. MOORE. You would wipe out the excess-profits tax?

Mr. ZOLLER. I would put it on the income that exceeded the 10 per cent of invested capital.

Mr. MOORE. Would you retain that as a special tax, or include that in the income tax?

Mr. ZOLLER. I think I would. Now, there are some people who believe that certain profits are excessive when they are not perhaps. But I think that I would have an excess-profits tax.

Mr. MOORE. That is a war term exclusively, Mr. Zoller.

Mr. ZOLLER. I admit that.

Mr. MOORE. I have no means of telling what the committee is going to do. Some men have conferred upon it, but I do not know what the program of the committee will be, but as the situation presents itself now, the question is, Have you got it, and if you have it how are we going to get it without putting you out of business?

Mr. ZOLLER. I say the way to get it without putting us out of business is to give us a certain allowance that is free of any excess-profits tax, and then tax the balance sufficiently to raise the revenue that ought to be raised from these particular concerns.

Mr. MOORE. You have been very liberal in your statement as to willingness of the associations you represent to do their full part, and I think you are entitled to credit, and the associations, for the position they take; but the action of this committee may be very drastic, evidently it must be, because of the demands made upon it, and therefore I wanted you to be cautious, so far as I am concerned, about your predictions as to what the business can stand, because it is going to be a question of what the traffic can bear, especially as against the manufacturers of this country. They have got to bear a very heavy burden, and it may hurt some of them to some extent, as some see it. May I ask you just what associations are represented by you?

Mr. ZOLLER. There is a national conference of State manufacturers' associations. That conference represents manufacturers' associations—

Mr. MOORE (interposing). State associations?

Mr. ZOLLER. State associations from 28 States.

Mr. MOORE. Is Illinois represented?

Mr. ZOLLER. Yes, sir.

Mr. MOORE. It is a large association and was to have had a spokesman here. Do you speak in his place?

Mr. ZOLLER. I assume I do. I assume that I represent all of these associations.

Mr. MOORE. Then there is no special reason for any individual appearing as long as you are authorized to represent them all.

Mr. ZOLLER. That is my understanding. We appointed a committee and sent out notices that the committee would meet in New York City, and what I have stated is in general terms the position of these associations.

Mr. MOORE. Can you tell us what States were represented in this conference?

Mr. ZOLLER. I do not think that I can give all of them. New York, Illinois, Indiana, Georgia—I think Mr. Glenn, if he is here, can perhaps give those States.

Mr. MOORE. Is Mr. Glenn of the Illinois association?

Mr. ZOLLER. He is secretary of the Illinois Manufacturers' Association.

Mr. MOORE. He was to have part.

**STATEMENT OF MR. JOHN M. GLENN, OF CHICAGO, ILL., SECRETARY OF THE NATIONAL CONFERENCE OF STATE MANUFACTURERS' ASSOCIATION, AND SECRETARY OF THE ILLINOIS MANUFACTURERS' ASSOCIATION.**

Mr. GLENN. Here is what happened. I made an appointment for the Illinois association to appear here by its representative on the 17th, and it was so early that the chairman of the committee could not get here, and when Mr. Zoller was to appear it was merged with this appointment. Mr. Clark was the man.

Mr. MOORE. Mr. Zoller speaks for you?

Mr. GLENN. And I will file with the committee the names of the associations that he represents.

Mr. MOORE. Was the Pennsylvania association on it?

Mr. GLENN. The Pennsylvania association affiliates with the conference. There is no one here from Pennsylvania this morning.

Mr. MOORE. And he speaks for the Pennsylvania association as well? May I ask if North Carolina is represented here?

Mr. GLENN. I do not know. I do not think so.

Mr. MOORE. Does that State have an association?

Mr. ZOLLER. I do not know.

Mr. GLENN. They have an association of textile people down there that manufacture textiles.

Mr. FAIRCHILD. What percentage of the manufacturers of New York are identified with your association.

Mr. GLENN. From a capitalization point, or from the point of number, or the value of the products? Now, you might take the industries of New York, and they would represent, say, \$5,000,000,000 value of products which might be 95 per cent or 99 per cent of the total product value of New York, yet they might only represent 45 per cent, so far as numbers, on account of the smaller concerns not identifying themselves, the concerns that can not afford to maintain a membership.

Mr. MOORE. Let us get it in this way. Is the National Association of Manufacturers represented in this conference?

Mr. GLENN. No, but they are in the room.

Mr. MOORE. Does Mr. Zoller speak for them?

Mr. GLENN. No.

Mr. FAIRCHILD. The point I wanted to get at is that a great many manufacturers are not members of this association.

Mr. GLENN. There is no conflict between this conference and the National Manufacturers Association. We are working with them right here.

Mr. MOORE. But Mr. Zoller is making a very important statement. If his views are the views of the manufacturers, or if they are not, I want to know that.

Mr. GLENN. This conference of State manufacturers' associations—I am the secretary of it—the by laws provide that we get together and talk things over. The action of the conference is in no way binding on the different State associations, yet the State associations are represented in this meeting, created this committee, and sent this committee to draft a plan, and sent Mr. Zoller over here to make a statement.

Mr. MOORE. Let me ask you this. You are interested as an actuary. Are the steel interests represented in this conference?



Mr. GLENN. They belong to this association, and the steel interests in Illinois practically belong to the manufacturers association. The same is true of other States where they have plants.

Mr. MOORE. Are the textile interests represented?

Mr. GLENN. Pretty strongly. Connecticut and Massachusetts are identified with this conference.

Mr. MOORE. Well, it would help me very much as one member of the committee to know just what States are here, and just what lines of manufacture they represent.

Mr. GLENN. I will file with the committee the States that are represented in this conference, that created this committee, and I will file with the committee the State associations that are affiliated with the National Conference of State Manufacturers Associations, so far as I can get it, the capitalization of these different concerns in the different States, and the employees, and such matters as I think you will be interested in.

The CHAIRMAN. The committee will be glad to have it.

Mr. MOORE. If the chairman will let that go in I will be obliged.

I want to say here that so far as the income tax is concerned, four States in the Union pay most of it, and the manufacturing interest contribute largely to that bulk, so it is important to know whether a man who comes here to speak for those interests does actually represent the manufacturing sentiment in the United States.

Mr. GLENN. These gentlemen that own these properties are much concerned in this question.

Mr. MOORE. You have a right to be.

Mr. GLENN. But there is no disposition that we come here with a view of avoiding the tax.

Mr. MOORE. I understand just the reverse. You are coming in a very fair and open-minded way.

Mr. GLENN. That is what I want to do, and I will file the statement with the committee.

(Mr. Glenn filed the following list of delegates present:)

DELEGATION OF NATIONAL CONFERENCE OF STATE MANUFACTURERS' ASSOCIATIONS.

J. Frank Zoller, spokesman, New York.  
 William Butterworth, president Illinois Manufacturers' Association, Illinois.  
 B. H. Howard, Iowa.  
 Roger C. Sullivan, Illinois.  
 A. D. Oliphant, New Jersey.  
 Max W. Babb, Wisconsin.  
 T. P. Linn, Ohio.  
 Guy G. Pritchard, West Virginia.  
 Frank M. Smith and E. B. Knight, Indiana.  
 John H. Buck, Connecticut.  
 John Q. Ross, Michigan.  
 Frank Tregoning, State of Washington.  
 John M. Glenn, secretary National Conference of State Manufacturers' Associations,  
 76 West Monroe Street, Chicago, Ill.

The CHAIRMAN. Is there any other gentleman now that wants to be heard representing the State Manufacturers' Association. If not, Mr. Emery wishes to be heard, and I think it would be well for Mr. Emery to make a statement if he desires to do so in regard to the National Association of Manufacturers.

Mr. LONGWORTH. Before that, Mr. Zoller, I would like to ask with regard to the excess-profits tax. This committee is now facing a different problem than at the time of the first revenue bill and that is due to the Government policy of price fixing. You realize, of course, that if that was carried to its ultimate conclusion there would be no abnormal profits.

Mr. ZOLLER. Yes, sir.

Mr. LONGWORTH. Now, we have that question to face as to what effect the price fixing so far has had or will have on next year's excess profits, how much further the Government may go.

Mr. ZOLLER. If the Government does not permit corporations to make a profit, all I have said does not apply, because my statement has been made on the assumption that they would be permitted to go on and make profit, but the more the profits are cut down the less they are to be taxed, and that will simply mean that if the Government does not allow profits it will not get any taxes, but will have to get the revenue in some other way. And it further means that if they are not able to make earnings, the Government will have to operate it, and the Government will have to do the financing.

Mr. HULL. Mr. Zoller, it looks like, just viewing it from the outside, basing our computations on the net income and excess-profits tax in 1917, the excess profits computed will run up in the neighborhood of \$5,000,000,000. Of course, if we should establish that rate of 80 per cent on the same computation for 1918, the profits should be as large, and we would secure \$4,000,000,000 excess profits. Now, we have had to deal with special cases, with special circumstances that attend the individual business and some industries or subordinate subdivisions of industry. The result is that where their capitalization is not fully shown on account of the fact that they have peculiar factors in them, which do not come within the strict definition of capital invested, some concerns pay a higher proportion than others.

Mr. ZOLLER. Could you give an illustration of just what you mean?

Mr. HULL. For instance, one concern where the profits are derived as much or more from the individual capacity, from the expert business knowledge and capacity of the owner, or the operator.

Mr. ZOLLER. Isn't that in the case of small concerns usually?

Mr. HULL. It is more apparent in the case of small concerns, undoubtedly, but the point I was getting at is that the 10 per cent you refer to as a fixed basis of exemption might be too much in some cases and in some exceptional cases might not be enough, might it, provided you wanted to reach the same level of profits and of capital invested in making your computation?

Mr. ZOLLER. Yes, sir; that is true. If I may be permitted, just a word on that point, on that feature. I know that the small business man and the copartnerships feel in some cases that they are paying more in proportion than the larger concerns.

Mr. GREEN. I would like to say that I think several members of the committee, including myself, have been somewhat impressed by that consideration, and they think probably there ought to be some allowance.

Mr. ZOLLER. Now, in my opinion, the only thing you can do in that case is to increase your specific exemption. You already have \$3,000 for corporations and \$6,000 for an individual. If that is too

low, I suppose it could be increased. That specific exemption does not make any difference at all. Someone whose capital is in the millions might just as well not have it, because it is so small. I think you have got to reach the individual cases that way, and I think it would be dangerous to try to help out the individual by changing the system that changes the whole financial system of the country. You must put them in in a special case by themselves.

Mr. GREEN. Mr. Zoller, not in the form of a question, but merely in the form of a statement, in view of the fact that some questions have been asked you with reference to the term "excess profits," and further, in view of the fact that there has been a great deal of discussion, it seems to me, speaking for myself individually, and my understanding of the purpose of the committee—although I do not pretend to speak for the committee in that respect, the purpose of the committee in using that term—I want to make the statement that to me that term, "excess profits" does not necessarily mean unreasonable or extortionate profits, although possibly there may be some instances in which there may be profits which might properly be taxed under stress of war and great need and exigency, such as we have upon the country at this time.

Mr. ZOLLER. Now, I just want to make one more statement, and call the committee's attention to the fact that I did not say that 10 per cent was the amount. I said it ought to be at least 10 per cent. My assumption is that this committee upon investigation is just as able to raise that 10 per cent as they are to lower it.

Mr. STERLING. I did not hear all of your statement. Did you define what you think invested capital is?

Mr. ZOLLER. No, I have not.

Mr. STERLING. Now, that is one of the problems of this committee. It is one of the things that has caused a great deal of complaint in the present law.

Mr. ZOLLER. I do not believe that you are going to be able to define invested capital without having some complaints. I think the Treasury Department has endeavored to the best of its ability to construe the present law equitably, and they have allowed with regard to borrowed money—I do not want to use this illustration—but they have said that if there was any excess where you could not deduct the interest under the income-tax law on money borrowed, that money borrowed should be considered as a part of invested capital, and that helps out to a great extent those concerns which are capitalized by using bonds or certificates of indebtedness instead of issuing stock. Of course, the Treasurer saw that they certainly should not have the right of deducting interest and reducing the income at the same time, putting in the debt as a part of invested capital, so he tried to meet them halfway, which was the best he could do under the present act. Now, I simply made the statement that I thought that invested capital as construed by the Treasury Department was fair to the average taxpayer. Now, I have no doubt that there are innumerable cases where it is not fair, and I do not feel competent to go into those individual cases and discuss the fairness of the situation.

The CHAIRMAN. Can you conceive of any tax law which will raise a considerable amount of taxes and yet not be inequitable in certain individual cases? It is impossible to avoid that, I take it.

Mr. ZOLLER. I do not believe one was ever enacted.

The CHAIRMAN. Even the income tax bears very heavily and unequally on a great many. Here is a man who puts out a million dollars, and the only return he gets is 1 per cent, and yet he has to pay the same income tax as the man who puts out a million dollars and gets 100 per cent. It is impossible to write into the books any tax law that does not bear unequally on somebody. We did try before and we are going to try again to rub out all inequalities if we can, of course, when we write the law we now have in view. But when it becomes a law there will be a great many cases where it will bear unequally on certain individuals or corporations, but it is one of those things that can not be prevented.

Mr. ZOLLER. Yes, sir; that is true.

The CHAIRMAN. Now, Mr. Emery, I think in this connection we may save time by permitting you to make some remarks at this time, if you prefer; or, we can wait until we get through with this general subject, if you prefer that should be done.

Mr. EMERY. I would prefer to be heard at this time, Mr. Chairman and gentlemen of the committee, if you are willing to hear me.

The CHAIRMAN. All right, we will hear Mr. Emery at this time.

**STATEMENT BY JAMES A. EMERY, COUNSEL FOR THE  
NATIONAL ASSOCIATION OF MANUFACTURERS OF THE  
UNITED STATES, WASHINGTON, D. C.**

Mr. EMERY. I will say that I am counsel for the National Association of Manufacturers of the United States, and in this matter represent also the National Industrial Conference Board, composed of some 19 national craft industrial organizations. These include the American Cotton Manufacturers' Association, American Paper and Pulp Association, Electrical Manufacturers' Club, Manufacturing Chemists' Association of the United States, National Association of Cotton Manufacturers, National Association of Manufacturers of the United States of America, National Association of Wool Manufacturers, National Automobile Chamber of Commerce, National Boot and Shoe Manufacturers' Association, National Council for Industrial Defense, National Erectors' Association, National Founders' Association, National Metal Trades Association, Rubber Association of America (Inc.), Silk Association of America, United Typotheta and Franklin Club of America, and National Hardware Association.

The National Industrial Conference Board, gentlemen of the committee, is what its name implies, a conference of the associations named, in which each is represented by its president and one delegate of that association. The board meets monthly, and possesses a staff which is constantly at work on industrial research work; it is an advisory and investigating body. It is for the purpose of enabling organized industries of the United States to conduct research work that they might better know themselves.

The conference board has given a great deal of time and attention to the subject of taxation from the manufacturers' viewpoint. It has not endeavored to enter into all the details of taxation, but has undertaken to ascertain certain fundamental principles that it believes ought to underlie the base of taxation, being chiefly interested in securing a fair and equitable tax bill. It is not concerned in the

rate except that it realizes that the purpose of revenue legislation must be to secure, not revenue for a single year, but under the circumstances which we face a constantly augmented stream of revenue for the future. So that we assume that a taxing body will lay its tax with the idea that it must not merely secure its return for this year, but must do its part to stimulate production in order that there may be an assured return in consonance with the needs of the Government in the future.

The conference board and the associations composing it are familiar with the conference of State manufacturers' associations who have presented their views to you; and naturally many of our members are members of State associations and most friendly relations exist between them. But we differ somewhat on our tax view at least in one respect. With much that Mr. Zoller has so ably presented to you we are in entire accord, but I want for the moment to call your attention to the one specific thing in which we differ.

The great difficulty in discussing tax questions is the difference in definition of the terms used. Some one has said that evolution had lost all value as a scientific phrase because it had been used in so many connections. So the phrase "excess profit tax" has been used to denote so many things that unless one defines what he means by it he is likely to be misunderstood in using it. I assume that an excess profit tax may be either arbitrary or what I should call natural. I mean by arbitrary excess profit tax one in which a return is fixed by the taxing body arbitrarily in order to meet the revenue needs, and all returns above the amount of the tax fixed is called, for the purpose of taxation, excessive or excess profit, and is a tax in such terms as the taxing body likes. I should call a natural excess profit tax one which was laid on the excess above the normal return of the industry, the average return being ascertained upon a broad base that permitted the industry to naturally express itself not only in terms of its normal profit, but in accordance with the varying efficiency of its management and the various elements that enter into the varying return of one business to another.

The excess-profit taxes as laid, for instance in Great Britain, are predicated upon an ascertainment of the normal prewar returns, the theory being that the taxpayer making his return upon two of the prewar years, the normal return expresses itself in the natural variation of the business, assuming, of course, that the years selected express the business. Of course the revenue-laying body is to select years, or permit the selection of years, that do express that normal return, so that neither injustice is done the government obtaining the tax, on the one hand, or the person or corporation paying it upon the other hand. If a base can be laid which fairly represents the normal return upon capital actually invested, we believe that that is what may be termed the normal return of that business, and that a tax laid in any succeeding year upon profit in excess of that normal return would be the natural excess-profit tax as distinguished from an arbitrary excess-profit tax. But naturally the return is determined not by the circumstances of the business, but by the necessities of the tax layer.

We venture, therefore, to call the committee's attention to a matter which, of course, has often been raised before it, but to which I must refer for the purpose of making clearer the position of these organ-

izations. I assume that the committee recognizes that nothing could be more unfair in normal conditions than to tax in like amount all forms of business. It would be similar to paying an equal wage for unequal service. In all business there must be naturally and economically speaking—I say economically speaking, and by that I mean under any economic law that might be permitted to express itself—the natural relation between risk and return. All business obviously is not of equal risk. It would seem very unfair to tax equally the return from investment in the form of farm mortgages and, I will say, investment in the construction of ships to be operated upon the dangerous seas. It would be equally unfair to say that returns should be taxed equally coming from various industrial operations of equal risk. Not only would that be unfair in itself, but it would seem to have a tendency to discourage that form of industrial enterprise which has been the pride of this Nation and the greatest stimulant to its industrial development, the great pioneer industries, which are by no means things of the past, but which have been operated and have prospered in the very midst of war. Because since we entered into this struggle we have builded, for the first time in history, the American chemical industry, and built it in the face of industrial and financial peril, and its future depends entirely upon the character of protection which it shall receive, not only from private enterprise but from public policy.

Mr. MOORE. Do you refer to the dye industry?

Mr. EMERY. Yes, sir; the chemical industry generally, but the dye industry is a part of it. We are also developing drugs and medicines, and we are developing a great optical industry, and making as good optical instruments in parts of the United States as were ever made in England.

While it is true, gentlemen of the committee, that the needs of the Government are not only very great but are dominant, yet the needs of private industry under the circumstance of war are also great, and we assume that they will receive that consideration from you which is consonant to the necessary increase in your revenue. So we have ventured to believe and assert that an excess-profit tax predicated upon an arbitrary standard, without reference to the normal earnings of the subject of the tax, and without due regard for the varying risks of the varying forms of business, is inequitable and likely to hazard the future of industry itself. Practically every European country which lays such a war tax does so by reference to normal antebellum standards. The ordinary method pursued seems to us not only condemned by reason and experience, but tends to establish a false notion in the public mind as to a fair return upon an investment, and to provide an erroneous basis for unjustly criticizing larger returns for more efficient management and a larger enterprise in its effort to stimulate business and secure a reward. We realize that while you are meeting the necessities of the present you are also making policies for the future that may be regarded as a precedent and may, by the same example, creep into the State.

So the National Industrial Conference Board, and the associations composing it, in view of these considerations and the universal European practice, urge that the committee consider a form similar in principle but differing in its details to the system pursued by Great Britain.

Mr. FORDNEY. Mr. Emery, have you a copy of the laws of Great Britain as to the amount of return capital is permitted to make before taxes begin?

Mr. EMERY. I have not got it here, but will be glad to supply it to the committee.

Mr. GREEN. All of us have that.

Mr. EMERY. All right.

Mr. FORDNEY. I wish you would put it into the record. All the rest of the committee may have it but me, but I would like to have it in detail.

Mr. EMERY. You want the whole law?

Mr. FORDNEY. Yes; I want to know how much capital they are permitted to deduct before beginning to add to the taxes further, and how it is done. I am informed generally, as are the rest of the committee, I take it, but I haven't it clear in my mind how it is arranged in detail.

Mr. EMERY. Do you realize that the British tax act has changed slightly since January 1?

The CHAIRMAN. What change has been made since January 1 in regard to the excess-profit tax?

Mr. FORDNEY. Pardon me, Mr. Emery, their fiscal year begins April 1, so that their new tax law went into effect then and not January 1, I take it.

Mr. EMERY. No; there is a variation as of January 1 in the so-called excess-profit tax or war-profit tax. Prior to January 1 the controlled industries of Great Britain predicated upon their prewar earnings, they being permitted to make returns on two out of three prewar years, but—

Mr. FORDNEY (interposing). Of how much?

Mr. EMERY. Controlled industries made their returns upon two out of three prewar years, and then they were allowed to prove their normal or average earnings for that period not to exceed a further profit of 20 per cent. Upon the return after that a tax was laid. But since January 1 the 20 per cent is stricken off and they return the whole of their profit over and in excess of their average prewar earnings for two out of three years preceding the war.

Mr. FORDNEY. Do they permit the making up of a loss, say, this year for last year before the tax begins?

Mr. EMERY. That general rule is subject to a very considerable body of exceptions which are applied through a committee which undertakes to adapt the rule to the condition of the industry as nearly as possible in order to assure to the industry its prewar returns.

Mr. SLOAN. Who composes that committee?

Mr. EMERY. I think there are two forms of committees. One is a committee of first consideration, as I might call it; and, secondly, there is an appeals committee. It is appointed by the minister charged with the collection of the tax. It is not a standing committee, as I understand it, but a committee which varies from time to time, and whose membership is composed with regard to the particular character of the business under consideration.

Mr. MOORE. Mr. Zoller suggested that there should be a commission to cooperate with the Commissioner of Internal Revenue. Does this committee to which you refer correspond with that suggestion?

Mr. EMERY. I think it might be said to correspond to it, depending upon the personnel of the committee proposed.

Mr. MOORE. Is it a committee of adjustment or a committee of appeal?

Mr. EMERY. It is a committee of adjustment in the first instance, whereby the taxpayer has an opportunity where a condition arises which promises to do him an injustice if the law were enforced, to present to the committee his peculiar conditions and circumstances and for it to act thereon; and its action is subject to consideration by the appeals committee.

Mr. MOORE. Does the committee have power to allow adjustments if it finds inequalities?

Mr. EMERY. Yes, sir.

Mr. LONGWORTH. I agree with you entirely on the particular general proposition that the theory of a natural excess profit tax is better than an artificial one, such as we have. In fact, when this excess profit tax based upon invested capital was first proposed before the war I was opposed to it and opposed it on the floor. But we found that the application of the English system here in the United States would result in exemption for a large number of very rich corporations, so that they would not pay any tax at all.

Mr. EMERY. Well, I do not suggest that we shall Anglicize any more than we shall Gallicize, but that we shall profit by the experience of England in laying our own standard.

Mr. LONGWORTH. I am not talking about that, but that we should not adopt a system whereby the larger corporations and the richer corporations here, who were making about the same profit before the war as they are making now, should be relieved of the tax. If we did that it would relieve them of the excess profit tax entirely. Would there be any way under the natural system to have these corporations pay an excess profit tax?

Mr. EMERY. I was about to read to the committee the base that is proposed.

Mr. HAWLEY. Do you think that we, under our constitution, could delegate to a committee broad powers of adjustment such as the British Government delegates to its committee that is charged with this tax legislation and of giving it flexibility, of which you speak so well and clearly?

Mr. EMERY. I was perhaps stating the English practice too broadly, but the advantage in it is the somewhat broader application of the principle we have in our own law by which if an individual suffers injustice under the rigid application of the law, in our case, he makes his return to the Treasury officials and they are to give him an allowance within the limited powers conferred upon them. That is, for instance, new corporations organized since the war, or corporations within the terms of our present law, are allowed to make their returns and the law itself forces them before the Treasury officials for advice. The only difference is that under the British system they have much broader powers; but, of course, we recognize in this country very fully and always that Congress may delegate the ascertainment of facts to a commission or other body and then apply the principles which the legislature has determined. They are not thereby exercising legislative powers.



Mr. HAWLEY. Before you develop your theory as to how these corporations may be reached under the English system, let me ask what would you think of having both systems incorporated into the new law, and having one apply to one class of corporations and the other apply to the other class of corporations?

Mr. EMERY. I think it very possible. I think what we are chiefly interested in is the laying of a rigid rule by which they would levy an excess-profit tax on all corporations in the United States earning above a certain amount.

Mr. HAWLEY. I agree with you it is entirely wrong in theory, but it is the only method we have now, and it is a method under which we can raise a large revenue. Of course, it does work injustice in some individual cases.

Mr. EMERY. We are not complaining of this particular situation, but endeavoring to point out to you certain defects that we fear may follow the adoption of a wrong policy at this time, and we want to give you the reasons why we think an arbitrary application of excess-profit taxes is erroneous.

Mr. GARNER. Suppose you have the double system suggested by Mr. Longworth. Would you not put in a general clause that in case prewar-period profits were very large—we will say 100 per cent or 200 per cent—if based on that that they should not exceed a certain amount at this time?

Mr. EMERY. I think any general rule is subject to exceptions.

Mr. CRISP. In regard to any rule with reference to elasticity in administration between all these laws I have had the view that the main object was to adopt such methods as would enable the Government and the taxpayer to compute a relatively fair level of profits subject to this tax and a relatively fair level of capital invested, so far as that is concerned. With that arbitrary rate of comparison it would not avoid inequalities in many cases, and you would not reach a fair level in every case, no matter whether you took a prewar standard of profits or a capital percentage of profits, but I regard them as exceptional cases and due to special circumstances. For instance, one concern with a capitalization of \$100,000 makes \$20,000 net profit, and another concern with a capitalization of \$50,000 cash paid in makes \$20,000 net profit, but substantially half of that \$20,000 was made on account of the exceptional knowledge and business capacity of the individual owner. Now, if you wanted to reach the same relatively fair level of profit on capital invested, you would want to prescribe a little different rate of comparison than the fixed arbitrary comparison that would step down to normal conditions where the total profits were made from the actual cash invested and where the capital invested was as plain and simple as calculation.

In other words, it would do no violence to the validity of one of our statutes if in order to make its computation relatively accurate and fair we should give to the Treasury Department enough latitude to adopt a different method of calculation and computation, within the machinery of computation, in order to fit in with exceptional conditions. Isn't that true, as a rule?

Mr. EMERY. Of course, you can see that you must have two extremes of exceptional conditions; one we will say exceptional good fortune and good management, and the other exceptional adversity.

Mr. CRISP. I was speaking of exceptional cases and the necessity for elasticity if you want to approximate equality.

Mr. EMERY. Yes. Of course, every universal law does injustice in exceptional cases. That is unescapable; but the object of the law is to try to avoid injury to public or private interest.

Mr. TREADWAY. Before you proceed, would you mind stating a little more in detail your views in regard to the establishment of policies now and for the future in view of all the exigencies and needs at the present time. I think you made a statement that the existing exigency is likely to establish a policy for future taxation. Did you not state that?

Mr. EMERY. Yes, sir.

Mr. TREADWAY. Will you be kind enough to explain that a little more in detail?

Mr. EMERY. I suggested in furtherance of the principle here stated that while the public interest is dominant in the laying of the tax, and the public interest must control the amount laid, nevertheless an erroneous policy now would seriously affect our taxing policy for the future. To illustrate, if you did not recognize but obliterated in your tax law the distinctions between risk and return, and between efficiency and inefficiency in management by making the reward to all equal, you would tend to establish in the public mind the belief that 10 per cent, or 8 per cent, or 9 per cent, or whatever arbitrary amount you may fix, is a fair return upon any form of investment. And if you do that, then in the future you make it exceedingly difficult for those who come after you to allow rates of return that are in correspondence with the risk of new ventures, because you have educated the public mind to believe that nobody is entitled to more than 7 or 8 or 9 or 10 per cent upon his investment, no matter how great his risk nor what the character of his business. And you know obviously that the great body of new enterprises at every stage in our history has been financed by men who took the risk because they were assured that if successful they would secure a large return. All your mining ventures represent that type, varying in accordance with the nature of the metal and the circumstances attending the opening of the mine, as well as ship ventures, etc.

Mr. LONGWORTH. That is the reason I asked Mr. Zoller the question whether it would not be fair to segregate certain industries where very large risks were necessary, like the oil and similar industries?

Mr. EMERY. Yes.

Mr. LONGWORTH. And allow them a larger return?

Mr. EMERY. Yes.

Mr. GREEN. I take it that you are opposed to our present income tax, because the same argument you are making applies to it, where we tax a man just the same regardless of whether engaged in a business in which there is little risk or large risk, or whether his income is derived from one in which the risk is small or great.

Mr. EMERY. Well, I think we can distinguish between the personal and the corporate risk. One is the risk of business, which, if you protect, you have sufficiently protected the individual in his return from it.

Mr. GREEN. But the individual pays the corporate tax.

Mr. EMERY. I know, in proportion.

Mr. GREEN. It is simply the way of getting at it. The excess-profit tax, after all, is merely another form of income tax.

Mr. EMERY. Well, it is impracticable to distinguish between taxation of the individual source from which he secures his return. I can not tell when taxing John Jones whether he got his money from a highly risky business or one without risk. I have only the amount of the return. But when taxing business I have the circumstances and conditions under which the business derives its income.

Mr. GREEN. It would be just as easy to get it from the individual if you want it.

Mr. EMERY. Well, I do not see any impracticability about it.

Mr. TREADWAY. May I finish with the line I had in mind before you take him up further, Mr. Green, or was yours the same line of policy?

Mr. GREEN. Well, one more thought on that: Mr. Emery, your argument to a considerable extent is based upon the main subject of excess profits. For myself, and possibly for some of the rest of the committee, I am not so much interested in names as in the justice and equality of the tax, upon which you have also presented argument. But suppose we had called our tax, as they have in Canada, simply a tax on business profits instead of calling it excess-profit tax, then would we not come to the question simply of whether we could properly in this time of stress and exigency of the Government lay a tax on the profits which we are discussing? Isn't that after all the real question and not one of terms or names?

Mr. EMERY. Well, I do not think we are discussing fiction. I think we are discussing a highly important fact. I do not believe I am distinguishing between phrases; I am merely considering the exigencies of the hour and the essential needs of things. I do not care by what name you call these things; I have merely given them the names by which they have been baptized by legislation and public discussion. I am compelled to treat them by the name I find attached to them. I think there is quite a distinction between them and it goes to the very nature of the business which is the subject of tax action. If I have emphasized the relation between risk and return, and between efficiency and inefficiency in the conduct of business, I have done so because these features seemed especially to be overlooked in any form of arbitrary taxation.

I want also to call your attention to the contribution which each one of these forms of business must make to the United States Government, not only in the amount of revenue which it must pay but in the sustained charge of its own production and all that. All these things are considerations that go to this very matter arising out of the very nature of the business in order to sustain every one of these businesses in the performance of its function, because they are merely gigantic tools at the service of the Nation, and they must be permitted to have a return adequate to perform that function.

When we suggest this base of taxation we are not doing it, I beg to assure you, as in the main lessening the amount of taxation that may be laid upon these industries, but dealing with the nature of the thing itself and its contribution to public effort, that it may be maintained and recognized in the form of law, not only for their present protection against undue or improper discrimination, but for future pro-

tection of the thing itself as a social contribution to the future of the Nation.

The CHAIRMAN. I will have to go over to the House in about 10 minutes and would like to ask one or two questions before Mr. Treadway takes Mr. Emery up again.

Mr. EMERY. If you will pardon me, I am at your service in dealing with or laying down this base that I have suggested, but if permitted to go a little further with what I have in mind I think I would answer many of these questions. It will be very short, and then may I respond to your questions?

The CHAIRMAN. All right, go ahead.

Mr. EMERY. We therefore suggest to your honorable committee a substitute for the pre-war standard proposed the following:

(1a) That the pre-war standard be for a five year period from 1911 to 1915, inclusive.

(2b) That the taxpayer be permitted to select as the basis of his return any three of such years, the average for the years thus selected to provide the base from which to compute the war excess profit tax. This would be in consonance with the British law, which permits the taxpayer to select two periods out of three.

(2c) Add to the average normal income thus ascertained an amount sufficient to provide a like rate of income upon new capital invested in the business prior to the taxable year, the rate allowed upon new capital to be that actually earned upon the old capital actually employed during the pre-war years selected by the taxpayer.

(d) Levy upon the amount of war excess profit for the taxable years thus shown a rate sufficient to produce the amount which in the judgment of your committee must be provided from this source.

The CHAIRMAN. What is the deduction from the percentage of profits before the excess-profits tax attaches in Great Britain on new business? That is, a new concern that has been organized and started in business since the beginning of the war. It was 6 per cent at first, wasn't it?

Mr. EMERY. I think that is the minimum, as I understand it. The same standard is applied to new business as for any like business. It is thrown for the purpose of computation into the group in which it belongs, and it is allowed the base of the group to which it belongs.

The CHAIRMAN. The principle that you announce is to take the prewar standard and then lay a tax on the difference between the prewar standard, with some modifications, and the conditions existing during the war?

Mr. EMERY. Yes.

The CHAIRMAN. I will ask Mr. Dixon to take the chair, as I must go over to the House.

Mr. GARNER. I gathered from your answer to Mr. Treadway that you had the idea that the necessities of the Treasury after the war might continue the policy of an excess-profits tax. Do you have such an idea as that?

Mr. EMERY. No, sir. What I am indicating is that the viewpoint of taxation presented in the law might create an erroneous public opinion with respect to a reasonable rate of return between the risk of an enterprise and its profit.

Mr. GARNER. But you do not contend that after this war is over the system of taxation in this country will be based upon the present

policy of excess profit either as applied in England or in this country under the present law?

Mr. EMERY. Well, I know that reduction of taxes, historically speaking, has always been a very slow process, and in the face of the tremendous burden which we are assuming, it is likely that we must for a long time live under a system of taxation which will produce a large amount of revenue, and there is only one thing out of which we must pay it, and that is increased productive wealth, so it becomes necessary to be very rational and consistent with public policy to encourage those forms of productive wealth that establish the greatest social return to the country.

Mr. GARNER. Would not you consider the policy of securing revenue out of incomes more preferable than excess profits, as a general policy of the Government in time of peace?

Mr. EMERY. Incomes of corporations or persons, I assume you mean?

Mr. GARNER. Both.

Mr. EMERY. There we are merely returning to the circle as to form, whether we shall lay taxes on excess profits, on income, or secure the needed revenue through some other form of taxation. It must be obtained either from income of persons or businesses or by tariff taxation.

Mr. TREADWAY. Your definition of policy referred rather more to educating people to the extent of laying these taxes and to the kind of taxes?

Mr. EMERY. Yes, sir.

Mr. TREADWAY. My thought was this, and I see that I was in error and that your definition rather corrects it: I thought when you referred to educating the people to the policy of taxation that you referred to this kind of taxation we are now levying, that is, excess profits, income, etc., rather than the possibility of the return of a larger revenue than we are now getting from the tariff.

Mr. EMERY. I can only refer to recent political history as to the power of phrases in educating the people. We live under a Government of headlines and phrases in many respects, and once you create the idea that the amount returned is excess profit you have developed in the public mind a belief that anybody who earns more than that in any form of business is getting a return to which he is not entitled, and it seems to me once you have done that you have discouraged many forms of pioneer enterprise, which have been not only in the past but especially in the future are going to be of tremendous importance.

Mr. GARNER. May I ask another question: You spoke about elasticity of the English system with reference to administering the excess-profit law. That gives an opportunity for favoritism, which we have sought in this country to avoid by statute as far as possible. During war times I am inclined to think that public policy would justify a great deal of elasticity in the Treasury Department, but in times of peace would you advocate a policy of the Government that would give to the Treasury Department opportunity for such elasticity as is necessary to administer this law at this time?

Mr. EMERY. The beauty of equity is that it can accommodate itself to the peculiar circumstances of any case, and for that reason it often does greater justice than statutory law can. So if we can ap-

ply to any legislative act—particularly a tax act, which is peculiarly liable to do great injustice and create hardship in a country as great as ours—such elasticity we have approximated justice, not the justice that does injustice to public interest but which is fair play to the individual and undertakes to treat him justly in the light of the law.

Mr. FAIRCHILD. Have you any suggestion as to a way to secure greater flexibility in the administration of the law as between extra hazards and hazards?

Mr. EMERY. Well, that system is flexible.

Mr. FAIRCHILD. I did not know whether your association had made a study of that part of the law and had some suggestions to make?

Mr. EMERY. You, of course, perceive, Mr. Fairchild, that the Government itself has tried to make the law elastic by the appointment of various advisory committees, none of which has had legal authority to finally act upon many things but can only recommend lines of action that were intended to lessen the hardships of the law.

Mr. FAIRCHILD. Your statements have been so very interesting to myself, and I think to the whole committee, that I thought possibly you had gone deeply into that question and were prepared to make suggestions.

Mr. EMERY. I think suggestions can be made, Mr. Fairchild, in the line of your proposal, when the proposed law is thrown into form. The difficulty at the present time is that one has to suggest a line of elastic treatment for an abstraction rather than discuss something that has been put into form. But the moment the law assumes its form I do not see why a proper committee can not be created in the Treasury Department, or perhaps the present Treasury officials who now possess limited powers can be given such powers as your committee think safe in the public interest and adapted to applying the law to present conditions.

Mr. LONGWORTH. Would you mind repeating those suggestions for the benefit of the committee?

Mr. EMERY. This base that I have?

Mr. LONGWORTH. Yes.

Mr. EMERY. I will be glad to do it. Our suggestion to your honorable committee as a substitute for the prewar standard is the following:

(a) That the prewar standard be a five-year period from 1911 to 1915, inclusive.

Mr. MOORE. Do you mind stating there an explanation of your reasons for that suggestion?

Mr. EMERY. All right. I can possibly shorten it by just reading a statement I have here. The necessity for a reasonable flexibility within the standard prewar period selected is recognized in the legislation of every European country levying a like tax, by according to each taxpayer the privilege of eliminating one or more periods from those designated as the basis of return.

If reason and experience approve this standard abroad, how much more strongly is it urged by the varied circumstances of American industrial life. For in a country so vast as ours, comprehending within its borders many great communities differing greatly in physical and economic circumstances, local conditions operate at various times to produce in different degrees conditions which,

while confirmed in their influence, are nevertheless often active over areas greater in territorial extent than any European nation whose war taxing experience we possess. Each member of this committee is sensible of the fact that drought, flood, industrial disturbances, and like causes have seriously affected industrial and commercial areas in one or two years out of substantially every five. Thus the great Ohio Valley, a thriving industrial hive, suffered within the past three years a destructive flood which paralyzed its industry at a time when the rest of the Nation enjoyed substantially normal prosperity. In terms of the knowledge and experience of every Member, like conditions have operated during various periods to seriously affect large areas in the southern, southwestern, and western sections of our country. It is likewise equally obvious that the events of the past three years have so disarranged and revolutionized business in the United States as to necessitate the reorganization of material standards in comparing the business circumstances of the present with the conditions of the recent past.

In view of these considerations and the universal European practice, we urge that the taxpayer be permitted to eliminate one or two years from a selected prewar period of five as a basis of calculating the average normal net return. This is readily accomplished by adding to the rigid prewar standard proposed either the years 1914 or 1915.

Of course, what is said there is equally true by including 1916. We mean by "prewar years," previous to the European war. If we adopt our own standard we would adopt the years 1916, 1915, 1914, 1913, and 1912. This suggestion is not intended to be rigid as to years. The illustration is brought to you because these years offer a fair opportunity to business to normally express itself, and to provide you with a fair photograph of its actual outline.

Mr. MOORE. There is a popular impression that this device of our English brethren, which we have enacted into our law to a certain extent, and which you propose to extend, rather increases opportunity for bookkeeping and for such accounting as might lead to unfair—or preference, I would say—to certain large established concerns over those that have recently begun to do business. In other words, that to go through all these ramifications of past years and past accounting have very largely the purpose of adding to the general confusion in the interest of the taxpayer, and is unfair to the other taxpayers who have to pay upon the present rate. I do not know whether that impression has come to you, or whether you have ever heard anything about it, but I hear complaint occasionally of people juggling the returns due to the minutia necessary to be gone through with in order to ascertain the returns.

Mr. EMERY. Of course, a part of that objection goes back to the lack of clarity in the law itself. Any law that lacks clearness necessarily implies trouble with its administration. But as to any business that comes into being after the enactment of the law, and for which the standards here can not be applied, there is a means of treating it fairly without any difficulty, in the light of our own law or in the light of a foreign law, where it is thrown into a group and decided by the general average of the group. If a man established—I will not say shipbuilding plant, because that is all in the hands of the Government to-day, but I will say a chemical industry; if he

establishes a chemical plant he goes back into the chemical group, and his return is predicated upon the average return of the group to which he belongs. So it is subject to the minimum allowance of return within the law.

Mr. GREEN. Something has been said with reference to the flexibility of the English statute. I had occasion, along with the rest of the committee, to make some study of the English statute two years ago when we were preparing this law. I found it so extremely complicated and with so many exceptions, or as Mr. Moore suggests, exemptions, and I will broadly class them exemptions, or allowances would probably be a better term, that I went to work to prepare, although I did not do the work myself, and had this elaborate chart made of its provisions in order that it might be better understood.

I found that there was not only a board of commissioners created, the board of commissioners of inland revenue, but also a board of referees, and that there was case after case in which they might review the returns and make practically such allowances as they saw fit; and while the nature of these cases was given and they were enumerated in the law, the final specification was that this might be done with any special circumstance specified in regulations made by the Treasury, which practically gave the Treasury power to assess the taxes about wherever they saw fit. Now, whether that was made necessary by the nature of this law, and all, I have some doubt whether under our Constitution in this country we could make a law so flexible as that.

Mr. EMERY. Oh, I quite agree with you. I am not suggesting the adoption of the English plan. I have been arguing with reference to the adoption of the prewar standard, the recognition of experience under the English principle. Now as to the detail with respect to, and the seeming flexibility of, administration, one may of course suggest that only so far as flexibility is a gain and not an injury may it expect itself to be adopted, and it is to be adopted in accordance with the circumstances of our law and our traditions and our practice, and the physical nature of the business to be subject to it. We can not adopt the English system, especially, because the English legislative system differs in so many respects so greatly from our own, on account of the enormous judicial and legislative powers which the Parliament can confer upon a minister of the Crown. They can practically turn over to him any group of powers that they please, in the absence of any constitutional restraint, which of course we can not do; so do not hold me accountable for the fact that the English law is not adaptable to our system; but permit me to suggest that in the English experience there is a valuable suggestion as to the adoption of a reasonable or unreasonable but unconstitutional increased flexibility.

Mr. GREEN. I think your suggestion should be considered.

Mr. EMERY. Let me suggest what has happened in the administration of our own law, that because of this lack of flexibility, and of the difficulty of interpreting many of its provisions, we have had to do almost extralegal and extrajudicial things. We have had to appoint a variety of committees, who held hearings on the subject and various provisions of the act. Take our own cases for instance. When the advisory committee of the Treasury was appointed, I obtained for them about 200 specific, concrete cases of manufacturers' difficulties



in making returns, taken from the experience of a great number of manufacturers spread over many statements, reduced to the most concise expression of facts, and these were turned over to the advisory committee to illustrate the difficulties of applying the law in individual cases.

Mr. GREEN. Pardon me; that is the difficulty, not in applying the law, but the Treasury regulations, right there.

Mr. EMERY. Both. Now, this advisory body was appointed by the Treasury to assist it. It was not provided for in the law. Other similar committees have been appointed by the Treasury, for instance, to assist in the making of excess-profits tax or other returns which are in their hands, and some of those returns will not be made possibly for a very much longer period than the law, because of the difficulties involved; and these committees are going to undertake to assist the manufacturers; and they all represent, I do not say illegal, but extra-legal, bodies, which have had to come into being in order to assist in the interpretation of the law, but were not provided for in it.

Mr. GREEN. Let me suggest, as I was going to do, another point that might be considered in connection with the English law, namely, that when it was necessary to have these commissioners of inland revenue and also the board of referees, and possibly some other boards—I have forgotten at this moment—with permission under Treasury regulations to do almost anything that they wanted to with the law, it looked as if this law did not work out with entire smoothness in its original sphere. That is what I had in mind. But I wanted also to come to another point that is entirely distinct from that. You are aware, of course, that your plan would entirely, ordinarily, exempt certain corporations that are making extremely large profits, 60, 75, and even 100 per cent; is not that so?

Mr. EMERY. Would it not also bring in a very large number?

Mr. GREEN. Yes; it would bring in a very large number that are making small profits and tax them heavily.

Mr. EMERY. Yes, but—

Mr. LONGWORTH. Before you go further, I wish you would read those other suggestions you have there, so that we will get the whole thing together; if you do not object.

Mr. GREEN. No; I am out of place here. I ought not to have interrupted.

Mr. EMERY. Do you mean the base statement?

Mr. LONGWORTH. Yes.

Mr. EMERY. For the purpose of ascertaining the prewar status we take a five-year period. These suggestions are as follows:

- (a) That the prewar standard be a five-year period from 1911 to 1915, inclusive.
- (b) That the taxpayer be permitted to select as a basis of his return any three of such five years, the average for the years thus selected to provide the base from which to compute the war excess profit tax. This would be in consonance with the British law, which permits the taxpayer to select two periods out of three.
- (c) Add to the average normal income thus ascertained an amount sufficient to provide a like rate of income upon any new capital invested in the business prior to the taxable year, the rate allowed upon new capital to be that actually earned upon the old capital actually employed during the three prewar years selected by the taxpayer.
- (d) Levy upon the amount of war excess profit for the taxable year thus shown a rate sufficient to produce the amount which in the judgment of your committee must be provided from this source.

Mr. MOORE. Do you mind explaining briefly each point there?

Mr. EMERY. That is, the prewar standard?

Mr. MOORE. Read (b), and then give a few words of explanation of it?

Mr. EMERY [Reading]:

<sup>b</sup> That the taxpayer be permitted to select as his return any three of such five years, the average for the years thus selected to provide the base from which to compute the war excess profit tax.

Mr. MOORE. Why do you make that suggestion?

Mr. EMERY. Because we believe that three out of the five years suggested, or with the inclusion of the year 1916, fairly presents the normal operation of business.

Mr. SLOAN. Would it not be fairer for the Government to exclude one of the five years and the taxpayer one of the five years, leaving the three representative years? Yours is a onesided position, leaving the taxpayer to select the three years he thinks fit. I presume that the rule that would be followed would be that the taxpayer would exclude the most profitable year and the Government would exclude the least profitable year, and you would then have the three most representative years of the period.

Mr. FORDNEY. Would it not be fair to take an average of the five years?

Mr. EMERY. The only reason for taking three out of the five years is based on the physical difference between Great Britain, for instance, and ourselves. Great Britain is a comparatively small country, and we have several States in which we could easily place it; and in a country physically as great as ours there are physical circumstances resulting in catastrophies. For instance, take the Ohio flood.

Mr. MOORE. Or you can take a drought in Texas.

Mr. EMERY. Yes; that affected the cotton crop. Or you may take cyclones or fires that wiped out great sections of the country. That is something not likely to occur in a country so small as Great Britain.

Mr. MOORE. You mean it is a matter of choice to the taxpayer? That is one point that it seems to me might be questioned.

Mr. EMERY. Please understand that I am not offering this to you personally, nor do I understand that the conference board is, as a rigid plan. It is offered first as a proposal, and second, as an illustration of a principle of taxation to which you must give attention in order to be fair.

Mr. MOORE. What is the objection to Mr. Fordney's suggestion, to take the average of those five years? A drought or a cyclone do not usually last five years.

Mr. EMERY. But the trouble is that if you leave out one year and take three out of four or four out of five, unless you leave out some one year, it seemed to us that from the standpoint of business concerns you did not afford the opportunity to cover a year of disaster or misfortune or of exceptional business conditions, which would greatly lower the average, and unfairly present the normal operation of the business. There is hardly any period of five years in American manufacturing business in which there is not some very exceptional years on account of trade conditions, physical disaster, or other exceptional or unusual circumstances.

Mr. MOORE. And sometimes there are other conditions, to which we are not permitted to refer.

Mr. EMERY. Well—

Mr. MOORE. That would be every four years.

Mr. STERLING. The Bethlehem Steel Co. would take 1914 and 1915 as two of its years, would it not?

Mr. EMERY. I do not know.

Mr. STERLING. And then they would take the other next highest years. They made more money then than they are making now, did they not?

Mr. EMERY. I can not speak of their particular case; but I can not think of any proposal, Mr. Sterling, that will not subject either particular individuals and concerns to disadvantage, or operate greatly to the advantage of particular firms or individuals.

Mr. STERLING. It seems to me that with the choice, you would give an advantage to the concern that made big war profits.

Mr. EMERY. That made big war profits?

Mr. STERLING. Yes; during the first two years of the war.

Mr. EMERY. You mean of the European war, now?

Mr. STERLING. Yes.

Mr. EMERY. Yes.

Mr. STERLING. They made more money then, I think, than they do now, since we have become involved in the war; is not that true?

Mr. EMERY. I think it is true of particular concerns; but of course I am bound to think in terms of general industry rather than of exceptional organizations within industry. We went over a great many particular cases in the conference board, which you will understand did not represent any single corporation or industry; but, as I have read to you, you can see that it is fairly representative of nearly every form of industry in the United States, so that, for instance, the textile industry checks the steel industry, and the boot and shoe industry checks the electrical industry, so that the moment any one industry in the group begins to touch any one particular phase, it is met and checked by some industry over here that represents a different set of conditions; so that an average has to be struck for that—

Mr. LONGWORTH. Under your suggestion, would not the Standard Oil Co. escape taxation under that bill?

Mr. EMERY. I can not say as to that particular instance. I can say as to the general average. I think it is the consensus of opinion—

Mr. LONGWORTH. And the American Tobacco Co. would escape taxation under that bill?

Mr. EMERY. I have seen various statements in regard to that, including one by the American Tobacco Co., which showed to the contrary.

Mr. LONGWORTH. And any corporation which in the previous five years was making as much as it was to-day would be wholly untaxed, no matter how much capital they had?

Mr. EMERY. As the gentleman stated, wealth is taxed in so many ways that wealth itself, income, can not escape. Whether it gets taxed at its source, in the business which creates it, or in the hands of the individual who ultimately receives it, it tends to pay its tax, and the thought that we have in presenting this thing is just this,

that these represent the sources of the production of wealth, and we assume that the committee wants to stimulate production, and it wants to reach the fruits of the production and compel them to bear their proper share in national affairs.

Mr. LONGWORTH. We want to do that, but how can we justify a tax based on this system which you advocate, which I agree theoretically is accurate, which would exempt from taxation concerns like the Standard Oil Co., or the Ford Motor Co., or a number of others? Now, I believe it is calculated that over \$500,000,000 would be lost under that system; that is to say, all corporations which were making large profits before the war, as large as or nearly as large as or perhaps greater than they have made since then, would wholly escape taxation under the method you have laid down. Could we justify that?

Mr. EMERY. I think I would have to say, in reply to that, Mr. Longworth, that I should like to see the evidence of the fact rather than the assumption of its existence, because in a number of cases—

Mr. LONGWORTH. I said that applied to some, not all.

Mr. EMERY. Yes. In a number of cases that was discussed a number of times in the conference board, and invariably, whenever a condition of that kind was presented, at the next meeting figures were brought in to show that the contrary was the case; that perhaps there would be a reduction in the amount of the tax, but that it did not materially affect the condition; that furthermore, and taking it as a war profits tax, for instance, the tendency of any such proposal was to reach at the true war profit, so that the profit, which had in any way come into existence as an outgrowth of the war bore its proper proportion of the burden of the war, and that it tended to conserve the normal situation of the business; and that taking it upon the whole, on the average, while here and there there was one individual who profited by it, there was another individual—corporations, I am speaking of now—that paid a larger proportion for it, but always in terms of one thing, war profits—war excess profits.

Mr. LONGWORTH. It happens that in this country many of the very largest and most powerful corporations are those which have not been affected by the war practically at all—that is to say, whose profits before the war were at least as great as since the war. Those would all escape taxation under your method?

Mr. EMERY. There is a very easy way to right that.

Mr. LONGWORTH. How would you do it?

Mr. EMERY. By increasing the normal tax.

Mr. LONGWORTH. Oh, yes; but that is outside of the war-profits tax.

Mr. EMERY. Yes, indeed.

Mr. LONGWORTH. And if we increase it on them, we must increase it on the small ones.

Mr. EMERY. Then, we must come back to this proposition, that if we want to make each business pay its tax, that is one thing; but if we want to tax war profits, then we must undertake to determine what is a war profit, and tax it, and not undertake to take something which is not a war profit and tax it.

Mr. STERLING. The result of your suggestion is this, that you will not get the war profits by allowing them to take the years 1914 and 1915, because that is not a prewar period at all; that is a part of the

war period, and you do not get the war profit by taking in those two years.

Mr. EMERY. The schedule suggested is quite flexible enough to allow the committee to arrive at a conclusion on the principle of taxation to meet the objection.

Mr. FAIRCHILD. What is a war profit?

Mr. EMERY. I think, before we put an adjective before the word, it might be well to determine what is a profit.

Mr. MOORE. Is not a war profit the \$1,500 that a Congressman makes in salary, above the \$6,000 in exemption? That is an instance of a profit that is the same, now the war is at its height, as it was before the war, and yet that is subject to a war-profit tax. I thought that might help Mr. Fairchild.

Mr. FAIRCHILD. Mr. Emery, I agree with you in the theory, but the trouble is that we face this actual condition, that a number of the very largest and strongest and most profitable corporations in this country would wholly escape taxation under your method as laid down. Can we justify that at this time? Will it not be better to adopt the other system rather than your system?

Mr. EMERY. I believe thoroughly that a rational working relationship can be established between the two systems, but the thing to which the great body of industry, I believe, is opposed, is the arbitrary form of taxation, as I say, which fails to recognize the natural relationship between risk and return, and between efficiency and inefficiency in management, so that it involves an equal treatment of the unequal, which is the worst form of injustice, and so works hardship which I have little to say about now. In peace times we could talk about the hardship to industry; but now industry wants to make its contribution, and it is making it now with all the power at its command; but it believes also that the Government must maintain a policy that is stimulating, continually, production, and increasing production and the making of new wealth; because the debts of the future can only be paid by increased production. There is no other possible way in which we can meet the obligations of the future except out of what we can manufacture.

Mr. LONGWORTH. There, again, I agree with you; and I myself, so far as I have considered it, can see no objection to a classification of different kinds of business, depending largely on the risk involved. For instance, I can see no reason why we should not segregate a very profitable industry like the oil industry or the lead mining or zinc mining industry, which are very hazardous and in which the profit, if any, must be made within a very short time. I can not see why they should not be allowed a larger deduction in their profits than others.

Mr. EMERY. If you will permit me, I will have performed my task, and will have represented truly the views of this conference board with these manufacturers on it, as I understand it, if I can impress upon the committee what they believe to be a reasonable objection against an arbitrary as distinguished from the natural form of estimates.

Mr. LONGWORTH. Could you suggest, further along, any method for classification of different businesses?

Mr. EMERY. I should be very glad to do it.

Mr. LONGWORTH (continuing). Based on the essential risks involved, so that in determining their excess profits tax we might make the kind of deduction that you suggest, that would bear equally, under the circumstances, on all?

Mr. EMERY. Now, I wanted to make it clear that we did undoubtedly agree very fully with many of the suggestions of an instructive nature made by Mr. Ziller representing the Trade Associations, and I wanted to emphasize our objection, over that agreement and indorsement, to the arbitrary form of taxation which we believe to be not only unfair to the individual, but in the long run to the unwise in the public interest.

Mr. GREEN. Now, when you speak about the fairness, and the arbitrary nature—

Mr. EMERY. Not the fairness of Mr. Ziller.

Mr. GREEN. No, I understand.

Mr. EMERY. Yes, sir.

Mr. GREEN. You think it would be fairer, do you, under your plan, to take some corporation not having anything to do with munitions or strictly war necessities, which before the war was making only a slight profit and now is making 25 per cent profit, and to tax that corporation heavily, and exempt entirely a corporation that is making 50, 75, or 100 per cent, simply because they made that much before the war?

Mr. EMERY. I think in theory, the fairest form of taxation would be one that undertook to approximately reflect the natural condition of the industry. The difficulties of doing that in the drafting as well as in the administration of the law are, of course, very numerous; but on the other hand, the committee will take notice of the fact that there is going on in the administrative departments of the Government a continuous fixing of prices not only of raw materials but of commodities, through the instrumentality of Government contracts, and the Government is becoming the greatest single customer of the manufacturers; so that the Government through another department is fixing those profits in all these so-called war industries; that is, in every industry engaged in production for war purposes.

And, on the other hand, it is trimming the so-called—I will not say nonessential, because the phrase is unhappy, but—nonwar industries. It is taking their material and their workmen and their transportation. So that, under the impulse of the war itself, it is really adjusting, by its own very operations, those relations of profit, and distributing them among different individuals and on different terms.

Mr. GREEN. If you will pardon me, all that is interesting, as indeed, everything you have said is, and quite informing, but it is not answering my question at all.

Mr. EMERY. Pardon me; I made that in answer to the remark that comes up constantly as to these excessive profits, as though these excessive profits were not being controlled, or as though some individual was responsible for their existence, when in many cases they are the expression of exceptional conditions.

Mr. GREEN. Having simply called your attention to the defect in your system I will let the matter drop there.

Mr. LONGWORTH. Let me ask you one question right there, apropos of what you have been saying: Do you think that the profits in American business will be as large this year as last year?

Mr. EMERY. You mean in 1918.

Mr. LONGWORTH. Yes.

Mr. EMERY. I think not. I should assume that profits of 1917 would be the largest of years; 1916 was the largest year up to that time. It is very interesting to note, there, that the corporate income of the United States for the year 1916, based on the returns of the corporations to the Commissioner of Internal Revenue, is about \$8,000,000,000, net. That is the net corporate income of the United States.

Mr. LONGWORTH. Would you care to estimate what it would be for this year?

Mr. EMERY. You mean for 1918?

Mr. LONGWORTH. Yes.

Mr. EMERY. I think it will be less than for 1917. That is my personal estimate.

Mr. LONGWORTH. Do you think, if we had not adopted the system of price arrangement, it would not have been so large, or do you think that it is largely due to the fixing of prices that the amount will be less?

Mr. EMERY. No; because I think that an aggregate of small businesses which contribute a very considerable amount of income will be very greatly reduced. We have in the United States, substantially speaking, 280,000 manufacturing concerns, and the average number of men employed is only 25 to the concern. We have only a very few thousand manufacturing concerns whose product is valued annually at a million dollars or more. It is the great number of small manufacturers, the middle class manufacturers, who constitute the backbone of our industries; it is not the exceptional corporation here and there, which is a law unto itself, economically speaking, because of its great size and its resources; so that in thinking of this matter I am taking the middle class manufacturers, and not the extremes at either end.

Mr. LONGWORTH. I am only speaking of the aggregate results. We will admit, of course, that the system of price fixing so far pursued has a tendency to reduce the profits, and we do not know how much further it is going; but leaving that out of the question entirely, would the profits of American business for 1918 have been as large as for 1917?

Mr. EMERY. How is that?

Mr. LONGWORTH. Leaving out the question of price fixing, do you think that the profits of American business for 1918 would have been as large as 1917?

Mr. EMERY. Leaving out price fixing?

Mr. LONGWORTH. Yes.

Mr. EMERY. That is rather hard to say, especially because I can not turn over in my mind the great number of things that the Government has been compelled to take over. Take the shipbuilding industry, which represents an enormous industry to-day, and which under normal conditions I assume, in view of the risk of the industry, would have represented a high degree of profit, if it had any at all.

Mr. FORDNEY. And the railroads.

Mr. EMERY. Yes, and the railroads. Of course the railroads had their profits limited.

Mr. STERLING. We have fixed the prices on steel and on coal and on wool.

Mr. LONGWORTH. And on copper.

Mr. EMERY. Yes; and especially, you take a new industry like the chemical industry, there I suppose that the rate of return would be very high because it is a pioneer industry.

Mr. LONGWORTH. But generally, in view of the price fixing and the taking over, it is your opinion that during 1918 the taxable income of corporations will be substantially less than it was in 1917?

Mr. EMERY. I am inclined to believe that.

Mr. HELVERING. What do you think about the net results to business?

Mr. EMERY. It is like doubling the circulation of a newspaper and cutting the price in half.

Mr. HELVERING. If a concern has been making 40 per cent, and it is cut down by price fixing to 20 per cent, and it would largely increase its production, then the amount of net profits would not be correspondingly reduced, would it?

Mr. EMERY. I did not get that.

Mr. HELVERING. I say that the amount of net profit would not be reduced correspondingly provided the concern measurably increased its production, under the 20 per cent.

Mr. EMERY. You would have a larger volume and a smaller profit on each piece.

Mr. HELVERING. Yes.

Mr. EMERY. Yes; of course.

Mr. HELVERING. That would make up a considerable amount for each industry.

Mr. EMERY. Of course if you take all industries and assume that condition to apply to them, the conclusion would be, undoubtedly, that result; but when you take into consideration the contraction of various forms of business due to the war that is the thing that makes me believe that it will offset it. And then the entire shipbuilding industry being practically a Government operation, the profit of shipbuilding, which I assume normally would be higher in accordance with the risk, would be lower, I assume, under the Government control of the profit itself.

Mr. HELVERING. I agree with you. I think there will be somewhat less profit, but I do not think there will be a very much lower level than there is.

Mr. EMERY. No; I do not think very much more, but of course that is one of those things about which one might be very positive and be mistaken. It reminds one of what Tom Reed said, that it is better to prophesy as to a thousand years hence than a year, because figures may check your opinion.

Mr. FORDNEY. I started to ask you a question some time ago, and I was interrupted by others. You have stood a long time on your feet, and I am not going to detain you but a moment. Do you believe that the association you represent would favor a provision in this new law that would permit the payment of taxes in installments instead of calling them all in on the 15th of June, as under the existing law?

Mr. EMERY. They have all favored the system in the present year.

Mr. FORDNEY. This bill, if enacted into law, as proposed by the administration, would carry \$8,000,000,000, or thereabouts, of taxes. That is two or two and one-half billions of dollars more money than



there is in the United States. There is less than \$6,000,000,000, according to statistics.

It would be of great advantage to the industrial world if those taxes could be collected in installments, would it not?

Mr. EMERY. I think not only to the industrial world but to the public interest itself; because our position in this matter, entirely, is that we are not trying to think of any of these things in terms of a selfish interest, but in terms of the public interest from the standpoint of our relationship to it.

Mr. FORDNEY. Yes. I meant it in this way, that it is a great draft upon the banks of the country to furnish people money all at once to pay this great tax. Of course the internal-revenue office, together with the Secretary of the Treasury have, at the present time, adopted a plan which eased things up a little bit; that is, to permit a reduction of 3 per cent per annum on payments made prior to a certain date, and again, to permit them to buy certificates of indebtedness and turn them in on the 15th of June in payment of taxes, and so on, and get the benefit of the interest that those certificates draw. That eases up some. But would it not be far better if those taxes under this law could be paid in installments?

Mr. EMERY. I should very strongly believe so, Mr. Fordney.

Mr. FORDNEY. Beginning as early as possible after the filing of the reports by the people?

Mr. EMERY. Yes. I think, too, that next year, if there are no great novelties in the law and the law is approximately clear, the difficulties presented in its interpretation in the making of returns will be very greatly improved, and in that event taxpayers will be able to make their returns earlier. On the other hand, if the interest allowance made by the Treasury for early returns is not comparable to the price of money at the time, you can see that there is little to be gained by making the return, and getting, say, 3 per cent, if the money is worth 5 per cent to the manufacturer in his business; and secondly, if the amount of tax to be paid is to be double the amount of taxes this year, the strain on our banking institutions becomes correspondingly greater, especially in view of the many other demands for financial assistance.

In past years we have weathered this thing splendidly, and it is a remarkable demonstration of the strength of our industries and of our country, but it is good policy not to double that strain in the second year of the war. This time we had a number of cases in which the amount of personal income and corporate taxes to be paid by an important industrial unit was very considerably in excess of the banking reserves of the community.

Mr. FORDNEY. I asked that question because I, as other gentlemen undoubtedly have here during the past few months, have had a great many constituents, and people paying taxes, requesting that we try to induce the Secretary of the Treasury and the Commissioner of Internal Revenue to straighten out this return, and permit the taxes to be paid in installments instead of calling them all at one time.

A little while ago I referred to the English method of taxation. I did that for this reason. Many Members of Congress, and many people who are not Members of Congress, frequently say to me, as I presume they do to other Members of Congress, "Why do you not adopt the English system of raising income taxes?" If I am cor-

rect—and I want you to correct me if I am not, because I think you are well informed on the English law; I have talked with you heretofore about it—we have a system of raising taxes in this country entirely different from that of Great Britain. We have the city, township, county, and State local taxes that Great Britain does not have, and raise a very large amount of money, for the payment of general expenses of the country, in an entirely different way from that of Great Britain. The money raised in Great Britain, by taxes, for the maintenance of the Government, is very largely raised by the Federal Government of Great Britain, is it not?

Mr. EMERY. Yes.

Mr. FORDNEY. They do not have a land tax there similar to our land taxes in this country for local purposes, do they?

Mr. EMERY. I would not be sure of that; there have been so many forms of British taxation in the last six months outside of the war taxes that I hesitate to answer as to the detail.

Mr. FORDNEY. Well, if you will correct me, I will be grateful to you, because I want that information. I have studied the English laws all that I could. I have them in my possession, but I have not the most recent changes. They have made some very great changes in their tax laws within the last year. Among other things they increased their import taxes about 25 per cent and will raise from imports this year \$1,100,000,000, estimated value, more than last year's revenue, and their income taxes will very greatly increase. I have those increases, as compared with last year's taxes. If I am correct, before the war Great Britain put a tax not upon the lands but upon the income from the property. The nonproductive property did not pay a tax, as nonproductive property customarily does. Therefore to compare our income-tax law with that of Great Britain is an impossibility; no fair comparison can be made because of the entirely different system of raising taxes over there, as compared with ours. Am I not right in that?

Mr. EMERY. Yes, sir.

Mr. FORDNEY. Now, that is all I want to say on that.

Mr. Longworth spoke a few minutes ago about asking your opinion as to the profits in this country this year as compared with the year of 1917. One is led to believe, however, by things that are occurring that they will not be as great this year in some lines, especially, and in others perhaps not, but recently an order has gone out if I am correctly informed—and I got this from a mill man that there shall be no wheat manufactured by local mills—as to mills, at least—between the 1st day of July and the 1st day of September.

Mr. EMERY. A Food Administration order?

Mr. FORDNEY. Yes; and a committee has been appointed, situated at New York, with power to export wheat. But the price has been fixed upon bran and middlings and flour, and so forth, and the mills will be closed, and consequently can not make any money, and their income will be much less.

Now, when you come to shipbuilding and Government work, where the cost plus contracts were let the profits were very high—were very great. That was a great mistake, to let a cost-plus contract.

Mr. EMERY. Yes; one of the most demoralizing things in our whole industry.

Mr. FORDNEY. Yes; I know a party that came into my office with \$25,000 capital, who made \$125,000 last year in putting up cantonment buildings—500 per cent on his money—on cost-plus contracts. If other cost-plus contracts were carried on like that was for a while at Hog Island, there would not be anything left.

Mr. EMERY. Yes; those contracts had a demoralizing influence on wages as well as on produce.

Mr. FORDNEY. Yes. I think the Government saw that mistake, but with price fixing I do not think the profits in this country will be as great this year as last year, and consequently this opportunity of the Government to obtain taxes from profits, from incomes, and so on, will not be as great. That would be my general idea of the matter. Now, you have been kept a long time. If there is any answer you can give to those questions, that you can put in concrete form in the record, I would appreciate it very much, and I know the committee would, to make it plain.

Mr. EMERY. I would like as soon as I can to put before the conference board some of the suggestions made by Mr. Longworth and others, indicating a desire to have an answer to some of their inquiries, as, for example, the adoption of the dual system of a flat excess profit modified by a prewar standard, and I would be very glad indeed, with the permission of the committee, to undertake to secure answers from the board, or with a commentary of what they have said, and give it to you.

Mr. SLOAN. All this price fixing or profit fixing would have a tendency to reduce what we call the prewar excess-profits tax, so that as a matter of fact, if you get a large profit tax it must come from the large flat tax rather than from the increased excess-profits tax as we find it in England?

Mr. EMERY. Yes, sir.

Mr. SLOAN. So that in view of what has been said, it is absolutely necessary, to get the tax, to use the dual system and to depend rather on the second than on the excess-profits tax; is not that true?

Mr. EMERY. Of course, you have various modes of raising it. You can raise the normal tax.

Mr. SLOAN. I mean so far as the profit tax is concerned—profit tax and not income tax.

Mr. EMERY. Yes, sir. On the theory of an arbitrary tax, so that you would simply scale all industry, and say, "From the incomes of 5 or 10 per cent," or whatever you fix, "these must pay so much."

Mr. SLOAN. Do you believe we could classify the industries, say in three or four different grades, with different amounts of exemption and also different percentages of levy, and find it entirely constitutional and enforceable as a basis for your so-called flexibility?

Mr. EMERY. Are you referring now to the legality of such a procedure?

Mr. SLOAN. Yes.

Mr. EMERY. All right.

Mr. SLOAN. Under the legality, first?

Mr. EMERY. Your taxing powers are almost unrestrained, assuming that the tax is laid without discrimination.

Mr. GREEN. Do you think that the question of the ability to pay the tax has anything to do with the propriety of the tax?

Mr. EMERY. Pardon me; I did not get that.

Mr. GREEN. Do you think that the ability to pay the tax has anything to do with the propriety of levying the tax.

Mr. EMERY. With the propriety. Not always with the legality. Surely, I can not conceive a tax being laid as a matter of public policy that could not be paid, producing income; but I mean that the mere fact that a man has not got the money with which to pay his taxes does not relieve him from the penalty of the law.

Mr. GREEN. Yes; but you do not understand my question. As a rule we do not put taxes on people who have nothing with which to pay them. Assuming in the two given cases that both parties are able to pay, but one has been making large profits and has had large returns and has a large income, and the other relatively small. Now, it is often said that taxes should be levied in proportion to the ability of the parties to pay them. Do you think that is a correct principle, in a general way?

Mr. EMERY. Surely.

Mr. GREEN. Well, then, I do not see why you call this tax that they levy under the present law an arbitrary tax. We have undertaken to levy it in accordance with the ability of the people to pay it, in accordance with the amount of their profits.

Mr. EMERY. I do not think that is the only element that should enter into your consideration.

Mr. GREEN. Oh, very true.

Mr. EMERY. And I am referring to other elements of taxation: You have referred to one, of course, not the controlling one, perhaps, and certainly not the only element; but I am referring to the relationship of certain forms of business to your tax.

Mr. GREEN. I mention that as a reason why it does not seem to me that the term "arbitrary" is properly applied to it.

Mr. EMERY. I say arbitrary in connection with a certain phrase, and that is "excess profits." I say that the term "excess profits" is one about which men could dispute all day, because, primarily, it must come back to what is a reasonable profit.

Mr. GREEN. I think the term "excess profits" is a very unfortunate expression. We should have used the term "business profits" instead of "excess profits," because it has led many to believe that the tax should be laid in accordance with the proper construction of those words "excess profits," whereas I do not think the committee has undertaken to levy them based upon those distinctions.

Mr. EMERY. I come back to it because I have noted in the literature of industrial controversy in this country references to the fact that a certain concern was earning excess profits.

Mr. GREEN. Yes.

Mr. EMERY. And the standard which has been established in the act has been accepted as a social standard of property earnings, so that a firm that was earning so much was charged with excess profits.

Mr. GREEN. I think we would have done better if we had called it a tax on business profits.

Mr. MOORE. Before you go, if no other gentleman around the table has any other questions to ask you, I want to put one or two.

Much has been said about raising revenue through income tax and excess-profits tax. There is a disposition to increase the income tax and to waive the excess-profits tax. That was discussed this morning

by the gentleman who preceded you. Some other gentleman who has been here indicated a like desire to put the burden of the tax on income. I want to ask you now, in view of the question of the equity of the tax and the fairness of its distribution, if you are familiar with the report of the Commissioner of Internal Revenue for the year ending 1917, wherein it is stated that the four States that the largest amounts of corporation income tax are collected in are New York, Pennsylvania, Illinois, and Ohio.

Mr. EMERY. Yes, sir.

Mr. MOORE. It is a fact that those four States pay the burden of the corporation tax to-day?

Mr. EMERY. And the 12 leading industrial States of the Union carry very close to 20 per cent, I think, of the tax.

Mr. MOORE. Yes; so that the corporations are paying a very large proportion of the tax that is levied to-day for war purposes?

Mr. EMERY. Yes, sir.

Mr. MOORE. And in a very few States?

Mr. EMERY. Yes.

Mr. MOORE. Now, as to the income tax which it is proposed to increase, and which probably will have to be increased, is it not a fact that the report of the Commissioner of Internal Revenue states that the four States in which the largest individual income tax was collected are New York, Pennsylvania, Illinois, and Massachusetts?

Mr. EMERY. I believe those are the States.

Mr. MOORE. So that the burden of the tax, so far as incomes are concerned, rests upon those four States?

Mr. EMERY. What I said with reference to the corporation tax, in regard to the industrial States, is also true of the income tax in the industrial States.

Mr. MOORE. This corporation tax and this income tax are derived from those four States—five States, including Ohio—all of which are industrial States; and of course there are others. Does it not follow that where the industry is most pronounced, there the burden of taxation is heaviest?

Mr. EMERY. Yes.

Mr. MOORE. You represent the manufacturers of the United States, who are a part of the National Association of Manufacturers. They have been bearing a very large proportion of the burden of taxes for the purposes of the war. They are accused of having made excess profits out of the war, and are being accused of that.

It is inevitable that it will have to be increased this year, because the President has indicated what the necessities of the case are, and the Secretary of the Treasury has fixed the amount that we are to raise at \$8,000,000. Have you any suggestions, before you leave, as to any method by which we may more equitably distribute the taxes of the United States, seeing that they are to be doubled this next year? The manufacturers are not the only people of the United States who are prosperous. Have you any suggestion as to any other sources of revenue that we might tax if the committee were so disposed?

Mr. EMERY. Well, if you will turn to the table of occupations and forms of business, and the percentage of their contributions to the

national tax, I think you may get some very instructive suggestions as to sources which pay practically little or no taxes at present.

Mr. SLOAN. Does that include cotton, or have you examined that?

Mr. EMERY. Well, I am simply impressed, myself, with the fact that, for instance, in the tax of 1917 agriculture as a whole paid twenty-four one-hundredths of 1 per cent of the tax contribution, as I understand it. That is on the figures of the Commissioner of Internal Revenue. Whether that means that the farmer is not able to be taxed, or whether it means that the tax law is not fully enforced, I can not say.

Mr. SLOAN. Is it not a fact that the number of taxpayers has been recruited more largely from the farmers, under the last bill, than from any other occupation?

Mr. EMERY. I would not say so, from the indications of the returns. There are about 14,000 returns out of 6,000,000 farmers, according to the Commissioner of Internal Revenue.

Mr. SLOAN. For this year?

Mr. EMERY. For 1916.

Mr. SLOAN. I mean for this year.

Mr. EMERY. I have not the figures for this year. I mean the tax being raised, in which we have the farmers.

Mr. SLOAN. The limit has been very materially reduced, so as to reach the farmers.

Mr. EMERY. Yes.

Mr. DIXON (in the chair). Could you come back after recess, Mr. Emery? It is 1 o'clock.

Mr. EMERY. If there is anything further you gentlemen desire to ask me, I am at your service.

Mr. DIXON. Is there anything further any member desires to ask?

Mr. EMERY. There is only one thing further I want to say, and that is that I hope the committee will find some means for distinguishing between earned and unearned income.

Mr. DIXON. There are so few of the members left now, I thought the committee might adjourn until afternoon, and you might return then if you have anything further to present.

Mr. EMERY. I have substantially finished.

Mr. MOORE. I would like to have you submit in writing a memorandum of any other sources of revenue that might occur to you.

Mr. EMERY. I will be glad to do that.

Mr. MOORE. You can add anything you have to your statement here.

Mr. EMERY. I will do so.

Mr. MOORE. Mr. Chairman, I ask permission to insert in the record a letter which I have here from the governor of Pennsylvania.

Mr. DIXON. Without objection it will be inserted.

(The letter referred to is as follows:)

JUNE 21, 1918.

HON. J. HAMPTON MOORE,

*Member of Congress, Washington, D. C.*

DEAR SIR: The Farmers' National Committee on War Finance is properly exercised over the sinful and illegal profiteering that now menaces this Nation and that after the war will, if we incur great bonded indebtedness, lead to an inflation of prices that will disturb our whole economic policy and menace our capacity to compete in world trade.

For these reasons I respectfully suggest that it would be wise to tax war profits to the limit and out of current revenues carry as far as patriotism and justice warrant, the burden of financing this war.

I urge you, therefore, to use your influence in framing such a revenue bill at the earliest moment.

Very truly, yours,

M. G. BRUMBAUGH.

(At 1 o'clock p. m. the committee took a recess until 2.15 p. m.)

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AFTER RECESS.

The committee met pursuant to adjournment at 2.15 p. m.

The CHAIRMAN. We will hear Mr. Berenson.

**STATEMENT OF MR. LAWRENCE BERENSON, ATTORNEY AT  
LAW, NEW YORK CITY.**

Mr. BERENSON. I desire to state at the outset that I represent no interests whatsoever in coming to the committee, but come entirely unbiased.

The CHAIRMAN. What is your full name?

Mr. BERENSON. Lawrence Berenson, New York City.

The CHAIRMAN. What business are you engaged in?

Mr. BERENSON. I am a lawyer.

The CHAIRMAN. Whom do you represent in appearing here?

Mr. BERENSON. No interests; I represent nobody.

The CHAIRMAN. You are here just in your individual capacity?

Mr. BERENSON. I am of the firm of Stern & Bernhold.

The CHAIRMAN. Do you represent any society on taxation?

Mr. BERENSON. None whatever.

The CHAIRMAN. All right, Mr. Berenson.

Mr. BERENSON. One of the greatest difficulties of the law has been its application, the mechanics of applying the law. I venture to state that not 20 per cent of the taxpayers in the year 1917 filed what might be regarded as perfect excess-profits tax returns. Only last Monday I had a talk with Mr. Eisner, who is collector of the second largest district in the country, and he told me that of the many excess-profits returns, he recalled but very few instances of perfect returns having been filed.

This has been due to the difficulty in determining how to regard capital in many instances, such as changes in invested capital and the like. There are one of two instances that I can speak of, which came under my own observation, of the difficulties of determining what was and what was not capital. The president of a corporation came to me last March and put this case before me, and wanted to know whether this item should be regarded as capital. He and three of the chief stockholders of the company, controlling perhaps 80 per cent of the stock, agreed in January, 1917, that they would loan to the corporation 75 per cent of the dividends that they had earned in 1916, to keep it as a loan to the corporation, and eventually to get stock for it, and they agreed among themselves that they would accept preferred stock for it. The stock was not issued until some time in November, and the query was whether or not they could

regard, or the corporation could regard these loans to the business, which were in a way subscriptions to preferred stock to be issued at a future time, as capital.

Another serious case, which shows the difficulties that I met with in discussing capital, is the case of patents which have been marked off in previous years out of the surplus, not out of income, but out of surplus, out of which a tax has already been paid, and there has been a tendency this year among all corporations to revive the amounts paid for those patents as capital in order to permit of big deduction rates. The result has been this year that most businesses have been unable to prepare their excess profits tax returns, and they have had to seek the services of expert accountants and lawyers who have specialized in taxation, to assist them in the preparation of their returns. In all the cases that I had anything to do with—and the experience seems to be the same with other lawyers and accountants—you are obliged to go into the history of the concern from 1911 to date in order to ascertain exactly what you would regard as capital and what deductions to make from capital and what exemptions to make to capital. Of course, we all know how severe the confusion was this year when the Commissioner of Internal Revenue had to grant a general extension of 30 days to all concerns to prepare their excess profits tax returns, and in very many cases extensions were even granted to May 1.

Mr. SLOAN. Have you prepared some phrasing of the law which you criticize that would make a fairer statement of it?

Mr. BERENSON. No; it is rather an informal statement that I have.

Mr. SLOAN. It is generally admitted, of course, that a new law in an entirely new field is difficult to phrase, to construe, and perhaps to follow, and while we like criticism, we also like constructive criticism that would provide a substitute where ours is at fault.

Mr. BERENSON. I have no formal statement. These are things that have come out of my own experience in preparing returns.

I am told that to examine the excess profits returns for 1917 it will take at least three years for the Government to make the proper examinations. It is going to require the services of a tremendous force of expert accountants, not accountants alone, but it will also require the services of lawyers to go into the corporate minutes, agreements, and the like, as to what items should or should not be regarded as capital.

The CHAIRMAN. Are lawyers complaining that they are being employed too much to help the taxpayer?

Mr. BERENSON. No; it has been a very remunerative source of revenue.

The CHAIRMAN. You are showing a self-sacrificing spirit if you would make it so that they would not need the services of lawyers like you.

Mr. BERENSON. If you prefer to put it that way, I will let it stand.

Now, another serious objection to the law has been the practical effect in applying it. Under section 207 a corporation, partnership, or individual which had a small capital and earned more than 9 per cent in the prewar period and which since 1914 found itself doing a large war business, requiring new plants and heavily increased capitalization, was comparatively slightly affected in 1917 by the excess-profits tax. Again, concerns which could do business only when they



had large capitals were likewise slightly affected. On the other hand, old, established, reputable houses, whose credit was so sound that they could do business on a large scale with small or borrowed capitals, were in effect severely penalized in applying the 9 per cent deduction rate to their 1917 capital.

In other words, the mushroom concerns which sprang forth in 1914, 1915, and 1916 to embark on a large scale in war enterprises, and likewise corporations which converted their plants into munition factories, etc., were comparatively slightly taxed in 1917 by virtue of their deductions on large invested capitals, although their profits were earned purely out of war enterprises, while old, established concerns with small capitals engaged in occupations remote from the war were, comparatively speaking, heavily taxed.

Now, as an instance of the difficulty in preparing returns, not long ago I talked with a lawyer for one of the largest corporations in the country, and he told me that in preparing excess-profits returns this company had a large force of accountants and lawyers called in to assist in the preparation of the returns, and he said that in no single figure could any two lawyers or any accountant and lawyer agree in that conference because of the great difficulty of determining what items should or should not be regarded as capital.

Another serious objection to the law has been its failure to reach the incomes of realty corporations, and in good part the incomes of banks and trust companies, because in the case of earnings of trust companies with their huge surpluses which they usually carry in their item of undivided profits, added to their capital, the deductions on those items are so great that it takes them from the higher class of taxation, and in the cases of realty corporations, corporations controlling property in the big cities, it is a particularly well known fact that the return on their investment is never greater than 9 or 10 per cent, so that they escape from the excess-profits tax, although they are engaged in a business, the investment in which is very sound and very secure, yet they escape in a great many instances almost entirely from the excess-profits tax.

Mr. SLOAN. I take it then that you would favor a reduction in the exemption in classes of business where the return is stable, with little risk or hazard.

Mr. BERENSON. Well, that would be a way to get at such concerns as those, but my plan is a more elaborate one than that, which I shall reach in a second.

Now, there is growing up throughout the country to-day a very vicious practice of accumulating large capitals, of building up large capitals for the purpose of the deduction. That practice is growing very, very rapidly, and lawyers and accountants are advising their clients and insisting on their doing everything they can to build up large capitals in order to get the advantage of the 9 per cent deduction rate, and there are a large amount of these, and it is a very, very serious practice, it seems to me, because it is going to raise the rates of interest, and furthermore when liberty bond time comes around again, business men will find themselves in difficulties in trying to procure funds to purchase liberty bonds. Those two items, it seems to me, are very serious items for the future of the excess-profits tax, as it stands to-day.

Mr. SLOAN. Then it would be a good thing to have a new law about every year so as to keep up with the advanced bookkeeping?

Mr. BERENSON. My plan would be to have this one law, which I think could stand every year.

Now, a suggestion has been made to allow borrowed capital to be regarded as capital, invested capital, in order to prevent discriminations which the law has in effect made this year against concerns with simply borrowed capital, which have large turnovers.

Theoretically, this seems to be a good thing to do, but there again if the committee should decide upon allowing borrowed capital to be regarded as invested capital, it is going to open the door to many vicious practices, and how will these particular conditions be overcome. If borrowed capital should be regarded as invested capital, and interest is paid on borrowed capital, borrowed capital in that case would be better than invested capital, because they will be paying interest on their borrowed capital, and then they will have that borrowed capital as invested capital, whereas no interest is being allowed on invested capital this year as the law stands to-day.

The CHAIRMAN. Interest is allowed as a deduction, but the borrowed capital can not go as a capital deduction.

Mr. BERENSON. As I understand it, it is not regarded as invested capital.

The CHAIRMAN. No; but they are allowed a deduction on the interest paid.

Mr. BERENSON. But some suggestion has been made to the committee, I understand, that borrowed capital should be permitted to be regarded as invested capital.

The CHAIRMAN. It would take some pretty good arguments to convince the committee against the position it took last year.

Mr. BERENSON. I quite agree with the committee that it should not be allowed.

The plan which I have in mind would get away from the difficulty in preparing these elaborate returns, and we cut clear of any question of what item should or should not be regarded as capital, because we disregard capital entirely. We would have a tax which would be easy to understand and easy to apply, and it would save the Government perhaps hundreds of thousands of dollars in the machinery of examining these elaborate excess-profits tax returns, and that plan would be to impose an income tax on all businesses instead of as we do this year, impose an excess-profits tax on all businesses. Impose an income tax on a business conducted by an individual or corporation, say, a flat rate of 20 per cent, if you wish, or more if we require, then have a graduated income tax on the business profits, similar to the graduated tax they now apply to personal income tax.

Mr. MOORE. Would you cut out the existing excess-profits tax?

Mr. BERENSON. Well, that would be my suggestion to cut away clearly from the excess-profits tax and adopt an income tax on business. Have each business pay an income tax.

Mr. MOORE. You want to get rid of the trouble in accounting that is now necessary to make returns?

Mr. BERENSON. It is a bigger problem than the details of accounting.

Mr. MOORE. I understand that that would be incidental, but would you raise as much revenue under the new plan as is raised now?

Mr. BERENSON. Well, I do not see why not, if we started out, say, for instance, with a flat rate of 20 per cent on the income of all business, whether conducted, of course, by individuals, partnerships, or corporations.

Mr. DIXON. Would you give them an exemption before you applied the 20 per cent?

Mr. BERENSON. Yes; a reasonable exemption.

Mr. DIXON. What is your suggestion as to that?

Mr. BERENSON. You can have a flat \$6,000 exemption, similar to the \$6,000 exemption in the case of partnerships and in concerns on the excess-profits tax. You could allow a certain percentage of the income of the firm to be exempted from this income tax.

Mr. MOORE. I like your argument favoring simplicity of returns. I think that is what you are driving at. The question is whether we should derive as much revenue, especially in view of the fact that we must get more than last year.

Mr. BERENSON. I do not see why you would not. It seems to me that you can derive as much revenue as you want out of this plan, and furthermore the large corporations which should be the big contributors, and to whom we must look for the greatest part of the tax, would be wealthy contributors under this plan, because if we apply a graduated tax system, depending on the amount of income, any corporation that you will reach under the graduated rate, would be the large corporations.

Mr. MOORE. Have you prepared a table showing how high your graduation would go?

Mr. BERENSON. No; I have not prepared a table, but it occurred to me that a maximum of 33 per cent as a graduated tax would be a sufficient maximum to raise the requisite amount that you are looking for.

Mr. MOORE. Have you made sufficient calculations to satisfy yourself that 33 per cent graduated in the manner indicated would raise the revenue we desire?

Mr. BERENSON. Well, I have not compiled them, and I do not know what income, for instance, large corporations have, or what the total income is from all the businesses in the country, but it seems to me that it would be easy to ascertain that fact and prepare a graduated rate classification.

Mr. MOORE. Have you thought out the graduation plan sufficiently to enable you to say whether it would work out unfairly to the small business man, or play favorite, as it were, to the larger operators?

Mr. BERENSON. It would not work unfavorably to the small business man, and in fact it would get the larger operator, in the sense that it would reach income pretty severely, because if we have a graduated tax rate, of course the rates would commence at a very small rate on small incomes and increase proportionately as the size of the incomes increased.

Mr. MOORE. Your proportion that would go to the large concerns would be a very large proportion; that is, the aggregate would be very large. Some gentlemen have appeared before the committee who have urged, and very insistently, too, that the Government should take everything above a fixed amount; \$100,000 has been

mentioned and there has been a compromise of some on \$50,000. In the case of an individual graduated scale, of course, it would not permit any such limitation as that.

Mr. BERENSON. Well, of course, you could go as high as you wished on the graduated scale. Roughly, I figured that having a graduated scale commencing with, say, 5 per cent and running up to 33 per cent in addition to the flat income-tax rate, which I suggest for all businesses, after allowing a reasonable exemption, would be a big source of revenue to the Government under such a plan.

Mr. DICKINSON. You abandoned the lower exemption. You suggested \$6,000 exemption.

Mr. BERENSON. Yes.

Mr. DICKINSON. You abandon the lower exemptions that are now in the law?

Mr. BERENSON. No; we could keep the \$6,000 exemption. Do you mean the 7, 8, and 9 per cent deduction rate under the excess-profits tax?

Mr. DICKINSON. Well, you are not speaking about income. You are speaking of excess profits.

Mr. BERENSON. My plan is to substitute an income tax on business in the place of excess-profits tax.

Mr. DICKINSON. If you substitute, you have normal exemptions as low as \$1,000 for individuals and \$2,000 for families.

Mr. BERENSON. This plan of mine is entirely apart from the personal income tax as it stands. It is simply a plan to substitute income tax on business apart from the personal income tax as it stands to-day.

Mr. DICKINSON. You retain the present income-tax law, and then substitute this income-tax law in which you levy 20 per cent normal with exemption of \$6,000?

Mr. BERENSON. Yes.

Mr. DICKINSON. But you increase the per cent in addition to the normal 20 per cent?

Mr. BERENSON. Have in addition to the 20 per cent tax a graduated tax.

Mr. DICKINSON. All right; I understand you.

Mr. BERENSON. Of course, a great many people have raised objection to this plan that we are not regarding the return from capital, that is, we are not taking capital into consideration, and the concern earning \$100,000 with \$1,000,000 capitalization would be just as good or just as bad off as the concern earning \$100,000 on a much smaller capitalization. That is one of the difficulties of capital at any rate.

The CHAIRMAN. As I understand it, you do away with the excess-profits tax and put the whole on income tax?

Mr. BERENSON. Yes.

The CHAIRMAN. Would you graduate the income tax on corporations?

Mr. BERENSON. Yes.

The CHAIRMAN. Have you figured out how much the straight income tax would be on corporations to raise the required amount?

Mr. BERENSON. No; I have no data of that kind before me.

The CHAIRMAN. Your proposition would be, if there is a corporation, say, with profits of \$100,000, which would be 50 per cent on its capital, and another corporation makes \$100,000, which is only 1

per cent on its capital invested, you would make both corporations pay the same?

Mr. BERENSON. Yes.

The CHAIRMAN. Do you think that would be exactly right, to make the corporation which is getting only 1 per cent on its capital pay as much as the concern that is getting 50 per cent on its capital, the incomes being the same?

Mr. BERENSON. That is a rather extreme case.

The CHAIRMAN. Last-year in the returns that ended for this fiscal year 347,000 corporations made returns, and 140,000 of those corporations made no net income; that is, had less than 1 per cent—practically no net income. You are going to make those pay an income tax of the same amount as those corporations that made 10, 15, and up to 400 or 500 per cent?

Mr. BERENSON. The law, as it now stands, makes them pay an income tax.

The CHAIRMAN. No; 140,000 of them pay no excess-profits tax.

Mr. BERENSON. But the income tax would apply.

The CHAIRMAN. How is he going to pay any excess-profits taxes income?

Mr. GARNER. They pay no excess-profits tax, but they pay an income tax.

The CHAIRMAN. Some 140,000 made no income, had none; 50,000 or 60,000 had 1 per cent and up to 5 and 6 per cent. You would tax them just as much as a corporation making 1,000 per cent. Some corporations did make 1,000 per cent. Would not that be one of the difficulties of your proposition?

Mr. BERENSON. As the law stands to-day, a corporation, no matter what its capital is or how small the return is on its capital, pays a 6 per cent income tax without regard to the amount of capital.

The CHAIRMAN. Now, 6 per cent, of course, would not get us anywhere with the amount that we must raise. On your proposition the income tax would have to be 30 or 40 per cent normal and then graduate up to 80 or 90 per cent to get the proper amount.

Mr. BERENSON. I do not know whether you would have to go to the point of 80 or 90 per cent under such a plan as this to get the amount, because I understand this year the largest corporations in the country, very few of them, came under the heavier excess profits rates. Most of them came under the small rates because of their large capitalization, and the deduction on their capitalization saved them from the very high rates.

The CHAIRMAN. Would you give them any exemptions or deductions?

Mr. BERENSON. I would allow a reasonable exemption and then apply the 20 per cent rate.

The CHAIRMAN. Say that a corporation has \$500,000 invested and makes \$100,000. How much exemption would you allow them before your tax attaches, your income tax?

Mr. BERENSON. You could allow them, say, an 8 per cent exemption on their income; on all above that you could apply your flat 20 per cent income tax rate, and then an additional graduated scale tax rate similar to the additional rate under the personal income tax. Now, in the case of personal incomes, we do not regard how much capital a man has. A man may have \$100,000,000 and receive an income,

say, of \$100,000 on that. Another man may have only \$100,000, and for the last year he might have made on that capital \$300,000, but still we apply the rates the same.

The CHAIRMAN. But we are pretty well settled that if a man has \$100,000 for his individual use he can live pretty well, although prices are high, and it make no difference whether he has \$1,000,000 or \$10,000,000 invested. But here is a corporation in business, and it must maintain its business, and if that corporation makes only 1 or 2 per cent, or even 5 or 6 per cent, it is going practically to get out of business, while the individual can keep on in his business, because you leave that in his individual business.

Mr. BERENSON. It is not the tendency of capital to stay in industries that do not make a fairly decent return on the capital invested.

The CHAIRMAN. But there are 140,000 corporations that did not make anything, according to the returns they made. They may have had shrewd lawyers to make their returns and figure them out, but according to their returns they made nothing. If they made false returns, it must be looked into.

Mr. BERENSON. In my opinion, there is no reason why any corporation should not pay a substantial income tax. I understand the committee plans to raise the corporate income tax considerably. If you should, I think you should consider raising it without any regard to the capital invested in the business.

The CHAIRMAN. I do not think the committee would raise it to the extent of crippling or very materially handicapping any corporation, but if necessary, we would have to do that, even to the total amount received with respect to the profits on invested capital.

Mr. BERENSON. The effect of the excess-profits tax this year, as I have seen it, has been to penalize the small man, the man with a small capital, or with a large borrowed capital, whereas the great big corporation, as I attempted to point out before, very few come into the higher rates of the excess-profits tax. The higher rates were applied most frequently, in the case of people doing business with small borrowed capitals, and people of that type. People who do business with borrowed capitals so much, as I have observed, are established firms who can borrow all they want from the banks without having big capital on hand. It works very unfairly.

Mr. FORDNEY. I know of a firm that has a capital of \$25,000 and made \$125,000 profit last year net. Do you mean to say that that company should not pay more tax than if they had made only \$2,000 on \$25,000 capital?

Mr. BERENSON. Why, of course, they should pay more.

Mr. FORDNEY. A minute ago you said that they should pay a very heavy tax whether they made any profit or not.

Mr. BERENSON. That is one of the defects of my plan, but it is to me—of course, it seems to me that that is about the only defect. It is a pretty serious one, but the excess-profits-tax law this year, in the cases I pointed out of the business being conducted by small capital, or borrowed capital, is a very serious defect.

Mr. FORDNEY. They are permitted to use borrowed capital.

Mr. BERENSON. They are allowed interest on borrowed capital, but that is not as good as the 9 per cent deduction on borrowed capital.

Mr. FORDNEY. Six per cent is not as good as 9, but that is borrowed, that is not real capital in the business. It is not a very great distinction, but don't you think a firm that makes 500 per cent on its capital ought to pay more than a firm that makes 2 per cent?

Mr. BERENSON. Yes.

Mr. FORDNEY. Then why did you say that a corporation should pay heavy taxes whether they make profits or not? If a corporation is called upon to pay a heavy tax that doesn't make a profit, that is not income tax.

Mr. BERENSON. My plan would tax income, not capital.

Mr. FORDNEY. Why did you say they should pay a heavy tax on income?

Mr. BERENSON. No; I didn't make that statement. No; my plan was to levy a 20 per cent income tax right on the income of a corporation, after allowing a reasonable exemption, say, 8 per cent of their income, impose your income tax right on the incomes after the 8 per cent exemption, and then add on your additional tax rates.

Mr. FORDNEY. Under existing law a corporation has an exemption of \$3,000, then they have an exemption of 7, 8, or 9 per cent, as the case may be. Then the first tax is 20 per cent on their income up to 15 per cent, less their deductions, then it jumps to 25, 35, 45, and 60 per cent. The existing law produces in round numbers \$4,000,000,000 from all the revenues of the Government. Congress is called upon to double up that amount and furnish \$8,000,000,000 instead of \$4,000,000,000. Those rates must be raised. Of course, they must. Have you figured out in your judgment what rates this committee ought to impose under the circumstances to get \$4,000,000,000 in addition to the amount that will be raised under the existing law?

Mr. BERENSON. Under the plan I suggest, or under the excess-profits tax?

Mr. FORDNEY. I did not hear your plan. I came in a little late.

Mr. BERENSON. I thought you referred to my plan.

Mr. FORDNEY. I asked if you had figured out a plan that you would suggest to the committee to raise this additional \$4,000,000,000.

Mr. BERENSON. My plan would be to substitute an income tax on business and then go ahead and levy your rates, and you can levy rates sufficient to raise the amount.

Mr. FORDNEY. How would you put it on the business?

Mr. BERENSON. I would start out with a 20 per cent income tax, the income on any business, whether it be an individual, partnership, or corporation, after allowing, say, 8 per cent of the net income of the business as exemption.

Mr. FORDNEY. Eight per cent of the capital?

Mr. BERENSON. Eight per cent of the income.

Mr. FORDNEY. Eight per cent of the income, earnings based on the capital invested?

Mr. BERENSON. No.

Mr. FORDNEY. Where would you land if you put it that way?

Mr. BERENSON. But the law as it stands to-day imposes a 6 per cent income tax on corporations without regard to their capital, and the law makes no discrimination whatever.

Mr. FORDNEY. That is really a minor tax of 6 per cent.

Mr. BERENSON. But I have heard suggestions about increasing that tax, say, to 12 per cent, for the purpose of contributing to the \$4,000,000,000 necessary.

Mr. FORDNEY. Twelve per cent on their net income after deducting everything else. I think it was the intention of this committee, when they passed that law, to have that normal tax deducted from the net income before the supertax applied, but the Commissioner of Internal Revenue put it right the reverse because he raised more money, I imagine.

Mr. BERENSON. Yes.

Mr. FORDNEY. How would you apply that normal income tax, take it first or last from any income?

Mr. BERENSON. You mean the personal income tax?

Mr. FORDNEY. The normal income tax on corporations.

Mr. BERENSON. Why, I would allow it first before levying the tax and 8 per cent deduction.

Mr. FORDNEY. Off the profits, instead of 8 per cent on the capital, 8 per cent of the net earnings?

Mr. BERENSON. Yes.

Mr. FORDNEY. Then what would you do?

Mr. BERENSON. And then on the excess of what was left over.

Mr. FORDNEY. No, your normal tax, if you had one.

Mr. BERENSON. Impose a 20 per cent rate.

Mr. FORDNEY. That isn't the normal tax. I am talking about the normal tax, 6 per cent on the corporation, then comes your excess-profits tax after that.

Mr. GARNER. He would do away with excess-profits tax entirely.

Mr. FORDNEY. And just put a straight normal tax?

Mr. GARNER. A straight normal tax. After making the allowance he would put on 20 per cent, and then graduate the tax above that.

Mr. FORDNEY. In order to get away from what is termed excess-profits tax?

Mr. BERENSON. In order to get away from the difficulties of it.

Mr. FORDNEY. Have you figured out how much money the Government would raise on that plan?

Mr. BERENSON. It seems to me the Government could raise as much as it wished.

Mr. FORDNEY. What it seems to you, my friend, and what might be the result, might be two things. Where did you get your statistics?

Mr. BERENSON. I haven't prepared any statistics.

Mr. FORDNEY. Then where would we get the amount of money that we require?

Mr. BERENSON. Practically the entire income of the corporation or the businesses could be taken under this plan, and you could go ahead and impose your flat 20 per cent rate, and then your additional tax rates as high as you wished in order to get the \$4,000,000,000 that you are looking for through the excess-profits tax this year.

Mr. FORDNEY. Do you think that 8 per cent on the net profits would be more equitable than an 8 per cent deduction on the actual capital invested, do you think it would be more just to the man in business?

Mr. BERENSON. I think it would not be more equitable, no, but I think it would be quite equitable, not quite as equitable as an 8 per cent on capital. My plan is purely suggested for the purpose of getting away from the difficulties which questions of capital have raised this year.



Mr. FORDNEY. Let me give you an illustration. Suppose there is a corporation with \$1,000,000 capital, making \$300,000 net profits under existing law. Their tax, we will say, under the present law, would be \$70,000, and then on the remaining \$230,000 there would be a tax imposed, graduated. Now, your plan would leave \$24,000 instead of \$70,000, wouldn't it?

Mr. BERENSON. Yes.

Mr. FORDNEY. Do you think \$24,000 exemption on a \$1,000,000 business would be a fair rate of income for the capital invested?

Mr. BERENSON. My plan does not take away all the income of any corporation or of any business. Of course, there is a great deal of income left over for distribution.

Mr. FORDNEY. Suppose you made only \$70,000 with \$1,000,000 capital. You have got, according to your plan, \$24,000 exemption, then you begin to tax that \$46,000 very heavily.

Mr. BERENSON. Yes.

Mr. FORDNEY. Do you think that would be equitable and just? Do you know of any country in the world that has adopted a tax law of that kind?

Mr. BERENSON. We have done it in a form under the present law as it stands.

Mr. FORDNEY. Who are "we"?

Mr. BERENSON. The American Government. I can't get away from the case where the law now applies a 6 per cent income tax on corporations without regard to the amount of capital they have, whether they have \$1,000,000 of capital earning \$10,000 or \$100,000 and earning \$200,000.

Mr. FORDNEY. The difference between your exemption and your tax is too great, my dear friend. One is a tax and the other is an exemption that you are talking about. The 6 per cent tax is upon the net income. Now, you are talking about a deduction of 8 per cent on that income, instead of 8 per cent deduction on the capital invested.

Mr. GARNER. I think, Joe, you are confusing the idea that he is going to do away with the excess profits. May I give an illustration of this part?

Mr. FORDNEY. Sure.

Mr. GARNER. Suppose a company with \$100,000 makes 10 per cent. Under your plan that \$10,000 profit you would allow them 6 per cent or 8 per cent, did you say?

Mr. BERENSON. Eight per cent.

Mr. GARNER. You would allow on the \$10,000, \$800 exemption, and you would tax them on \$9,200 at 20 per cent?

Mr. BERENSON. Yes.

Mr. GARNER. You would do away with the excess profits. Under the present law you would take 6 per cent of the \$10,000, which would be \$600, as a normal income tax, and then you would apply the excess-profits tax to that company and get very little money, and under your plan you could go down until they had very little left for the stockholders. You would be taking away from that 25 per cent of that income, which was 10 per cent on the capital stock. Whereas under the present plan you do not take that much money. I think the fallacy of your scheme is allowing the deduction of 8 per cent on the net profits and not taking into consideration the capital invested.

Mr. BERENSON. Well, it is a better plan to travel along with the excess-profits tax as it stands to-day, but there have been so many difficulties with the question of determining what is and what is not capital, and then in addition, the law as it is working to-day is that these concerns, all businesses to-day are piling up their capitalization as far as they can do it so that they can get advantage of a big reduction rate. The practice is growing pretty vicious, but lawyers and accountants have advised every business concern to increase its capital.

Mr. FORDNEY. You can not pile up capital unless you use it in your business. The law does not permit you to do it without taxing it. What are you talking about?

Mr. BERENSON. I do not know anything in the law that prevents it.

Mr. FORDNEY. The law provides that if you do not distribute the money——

Mr. BERENSON (interposing). Distribute the surplus.

Mr. FORDNEY (continuing). You must use it in the business, or call it surplus, and the law does permit you to put it in there and use it for the purpose of raising the capital.

Mr. BERENSON. That practice is going on, nevertheless.

Mr. FORDNEY. The law to-day is that you must pay an additional 10 per cent if it is not distributed.

Mr. GREEN. If it is going on, we will make an additional effort to stop it.

Mr. FORDNEY. A corporation can not increase its capital unless it has use for it in its business. What would they be doing with it if not using it in their business?

Mr. BERENSON. So far as I know, the law has not applied the 15 or 20 per cent penalty where it fails to distribute surplus.

Mr. FORDNEY. Wait a minute. Let me ask you: Suppose in the business you had \$400,000 capital and you want to increase to \$800,000, what are you going to do with the \$400,000 you put in? Just hold it as capital, letting it lay in the bank on which you are going to ask deduction?

Mr. BERENSON. Businesses are employing it that do not need it, absolutely.

Mr. FORDNEY. If you use it in your business, you are permitted to do it; the law permits you to do it.

Mr. BERENSON. They are all making use of it.

Mr. FORDNEY. You can't have it and make your books jibe with the Government inspector unless you use it in your business. You can't get around the law in that way.

Mr. GARNER. I am afraid they have been doing it as he says.

Mr. HULL. There is a difference between profits, isn't there, that may be retained in the business and put back in the business and which are subject to our tax laws, other profits which constitute capital in the business as distinguished from taxable profits?

Mr. BERENSON. Precisely.

Mr. HULL. There is a little distinction there.

Mr. BERENSON. That is what I have attempted to point out.

Mr. FORDNEY. I did not mean to be sarcastic.

Mr. BERENSON. No. There are instances where a partnership concern has converted large quantities of securities which they have

held, their own personal securities, and have taken that money and put it into the business, adding to the capital. They employed it, but they really didn't need it. The banks are willing to loan these concerns money, but notwithstanding that they are doing away with the use of borrowed capital, and they are using these large deductions as invested capital.

Mr. FORDNEY. My dear, good friend, the ordinary returns on stocks and bonds produce a less rate of interest than the average business can borrow money at the bank. I know because I am a money borrower. I never owned any bonds, but I know what rate of interest they are sold at. Therefore, I never would borrow from the bank if I had the money to do the business without borrowing, never in the world. I would not pay 6 per cent or 5 per cent for money to carry on my business if I had the cash on which I could not get more than 3 or 4 or 5 per cent by loaning.

Mr. BERENSON. Your practice of carrying on business is different from most businesses that I have run into.

Mr. FORDNEY. I never knew a man to loan money at 4½ per cent and go to the bank and borrow it at 6 per cent, and I have been in business since I was a boy.

Mr. BERENSON. A great many men borrow money on securities at about the same rate that the securities pay.

Mr. FORDNEY. The average man that would loan money at 4½ per cent and borrow money at 6 per cent, you would find him in the number of 140,000 who do not make money.

Mr. GARNER. You expect those fellows that borrow money at 6 per cent to purchase liberty bonds?

Mr. FORDNEY. The purchase of liberty bonds is different altogether. Your patriotism, your desire to support your boy on the battle field, leads you to buy those bonds whether you have a penny or not. It is your duty to put up your money to support your Government to carry on this war without making more profit. Everybody does it. It is patriotism; it is an investment, but not a profitable one. Everybody can loan money at a rate that the Government pays on Government bonds, and get good security. I have borrowed money to buy liberty bonds, and pay 6 per cent to buy them that will yield me only 4½ per cent. Do you think I am doing it as an investment?

The CHAIRMAN. Any other gentleman have a question to ask?

Mr. GREEN. Just one suggestion. I will say with reference to the matter you spoke of in respect to the present tax bearing heavily upon the man who is engaged in business in a comparatively small way, for my part I think that may well merit the serious consideration of the committee; in fact, the committee has considered it before, and will, no doubt, consider it again. We want to work it out fairly, and your suggestion comes along with others who have spoken along the same line, and also your suggestion with regard to borrowed capital.

The CHAIRMAN. Have you any other remarks?

Mr. BERENSON. No.

The CHAIRMAN. We are very much obliged for your statement.

**STATEMENT OF MR. C. P. PETERSON, ATTORNEY, OF LINCOLN, NEBR., REPRESENTING THE BANKERS' LIFE INSURANCE CO., OF NEBRASKA.**

The CHAIRMAN. Give your name and business and address, Mr. Peterson.

Mr. PETERSON. C. P. Peterson; Lincoln, Nebr.; attorney, representing the Bankers' Life Insurance Co., of Nebraska.

Mr. Chairman and gentlemen of the committee, I stated that I represent but one insurance company. I have observed in watching the proceedings of the committee that ordinarily the persons representing the committee represented large groups, and I assume that under those conditions I am not justified in taking any great portion of the committee's time. I trust I appreciate fully the fact that your duties in framing revenue legislation is more important than the success or failure of any business or line of business. We are presenting a statement, not with the view of reducing our tax or reducing our ratio of tax, but to get, if it will be possible, in the next revenue bill a more adequate definition of Federal taxation as applied to insurance companies. I should like, therefore, if I may, to analyze from our point of view the elements of life insurance, with a view of pointing out the necessity for such definition.

I know that the life-insurance business has been presented to your committee already by counsel for the American Association of Life Insurance Presidents—Mr. Hedges and Mr. Dunham, I believe. I have noted the brief which they have filed; I have noted the argument which they presented, and which it will not be necessary for me to repeat, that life insurance is not in a condition to profit by the condition of war. Life insurance is experiencing adverse conditions, a number of which were presented by counsel for the association, and one of which was not mentioned, I believe—an increased mortality, due not only to the men in the service, but I think every one is now beginning to recognize an increased mortality due to the strain and stress of the conditions of war and business. That mortality is, I think, felt by all the companies, and if war continues will be increasingly felt as we go along.

The basis of investments of insurance companies is also operating adversely to the insurance business. Our company, with assets of \$13,000,000 plus, has invested at the present time an excess of \$1,000,000 in Government securities of 3½ to 4½ per cent. Like a good many of the smaller companies, especially the western companies, we have undertaken with the policyholders to accumulate our funds, our reserves, on the basis of interest compounded annually at 4 per cent. With our investments on the present basis it does not require any argument to convince the committee that our margin of profit is getting exceedingly narrow.

With reference to the excess-profits tax law, or, as I suppose it might have been properly called, the capital-earning tax law, a dispute has existed since the last enactment between the insurance companies and the Treasury Department, I think primarily due to the fact that the definition of invested capital which was framed by Congress in the last enactment was made generally for all corporations, on the theory that invested capital was general in all business, failing, as it appears to me, to recognize that the ordinary business

enterprise makes its profit and gets its income from a capital turnover, whereas the insurance business does not represent a capital turnover, but accretion, on a predetermined basis, for policyholders.

I noted the amendment proposed by the counsel for the association as a suggested amendment for the new revenue bill. I indorse the position which was taken and also the principle of the amendment, with this exception, however: As I understand the proposed amendment, it incorporated into the definition of invested capital a new element of reserves required by law.

I suggest to the committee that if that is incorporated into the regular definition for all invested capital, we are inviting new confusion with reference to other business enterprises. There are reserves required for other concerns than insurance companies. The definition is intended, and I think should be reserved, for a definition as applied to insurance companies. I would suggest, therefore, that instead of attempting an amendment to the definition as applied to the ordinary mercantile enterprise, a separate and distinct definition for insurance companies, and except possibly the matter of surplus used in the business, which is now incorporated in the regular definition. I do not know whether the committee would desire to have submitted any form of amendment; I do not know how the committee plans going ahead with the new revenue plan, whether it will be amendatory in form or entirely rewritten. If, however, such rewriting is to take place, I suggest as a definition of invested capital for insurance companies:

1. Actual cash paid in.
2. Actual cash value of tangible property paid in other than cash, subject to the same limitations and payments other than cash as is found in the definition of invested capital for other corporations.
3. All the reserves required by law.

As to the income-tax principle there has been and still continues to be some dispute. There has been language in all of the income-tax legislation of Congress which has been subject to various interpretations as applied to insurance, due to the same condition, I believe, of seeking to cover the insurance definition within the ordinary definition for mercantile enterprises.

At this point I would like to suggest to the committee the distinction or classification, perhaps, by the Treasury Department, dividing life insurance companies into two classes, mutual companies and stock companies, as not being sound in principle. Mutuality of a life insurance company does not depend upon the plan for its organization. It does depend upon the disposition of the receipts of the company or policyholder. In other words, it depends upon whether the business the company writes is participating business or nonparticipating business. If there is to be any classification of insurance companies for income tax it ought to follow that line rather than the ordinary line of organization. The disposition of the receipts—two classes of receipts, premium income and earnings on reserve—determine the character of the business and the mutuality of operation. It has been my privilege a number of times during the last few months to discuss with the Treasury Department Federal tax as applied to insurance. I believe the Treasury Department has sought at various times to strain the language of the acts passed heretofore with a view to imposing tax upon insurance companies, notwithstanding the fact

that the fundamental tenet of legislation is that it shall be construed against the taxing power and in favor of the taxpayer. This has come about, it seems to me, due to a conviction on the part of the officers of the Treasury Department that there exists and has ever been in the hands of the insurance companies large sums of money which should be reached and taxed in some form.

It has been suggested, I believe, to the committee, and this will be further suggested to the committee, that so far as means is concerned of increasing the revenue to the Government, it ought to take the form of a premium tax. I believe that has already been suggested. I want to submit to the committee as definitely as I can that it is my conviction that that principle of taxation is wrong in principle; that it is unjust, inequitable, and, for the present purposes, inexpedient. My reason for that is this: If John Smith has a policy of insurance of \$5,000, and he pays an annual premium of \$150, his payment of a premium, his payment of \$150 paid over has already been subject to the payment of an income tax and ought not to be taxed again. It probably ought to be taxed more than it is and probably will be taxed more than it is, but it ought not to be taxed twice. The premium ought not to be taxed in the hands of the company after it is received, first, because the company is charged by its contract to accumulate that fund for the benefit of the policyholder. I am speaking now of participating business. If John Smith has a reserve in the hands of the insurance company on his policy of \$5,000 amounting to \$1,000 and the company earns its net earning power for a year, he will receive on his earnings \$40—I mean the earnings on his reserve. If, with that \$40, his total income does not measure up to his exemption he ought not to be taxed on his earnings, or his savings in the hands of the insurance company. I say it is inexpedient, and for the present emergency, probably, the most potent reason it is inexpedient is because, if it is taxed at all it ought to be taxed on the theory that it is being accumulated for the benefit of the individual policyholder, and if it is to be included in any tax return it ought to be included in that tax return.

If the committee deems it necessary, therefore, to have an additional tax on insurance, I suggest the advisability of requiring of insurance companies that they determine the average rate of their earnings for the tax year; that the individual policyholder include as income in his return the earnings on his reserve in the hands of the insurance company, by applying to that reserve the earning rate of the company. If that be done the reserve which has been earned will be taxed in the ratio that the other income of the policyholder is taxed. In other words, if John Greenback has accumulated \$1,000,000 as reserves in the hands of insurance companies, and he is earning during the tax year on that reserve \$40,000, and has other income, which brings his gross income to the point where he will be taxed at the rate of 20, 30, or 40 per cent, the earnings on his premium reserve is taxed in the same ratio. I do not know—I am not able to submit the amount of additional revenue that that would create. I do not think it would be possible to reach it without applying it in detail to the income-tax returns in the hands of the Treasury Department after the policyholders had been ascertained.

These three things, then, I am suggesting to the committee:

First. A more definite definition of capital invested, for the purpose of the excess-profits tax law.

Second. A more specific definition for the purpose of the income-tax law.

Third. If the committee deems additional revenue necessary from the insurance business, that it be brought about by the inclusion in the tax returns of the earnings on the premium reserves held and accumulated for the benefit of the individual policyholder.

Mr. HAWLEY. Do you speak from the standpoint of the old-line companies?

Mr. PETERSON. Yes; from the point of the old-line company.

Mr. HAWLEY. You spoke about the increased mortality, due to the present conditions. Do you know what that increase is?

Mr. PETERSON. It is not possible to determine the increase of the mortality from the normal until we have the war mortality segregated; that has not been done by any of the companies to date.

Mr. HELVERING. I want to ask you a question. You stated a moment ago that if a man had \$5,000 insurance and paid an insurance premium of \$150 a year, that it had already paid income tax; what did you mean?

Mr. PETERSON. I mean the individual has no exemption of his income for the amount he is paying on his premium. The individual has already paid income tax on that, assuming that it is above his exemption.

Mr. HELVERING. Assuming he is paying an income tax at all?

Mr. PETERSON. Yes, sir.

Mr. HELVERING. If he is a married man and earning less than \$2,000 a year he doesn't pay any.

Mr. PETERSON. Yes; that is true. The way to reach that is to reach it by exemption of the man who carried insurance above the man who did not.

The CHAIRMAN. We thank you for your statement, Mr. Peterson.

**STATEMENT BY MR. F. W. A. VESPER, OF ST. LOUIS, MO.  
PRESIDENT OF THE NATIONAL AUTOMOBILE DEALERS  
ASSOCIATION.**

Mr. VESPER. I represent the National Automobile Dealers of the United States as their president, and before presenting a brief I want to say that our idea in appearing before you is not in order to object to a tax, but rather to suggest one that we feel will increase your present income and not disturb whatever income you may now be deriving from an automobile tax, and purely from a dealer's standpoint, or rather the man who distributes the automobiles that the factories build.

In appearing before you as representative of the automobile dealers of the United States, our desire is first to make plain the fact that we do not oppose any equitable tax on the automobile business where it is considered necessary to raise revenue or where it is for the purpose of having the industry bear its proper proportion of the expense of conducting the war, but rather to place before you what seems to us as an injustice, due to the mistaken classification under which the automobile has apparently been placed and its proper place in our national affairs has not been fully understood.

That the automobile has been one of the world's largest factors of development is apparent by the multitude of uses that the car is being put to, all of which, when taken into account, clearly demonstrates the designation "pleasure car" a misnomer. Of all the cars built and sold, less than 20 per cent can properly be called purely pleasure vehicles and while in this classification might appear such types of cars as speedsters, broughams, town cars, etc., yet even these are used in a great measure not for recreation purposes only, but as in the instance of the closed car or town car, are usually used as the family vehicle and therefore come in for a share of utilitarian service. It is safe to say that the larger proportion of the balance of passenger cars are combination cars which are being used in actual business pursuits part of the time and the balance of the time possibly the same as the spring wagon and the serry of olden days for recreation purposes on Sundays and evenings. A careful canvass of almost any locality will show that comparatively few automobiles of the latter type are being used exclusively for pleasure purposes and that in the combination, the actual service usage predominates.

Nearly half of the moderate-priced cars are sold in what is known as the rural districts, and a large proportion direct to the farmer himself, who utilizes the car not as a pleasure vehicle but one for actual service purposes, and it is a fact easily demonstrated in rural districts that the automobile is responsible for the increased efficiency of the farmer and the increase in his production, due to the fact that it has been a time saver for him, for before the advent of the automobile a trip to town meant a loss of practically the entire day, whereas by the use of the automobile it has been shown that the greatest number of trips made to town are usually after working hours, in the evening, or at odd times. Not only this, but the farmer's ownership of an automobile has increased the trading radius of practically every town and village in the country and has been the factor of increasing the business of the merchants of these towns because the farmer visits his market oftener, due to the fact that before the automobile was generally used one living 10 or more miles from his market required practically the entire day to make the round trip with the team. During market times with an automobile a farmer can make his market trips every day without the loss of time. This one fact alone would disprove the seemingly accepted idea that an automobile is a nonessential and as such is unnecessary in the plan of things at this time.

The unnecessary use of an automobile and the one used strictly for pleasure purposes can be determined by proper investigation and necessary regulation can be made to correct and reduce this use to a minimum, and the automobile dealers throughout the United States will be more than willing to cooperate in this direction to the fullest possible extent.

The automobile business has become an industry so large in its proportions that it has built up around itself an organization of distribution probably second to no other industry in the country and as its sale and handling is similar to no other industry, it has had to develop a peculiar organization of its own, which in this country is made up of over 28,000 establishments devoted to the sale and distribution of automobiles. Of this number possibly 2,500 or 3,000 are located in what is known as automobile distributing centers, the dealers in



which either sell cars to the residents of large cities or in addition thereto have jurisdiction over the distribution of cars in a large territory tributary. In addition to this there are approximately 25,000 dealers located in the smaller cities and villages whose business is almost entirely made up of the sale of cars in their surrounding neighborhood, the largest proportion of which goes into the rural and urban districts adjacent to them. These dealers have, owing to the peculiar requirements of the business, built or had built for them buildings to meet their requirements and as a result would, if unable to continue the sale of automobiles, be placed in a position where they would be unable to utilize these properties without very expensive rearrangement.

A majority of these dealers, possibly 85 per cent, do not own the buildings but occupy them under lease and in the building of them—a greater proportion being built to the dealers' specifications—loans have been contracted the payment of which depends upon the returns received and a serious disturbance of the business would endanger the safety of the investment. Besides this nearly, if not all of these buildings are built under special restrictions prescribed by law on account of the peculiar fire hazard of the business which by its own observance renders them unfit for any other line of business.

It is a significant fact that there is no line of merchandise that will replace automobiles in the hands of a dealer. There is nothing now manufactured that can be taken into an automobile dealers' organization to be handled and sold by the same equipment; consequently it would mean practically the entire disorganization of the establishments of a large number of the 25,000 what might be termed small town dealers.

There is no other business, we believe, where special equipment for the handling of sales and distribution is so necessary, nor is there any other business where some satisfactory addition or substitute can not be taken on where the prime business itself is curtailed, nor is there any other business where its special sales organization can not quickly be utilized in the handling of other merchandise.

Conservatively figuring eight people dependent to an establishment gives approximately 200,000 people who are directly affected and add to this a conservative estimate of 20 to the large city distributing organization would make 50,000 more. This applies purely to the dealers or automobile sales organizations and does not take into consideration something like nearly 25,000 additional strictly garage owners, who are not actually sellers or handlers of automobiles, but are established for the purpose of maintenance, care, etc., nor does it take into consideration the strictly accessory dealer who is neither a garage man nor a seller of automobiles but who maintains an establishment for the purpose of selling and distributing automobile supplies of various sorts.

Therefore, an actual hardship would develop to the exclusive automobile dealer whose place of business has been built for the purpose and whose entire investment is represented in a building and organization constructed for the purpose of handling automobiles and which is, in most cases, not practical for any other line of business, without a large expenditure for rearrangement.

A substantial decrease in the efficiency and production of our farms is sure to result if the farmer can not supply himself with an

automobile if he requires it, not only because of the use the automobile has been in itself from an actual service standpoint but because it has been one of the greatest factors for keeping the boy on the farm that has ever developed. Careful investigation of any rural district will readily demonstrate the fact that where an automobile is owned by a farmer, his children are remaining with him longer, due to the fact that by its use they are enabled to enjoy some of the conveniences, the lack of which have in the past driven them to the cities. While this use of the car by the young people of the family of the farmer for trips to town and otherwise might easily be construed as a pleasure feature, yet the fact remains that it has resulted in actual conservation of man power on the farm. Besides this there is no question but what the efficiency of the farmer has been increased because in his use of the car, a certain recreation has been given him which can not help but have been beneficial to him mentally and physically.

Nearly 2,000,000 of the automobiles now in use are owned by farmers. A careful investigation in any rural district will indicate that the largest proportion of these cars are a necessary part of a farmer's equipment, and in sparsely populated sections it is as much or even more necessary to a farmer. As an evidence of this fact the registration records show that the strictly agricultural States have the largest per capita ownership of automobiles. Iowa and Nebraska have 1 car to every 8 people; South Dakota, 1 car for every 10 people; Montana, on account of its distances, 1 car to every 11 people; Kansas, North Dakota, Minnesota, and California, 1 car for every 12 people; Arizona, also on account of its distances, 1 car to 13 people; Michigan, 1 car to every 14 people; Indiana, Wisconsin, Colorado, Ohio, and Wyoming, 1 car to every 15 people. This evidence of car ownership increases gradually through the balance of the principal farming States at about the same ratio. It will be noted in the States mentioned above that there are practically no large cities, with the possible exception of California, Ohio, and Michigan. These figures, which are as of June 30, 1917, are clear evidence of the fact that the motor car is used more extensively for rural utilitarian purposes than for so-called pleasure purposes in large cities. When the figures are available as of June 30, 1918, the proportion may change slightly; but if so, it is safe to assume that the change will be an increase in the farming States rather than the others. For your further information, a complete list of cars registered, dealers by States, etc., I attach hereto a statement,<sup>1</sup> prepared by Automotive Industries, giving the figures in detail.

From the service point of view in cities, naturally comes the car used for business purposes during business hours, under which classification come cars used for light delivery, by physicians, salesmen, solicitors, and dozens of other similar uses. Therefore, from an actual transportation standpoint it represents a tremendous usage from those citizens who live in suburban districts now so located that in many cases the only means of transportation is the automobile. The effect that the motor car has had on the expansion of cities, is at once apparent to everyone because without the motor car, many of

<sup>1</sup> Not printed.

these extensions would not have been possible. The increase of values of suburban properties is therefore almost due entirely to motor-car transportation. This also is responsible for the increase of farm values due to the fact that distance from the market or city is not now the factor that it was before the motor car was so universally used.

Take the evidence, for instance, of any practicing physician, especially the general practitioner in the moderate sized cities or country. In his work alone the use of motor cars has increased his efficiency many times over, because of his ability to increase his zone of usefulness and in rural districts particularly the doctor has been able to render quicker aid to hundreds of more cases than he was able to do in the days when he was obliged to serve them in the old way with a team.

While I do not have the exact figures, yet I have been informed that there are nearly 150,000 doctors in the United States and it is safe to assume that 95 per cent of them are owners and users of motor cars in actual service. This is only one of many of the strictly utilitarian uses to which an automobile is put, but illustrating in no small way the feature of the automobile industry which is not generally taken into account.

As stated in the beginning, the automobile dealer does not object to the levy of an equitable tax for the purpose of raising revenue for the conduct of the war, but believes that any tax so levied that will stop or greatly curtail the manufacture and sale of automobiles will not only be unwise but unwarranted from a standpoint of the Nation's efficiency, and that any tax levy that will tend to handicap the prospective purchaser in buying an automobile or one that will undermine the establishment of the dealer is not justified. We believe that no patriotic dealer will object to paying any tax that is not out of proportion with other lines of business, nor that any owner of an automobile will object to paying a Federal license upon his car if it is levied as war measure. Merely as a basis for calculation in order to arrive at a possible revenue from a Federal license or wheel-tax standpoint, the following schedule is presented as one which the dealers believe will be an equitable one and will meet with no serious objection from any patriotic owner of a car. Take, for instance, a license fee of \$5 on a car selling for \$600 or less; \$10 on a car selling for up to \$1,100; \$15 on a car selling for up to \$2,000; \$20 on a car selling for up to \$3,000; and \$25 for a car selling for over \$3,000.

Mr. GREEN. Right there: Is that to be levied at the time of the sale or simply collected after it is sold?

Mr. VESPER. Our object there is and our thought that it should be collected at the time of the State license tax.

Mr. HAWLEY. An annual affair?

Mr. VESPER. Yes, sir.

Mr. SLOAN. Annually?

Mr. VESPER. Yes, sir; an annual license and not a tax.

This would net an average of approximately \$13 per automobile per year if figured on the average of the first four classes as those are greatly predominating in numbers. Multiply this by approximately 5,000,000, which is the figure given as the number of automobiles now in use in the United States, and it will net \$65,000,000. Add to this the cars to be produced during the coming season, and the amount

will of course increase in that proportion. This license can easily be collected, as automobiles are registered by States and by cities, and in many cases counties, and can easily be collected at the time the State licenses are made returnable, and will therefore not seem to present any very great expense or any great difficulty of manipulation. A tax of this sort will not represent a hardship either upon the present owner of a car or a prospective purchaser.

Causes already in force have had a tremendous effect upon the automobile dealer's business, and one of the greatest has been the scarcity of labor, especially the expert labor necessary in the repairing and maintenance of motor cars, yet in spite of this fact the National Automobile Dealers' Association has been vigorously carrying on a campaign for some months, which has been highly successful and has been extending as rapidly as possible, curtailment in operation in every department where skilled labor is used, for the purpose of making available for the war purposes, mechanical help of all classes and it is estimated that through its efforts at least one man per organization has been released to date, which means that by its own efforts upward of 25,000 skilled drivers and mechanics have become available for Army purposes or for work in plants where such help is necessary. A general closing of garages and service stations on Sundays, holidays, and at night will release a large number of mechanics but it will also reduce the earnings of the dealer who depends partly upon this branch of his business for his income. All of this has been done willingly and voluntarily upon the suggestions made by a committee of dealers themselves, after carefully investigating the dealers' business in an effort to determine what they could do to help the conservation program as originally outlined by the economy division of the War Industries Board. Steps have been taken that will extend this work to all garages, accessory houses, oil stations, and in fact every branch of the automobile business, on the theory that such voluntary curtailment is a war measure which will represent a substantial saving of man power and material. Therefore, within a short time, the automobile dealer industry will be upon a strictly war basis, fully as rigid if not more so than that of any other industry and evidences the fact that the automobile dealer is willing to cheerfully do anything that he can to help the cause.

Owing to the conditions confronting the factories whose product we sell and distribute, due to scarcity of labor, difficulty of transportation, advance of prices and other factors of this sort, not the least of which is the fact that the automobile factories generally are doing a large proportion of war work, production has already automatically been greatly reduced. Therefore, any additional burden in the shape of taxation that will further curtail the manufacture of automobiles will place a tremendous hardship upon the automobile dealer. Especially is this true when the difficulty of delivery is considered.

During the past winter and spring and continuing up to the present time nearly half of the cars manufactured have been delivered to the various dealers and selling organizations upon their own power, thus relinquishing freight equipment entirely, this even to the extent of upwards of 1,200 miles from the factory; as many driving deliveries were made as far away from the factories as Texas, most of the shipping done being to those dealers at points beyond the possibility of

self-delivery. As a further factor for the relief of transportation, automobile dealers generally favor and are heartily supporting the rural motor express and return loads movement, and will probably be the biggest factors in its ultimate success, because with the establishments maintained in towns and villages through which these express lines pass the trucks in use for this purpose are assured of necessary mechanical attention wherever and whenever required.

In presenting the situation from the automobile dealers' standpoint no attempt has been made to take into consideration and to cover the problem confronting the manufacturer himself, nor the disturbance that it will cause manufacturing organizations if a tax that will tend to curtail the manufacture and sale of passenger automobiles should be advocated, but is considered purely from the dealers' standpoint, who, by the very nature of his organization, is dependent absolutely upon the sale of a reasonable number of automobiles per year, to properly maintain his establishment and to keep himself and his family. Therefore, in considering the matter of automobile tax, it is hoped that the dealers' standpoint will be carefully considered and that no measure be advocated that will tend to handicap his business that he can not continue to operate, and also that due consideration will be given the fact that when he loses his source of revenue and livelihood, thus his ability to hold up his end in the purchase of bonds, donations to the many worthy causes that exist and his many other activities in this direction will be impossible; and also that as a class there is no bigger, broader, and more patriotic group of business men in the country nor one who will more cheerfully help the Government in every possible emergency than the automobile dealer.

Mr. STERLING. You say your suggestion will produce about \$65,000,000?

Mr. VESPER. Yes, sir.

Mr. STERLING. How much does the tax under the present law produce?

Mr. VESPER. As I understand, from October 4, last year, up to within a few days short of April 1, making it a trifle under six months, it produced \$15,000,000 and a fraction.

Mr. STERLING. There have been about four ways suggested here for taxing automobiles. One was a tax on gasoline and lubricating oil used in the automobiles that were not used for useful purposes, commercial trucks, and the like; another, a gross sales tax; another, a tax on chauffeurs; and, another, the license tax. What do you think of some of these other propositions?

Mr. VESPER. Well, a gasoline tax would be a tax on use. I don't know that there would be any serious objection to a gasoline tax, if it could be made operative. But so much of the gasoline is being used for other purposes, for pumping machines, and a great quantity of other purposes outside of automobiles, it is doubtful whether that could be made operative.

Mr. STERLING. You think it would not be practicable?

Mr. VESPER. I think it would be a splendid way of raising revenue, and I think it would be one sure way of reaching automobile owners.

Mr. STERLING. I suppose you would prefer a gross sales tax?

Mr. VESPER. Yes, sir.

Mr. STERLING. You represent the manufacturers?

Mr. VESPER. No; we represent the dealers purely. We have no interest in the taxing of the manufacturer at all. Our interest is purely from the dealer's standpoint.

Mr. STERLING. Now, it might be necessary to impose all of those four forms of taxes; what would you think of that?

Mr. VESPER. Well, I would say for the automobile dealers and automobile owners generally that if it was necessary to impose all four of those taxes that they would pay it cheerfully.

Mr. FORDNEY. What tax, if any, on gasoline do you advocate?

Mr. VESPER. I do not advocate any. I have no means of suggesting a tax on gasoline. But if it is contemplated, a reasonable tax per gallon, and I have no figures to show the amount of gasoline used, so that I can not give you any figures on the revenue it would produce, and therefore I am not in position to advocate any particular amount on gasoline. But I am sure you would get \$65,000,000 wheel tax, or rather a license, and I can't see, nor can the dealers in our discussions at our conventions, we have not been able to see why a Federal license was not entirely practicable.

Mr. FORDNEY. On the automobile in the hands of the individual?

Mr. VESPER. Yes, sir.

Mr. FORDNEY. Then you can tax any other personal property in the same way.

Mr. VESPER. Not necessarily, because you do it in all States. You will have a State license; you will surely have a State license, and in some cases a county license. In those counties and States I don't know of any tax to offset any other type of personal property.

Mr. FORDNEY. Oh, yes; they tax personal property in many States.

Mr. VESPER. I know, but they tax it under a particular tax. You also have to list an automobile under a personal-property tax, but in addition to that you pay an automobile license.

Mr. FORDNEY. Wouldn't the automobile owner have to pay it if they put a tax on the gross sales?

Mr. VESPER. I assume they would.

Mr. FORDNEY. They do now, don't they?

Mr. VESPER. In some cases they do; in some cases the dealers absorb the tax; in other cases the tax is collected at the time of the sale.

Mr. FORDNEY. You are not advocating a gross sales tax. Most dealers now pass it on the purchaser.

Mr. VESPER. I think quite a few do. I think quite a few absorb it; I think quite a few absorb it themselves. That may be particularly true in some communities where the competition is particularly keen, or where for some reason or another the cars are not moving as fast as they might; but I don't believe it would accomplish the result from a money-getting standpoint nearly as well as a Federal license, and I don't believe, also, that a Federal license will be objected to by any owners of cars to any great extent.

Mr. LONGWORTH. Can you cite the case of any standard car where the tax is paid by the manufacturer?

Mr. VESPER. I don't know that I can.

Mr. LONGWORTH. You can't, because there isn't any such.

Mr. VESPER. Not, as a car, Mr. Longworth, but I can, I think, give some cases, and some of my committee here can give cases where the manufacturer absorbed it. No; we, as dealers, pay it.

Mr. LONGWORTH. You pay it to the manufacturer?

Mr. VESPER. Yes, sir.

Mr. FORDNEY. Do you think the tax you recommend should be graduated, owing to the age of a car?

Mr. VESPER. No, I don't think so; I think it should be a license, the same as the State license.

Mr. FORDNEY. Then you would tax a car that is 10 years old as much as you would one that is 1 year old?

Mr. VESPER. No; it has to have a stipulated value. In handling cars, there is a certain value on each car.

Mr. FORDNEY. Now, if you bought a new automobile and six weeks later sold it, you couldn't get more than 50 cents on the dollar from me or anybody else, could you?

Mr. VESPER. I would have to say that would depend on the car a good deal.

Mr. FORDNEY. That is usual with a dealer. A dealer usually in taking in a car wants to cut that price square in two.

Mr. VESPER. He necessarily would have to do that. That happens to be one of the evils in the automobile business, growing out of the fact that the business just grew. If I may digress a little and say that the business as a business has absolutely no basis upon which to establish itself. There is no other similar business, due to the fact that its unit of sale is \$684, and its price is usually cash, or bill of lading, and therefore there was nothing similar established upon which it could go; and, therefore, certain evils, that we consider evils in the trade, crept in, and one of the evils at that time was the taking in of a used car, and we contend there is no more reason for taking in a used car than there would be for taking in a used suit of clothes or a used piano, so far as business is concerned; but it happens to be one of the usages of the trade that has developed, and it necessitates in many cases two sales for one profit, and therefore the allowance made must depend on the type of the car, in the fact that you have practically two overheads for one sale.

Mr. FORDNEY. I am not criticizing the dealer. Let me ask you this: Some gentleman awhile ago in this committee advocated a tax on gasoline of 25 cents a gallon, not including gasoline used in commercial trucks. Have you any idea how any track could be kept of the gasoline used in a pleasure car aside from that used in the trucks and impose a tax in that way if that kind of tax were to be imposed?

Mr. VESPER. I have no idea, unless it was collected at the time of the sale.

Mr. FORDNEY. It would be a very difficult problem, wouldn't it?

Mr. VESPER. Yes, sir; it would be a very difficult problem. I think you would have another difficult problem from the facts which I have tried to bring out. If you will take into consideration the number of cars in use, and the fact that a number of those are a combination car of pleasure and business, much as the old democrat wagon was years ago—the old wagon was used all the week for business and would be used for pleasure on Sundays. That was the kind of business that I was in years ago. And we find now a number of automobiles used in the same way—except those in the larger cities, they are actually used as a combination vehicle.

Mr. FORDNEY. It seems to me that it would be impossible to keep track of the gasoline used unless all gasoline used should have a like tax, whether used in a commercial truck or in a private car.

Mr. VESPER. I confess I don't see how you would keep track of it, because of the multitude of uses the combustion engine is put to, and the fact that the farmer uses it in his sawing outfit, and in his tractor outfit, and in his pumping outfit, and a multitude of uses. I don't see how you could arrive at the amount of gasoline he was using in his automobile.

Mr. FORDNEY. I can't see any practical way, but I thought you, being an automobile dealer, might know; I wanted to ask you.

Mr. LONGWORTH. I want to ask you one more question about the tax on cars. You say there are a number of cases where the dealer absorbs it?

Mr. VESPER. I think there are a number of dealers. I don't think there is any particular line of cars or makes of cars, but I know it is a fact that many of our dealers absorb the tax in the transaction of their business.

Mr. LONGWORTH. You say it never is the case with the manufacturer?

Mr. VESPER. I don't say it never is; I don't know that it is. I don't know whether the manufacturer absorbs it himself in any case. I know in a great many cases the dealer pays it. I know we pay it.

Mr. LONGWORTH. What kind of cars do you handle?

Mr. VESPER. The Buick.

Mr. LONGWORTH. What is the dealer's price on the Buick?

Mr. VESPER. They run from \$790 to \$1,200.

Mr. LONGWORTH. The tax, then, is \$36?

Mr. VESPER. Approximately.

Mr. LONGWORTH. And you pay the manufacturer \$36 for the tax?

Mr. VESPER. Yes, sir.

Mr. LONGWORTH. And then you don't charge it in?

Mr. VESPER. Yes; we do.

Mr. LONGWORTH. I just asked you, and you said you didn't.

Mr. VESPER. I said some dealers on some lines of cars do not. I did not say we absorbed it. But in some cases some dealers do absorb it; some retail dealers absorb it, just the same as some dealers absorb the freight, although the cars are sold on the basis of factory delivery, but there are some cases where the dealer absorbs the freight, or a part of it.

Mr. LONGWORTH. What do you pay the manufacturer of the Buick car for a car that sells for \$1,200?

Mr. VESPER. I can't tell you right off hand, but it is practically 25 per cent discount; I think they will average 20 per cent in most cases.

Mr. LONGWORTH. Well, even if you did absorb the tax, it is only 3 per cent; it is rather insignificant, isn't it?

Mr. VESPER. We are not advocating the removal of that tax, Mr. Longworth. We are perfectly willing that should continue. That isn't the theory; the theory is not the elimination of that tax by any manner of means. There is no reasonable objection to a tax of that sort, and the dealer would have no objection if he had to pay the tax, but we advocate that it is not equitable to tax against the purchase of a new car and not avail ourselves of getting additional revenue from the cars already in use.

Mr. LONGWORTH. You would have no objection to a slight increase in the tax, would you?



Mr. VESPER. Why, no; I don't think there would be any objection to a slight increase in the tax if it was necessary as a war measure, and I don't think you will find any criticism from any source on account of a Federal license tax.

Mr. LONGWORTH. I am very glad to hear you say that, because last year we were assured it was going to ruin the automobile business. But the tax was so small that it was not viewed really as a tax; it was so insignificant.

Mr. HELVERING. You say we got \$15,000,000 on the automobile tax?

Mr. VESPER. The figures were \$15,400,000, I believe; I have the figures here.

Mr. HELVERING. You say under this scheme of yours we may get \$65,000,000 additional?

Mr. VESPER. Yes, sir.

Mr. HELVERING. And you think both taxes should be levied?

Mr. VESPER. Yes, sir.

Mr. HELVERING. And, if necessary, a slight increase on the present tax?

Mr. VESPER. Yes, sir; we do not object to a slight increase on the present tax. As automobile dealers we do not object to any tax you think necessary; but the thought we want to convey is that we do not believe, as some of the statements we read in the paper would suggest, that it would almost amount to a curtailing of the industry by reason of an excess tax, because the placing of an excess tax would reduce the amount of the buying, because the man who would have to pay 15 or 20 per cent on the purchase of a car would not buy it, and that would have a very marked effect on the business as a whole.

Mr. FORDNEY. How many months were included in the time that those \$15,000,000 were collected? The impression will go out in your remark that it was for a year.

Mr. VESPER. No; I tried to say a moment ago, from the 4th of October, which I think was the date, and about to April, making it two or three days short of six months, the figures which I have here, which I understand are correct, \$15,200,000.

Mr. LONGWORTH. Where did you get the figures for the year?

Mr. VESPER. I haven't it for the year; six months.

Mr. LONGWORTH. That is six months?

Mr. VESPER. Yes, sir; \$15,000,000 for the time lacking about four days of six months, and doubling that that would be \$30,000,000 for the year. There is an increase in April, May, and June, but there will be a decrease during a part of the year.

The CHAIRMAN. \$32,000,000 is the amount estimated for the automobile tax.

Mr. VESPER. Well, \$32,000,000. We do not say these figures suggested in the license are just what they might be, but basing them even on a small license fee of that size it would produce \$65,000,000.

Mr. STERLING. Both of them would produce \$100,000,000?

Mr. VESPER. Yes, sir; easily that, I should say.

**STATEMENT OF MR. GRANT CARPENTER, OF LOS ANGELES, CAL., ASSISTANT SECRETARY OF THE MOTION-PICTURE SERVICE ASSOCIATION.**

Mr. CARPENTER. I appear before your committee as the representative of the Motion-Picture War Service Association, an organization formed primarily for the purpose of unifying and concentrating the patriotic work of the 175,000 people employed in the motion-picture business. It includes in its membership persons engaged in all branches of the industry—producing, distributing, and exhibiting. Particularly, however, do I represent a class that heretofore has never had a hearing—the workers in the artistic branch of the business—production, which include the small, independent producers, the actors, directors, authors, editors, photographers, and laboratory operators of southern California, where 75 per cent of all motion pictures in this country are made.

Among the officers of this association are David Wark Griffith (chairman), Mack Sennett, S. E. V. Taylor, Cecil De Mille, Mary Pickford, Charles Chaplin, Lois Weber, Douglas Fairbanks, W. S. Hart, Jesse L. Lasky, Marguerite Clark, and William Fox.

In order that there may be no misunderstanding of our purpose in this hearing we state positively and unequivocally that we neither urge nor desire any reduction in the income tax. The members of our association are not only willing, but eager, to bear their full share of the burdens of the war, and they consider it a privilege to serve our country in this crisis. We ask merely the opportunity to call to the attention of this committee of the existing tax law, and some of the results that will flow from a material increase of the present rates.

The minds of the people of this country generally have been so concentrated upon patriotic work that the question as to who has given the most has scarcely been considered. But, we believe we discern some inequalities and inequities in the tax law such as are usually found in every hastily-drafted emergency measure, which may be easily and readily readjusted by the legislation now contemplated and which will equalize the burdens which must be borne.

Especially do we ask for a heavier tax on unearned income than upon earned income, adopting as a definition of "earned income" the phraseology of the English law as follows:

Income arising in respect of remuneration from any office or employment of profit or in respect of any pension or compensation given in respect to past services of the individual, or of the husband or parent of the individual in any office or employment of profit, and income derived from the exercise of a profession, trade, or vocation.

Income derived from any other source, therefore, shall be deemed "unearned." This definition is obviously based upon a recognized distinction between tangible and intangible capital, and income derived from accumulated wealth, and that derived from cumulative effort. Permit us at this time to draw a comparison between the individual who derives his income from his art, and the individual who derives his income from dividends on investments. I have in mind a woman in one of the arts who began only last year, after many years of poorly paid apprenticeship, to earn large sums of money. Her intangible capital is the experience and the knowledge of her art she has accumulated, and upon which she has only begun to realize.

The tax, as now applied, takes almost half of her earnings. In the nature of her business she can not expect, under the most favorable conditions, to enjoy the popularity that brings her this income for more than a few years—five at the outside—and the hazards and risks of her employment—a brief illness or a scar on the face may end her earning power at any moment for all time. During that period she may be taxed anywhere from 25 per cent to 50 per cent of all the earnings of a lifetime, and at the end of it her capital is gone.

On the other hand, take a man with a similar income derived from dividends. This man's income would not be taxable at all under the excess profits law, nor would he pay any normal income tax; so that, when the war is over, and the tax removed, this individual's capital would be unimpaired, and he would perhaps enjoy a larger income on the increased valuation of his property through no effort of his own.

Mr. MOORE. Will you pardon me at that point? Twice, and perhaps more than twice, you have referred to the fact that revenue derived by actors and actresses, those for whom you speak, have no reference to the war; isn't it a fact that the moving-picture shows have been doing a larger business generally since the war began than prior thereto?

Mr. CARPENTER. No, sir; it is a fact that the industry as a whole has suffered a depression; many theaters have closed all over the country. And I know, on the production in Los Angeles, where 75 per cent of the pictures are produced, the production has been largely decreased, and the salaries have been cut, and the falling off of business has impaired the earnings of the artists and actors.

Mr. MOORE. Well, we get a good many rumors here in Washington about the large incomes of some of the artists and actors and actresses to whom you have referred; their names are household words, so that it is not necessary to name them now. It is said that some of them have invested very heavily in liberty bonds, which was patriotic, but the rumor is that they earn very large incomes. Take Charlie Chaplin, a very amusing and interesting fellow; we hear that his income is very large. If you take his case and put it alongside of that of the shipyard worker, I question whether your argument in his behalf would hold, or if you put his earning capacity and ability to hold what he earns against that of the man who has capital invested equal to his earnings, I also question whether your argument would hold. I thought possibly you might want to dwell on that feature. When he invests \$100,000 or, say, \$300,000 in liberty bonds, he has a capital that would sustain an ordinary man all his life, although you have indicated that an actor might be cut short in his career by a scar on the face or some sickness that would stop his earning power. If one of your actors or actresses can make enough in one or two years, arising from their intense popularity and the demand of the public for their services, wouldn't they be better off in the long run than the average business man who had capital invested equal to their earnings, who had invested it and was risking it in his investment?

Mr. CARPENTER. I was coming to that a little later on. In these cases you cite the reports of the amounts received by moving-picture actors has been greatly exaggerated.

Mr. MOORE. It may have been.

Mr. CARPENTER. It has been.

Mr. FAIRCHILD. My information is that Mary Pickford has \$500,000 or \$600,000 a year; that Douglas Fairbanks and Charlie Chaplin have almost an equal amount; that there are others that get all the way down to \$150,000 a year, and down, for instance, to \$25,000 a year, and I suppose on down. But I say my information is good that the income of one of your stars was \$600,000 last year.

Mr. CARPENTER. I only know of one star in the motion-picture business whose income is over \$500,000 a year, and there may be one other approaching very close to it; that there may be a few—another one or two—that may be \$200,000. And from there there is a big drop. It is only the distinction—the unusual distinction of popularity gained by the few—they are very, very exceptional. Out of about 35,000 people engaged in the production of motion pictures there are 4, or you may say, there are a dozen, or 20, or 30, out of the 35,000, who have made big salaries or big earnings. Their success is what has stimulated the others to go into the business; but it is like the business of the stage, and those high salaries that are paid or high earnings are due very largely to the fact of the brief activity of their professional career.

Mr. LONGWORTH. In that connection, I absolutely agree with you—

Mr. CARPENTER. Thank you, sir.

Mr. LONGWORTH (continuing). That the unearned income should pay a higher tax than earned income. I have been making that speech for many years.

Mr. CARPENTER. I may have unconsciously gotten it from you.

Mr. LONGWORTH. I assume that the income which you referred to is not Miss Pickford?

Mr. CARPENTER. I didn't say.

Mr. LONGWORTH. No; you said a while ago a lady that just had come into the fullness of her income should not be taxed as heavily as a man who had invested in bonds. I assume, I say, that was not Miss Pickford?

Mr. CARPENTER. I did not say, Mr. Longworth.

Mr. LONGWORTH. The reason I ask you that is this: I have great hopes, in fact I have confidence, that the present revenue law will make a distinction between unearned and earned income. You quote the British law; the British law only makes a distinction between unearned and earned incomes up to \$12,500 a year. After that, the revenue law is the same. Would you advocate that we should go higher in that distinction?

Mr. CARPENTER. I have not reflected on that; in fact, I have had very little opportunity to give any of this subject deep consideration, and I feel I owe an apology to the committee for appearing here at all.

Mr. LONGWORTH. The reason I say that, the actors under the English system would receive no benefit, because the distinction only runs to \$12,500; the lady you refer to, is her income over \$12,500?

Mr. CARPENTER. Oh, yes; much over. I call your attention to the fact that under the English law she would not be affected. I only went so far as to quote the English definition; as to the limits, I have nothing to suggest.

Mr. LONGWORTH. In the English law, starting at the lower incomes, along about \$2,500 a year, they make a distinction in favor of the earned income of something like 30 per cent—that is to say, on an income of \$2,500 a year. An income of \$2,500 a year, if earned, is taxed only about two-thirds of what an income of \$2,500 a year is if unearned, and that difference continues up to and including incomes of \$12,500 a year, but thereafter the tax is the same on all incomes.

Mr. CARPENTER. An excess-profits tax?

Mr. LONGWORTH. No; there isn't an excess-profits tax; that is the most iniquitous thing in the whole business. There is no excuse for that. I am speaking of the income tax now. I have every hope that the excess-profits tax as applying to professional incomes will be repealed entirely, and that the distinction will be carried to unearned instead of earned incomes; but I want to call your attention to the fact that the higher-priced actors and actresses would not be benefited under the English system, and therefore I wanted to know how far you thought we ought to carry the distinction between earned and unearned income.

Mr. CARPENTER. That would require more consideration than I have been able to give this subject on a hasty trip across the country, leaving Los Angeles on an hour's notice and arriving here this afternoon at 2.15.

Mr. LONGWORTH. We would be glad if you would let us know.

Mr. CARPENTER. There are so many incomes that start suddenly along artistic lines; if an author becomes popular and distinguishes himself and earns \$1,000,000 on a single book, he has served a long apprenticeship, and this intangible property has finally begun to yield a large income; now, why should he be taxed half of it? The man whose earnings are accumulating more and more, and whose efforts come to fruition gradually, should he be taxed more? His income does not come in a brief period, in a crisis like this, where he is taxed all at once. It is just an accident, a chance, if this man who has this intangible property suddenly has a large income.

Mr. MOORE. In order to be fair and not pick out these higher priced artists altogether, who are you speaking for?

Mr. CARPENTER. I represent nearly all the people in the production end of the business in Los Angeles.

Mr. MOORE. Where you said 75 per cent of the business is done?

Mr. CARPENTER. Yes; about 75 per cent.

Mr. MOORE. About how many people do you think you speak for engaged in the industry?

Mr. CARPENTER. I couldn't say.

Mr. MOORE. Because you take into consideration those who produce the films, those who produce the stage effects, I suppose, as well as the artists themselves?

Mr. CARPENTER. The performers and the photographers, the camera men, who are just as essential in transferring dramatic action to the screen as are the authors.

Mr. MOORE. You include the mobs and others who appear on the screen?

Mr. CARPENTER. I don't think any of the mobs would pay income tax.

Mr. MOORE. I am using that in a professional sense, the large number of people; you speak for them as well as for the Pickfords and the Fairbanks?

Mr. CARPENTER. I speak generally for the people who appear in the making of the picture, and I feel there is a little inequality in the production end of the business.

Mr. MOORE. But chiefly, I assume, as they would be more directly affected than the others, the high-priced officers of the association?

Mr. CARPENTER. They are officers of the association I represent.

Mr. MOORE. You named them, I think, in your statement?

Mr. CARPENTER. Yes, sir.

Mr. TREADWAY. I understood you to say 75 per cent of all the pictures were produced in Los Angeles?

Mr. CARPENTER. Yes; although there are no exact figures on it.

Mr. TREADWAY. By how many firms?

Mr. CARPENTER. I can't say that; somewhere between 10 and 25 big studios are there, and then a great number of small individual producers.

Mr. TREADWAY. Are these big studios rival concerns?

Mr. CARPENTER. Yes, sir.

Mr. TREADWAY. How many large companies, in other words, would you say are located in Los Angeles, where 75 per cent of the pictures are made?

Mr. CARPENTER. All the large companies have studios there.

Mr. TREADWAY. How many are there?

Mr. CARPENTER. I haven't the figures on that. They are so mixed. You see, a company like the Universal Co., there are subsidiary producers; take the Lasky Co., the Artocraft, and the Paramount, and others; they are so interconnected, I don't know.

Mr. TREADWAY. In the course of your description you named four large companies?

Mr. CARPENTER. Yes, sir.

Mr. TREADWAY. Are the others as large as the Universal?

Mr. CARPENTER. No; I think the Universal and Lasky are the two largest operating there.

Mr. TREADWAY. And then you spoke of this association you represent being a patriotic association; that title does not appear.

Mr. CARPENTER. Primarily, it is a war service association.

Mr. TREADWAY. War service, what is meant by that?

Mr. CARPENTER. It is a newly organized association; the membership has been pouring in from different parts of the country; it aims to take in all persons—already they have organized a woman's committee in every studio; every person in there, or every individual who is idle a moment, could be doing something toward Red Cross work or salvage work. And, another thing, they are raising funds for the erection of a hospital for the use of the United States Government. At their first meeting they raised \$31,000 for that fund; at the first preliminary mass meeting they raised that much of the fund. They have offered their services, and it has been eagerly accepted by those having in charge the raising of the various funds for war work, and the sale of liberty bonds. These people have been rendering this service, and the service they give is rendered as individuals. They thought, by organizing and concentrating, they could render much more service to the Government, and that was the primary purpose of the organization. And the second was to do those things which would benefit the industry as a whole, and

then benefit the individual members of the association. They expect to provide for the moving-picture people who go to the front.

Mr. TREADWAY. Have you had any experience in the actual production of war pictures?

Mr. CARPENTER. No; no experience, except to watch them.

Mr. TREADWAY. You mean you have watched them?

Mr. CARPENTER. Yes; I have seen them.

Mr. TREADWAY. On the coast?

Mr. CARPENTER. Yes, sir.

Mr. TREADWAY. By whom are those pictures produced?

Mr. CARPENTER. I think all the companies there produce what is termed in the business war pictures.

Mr. TREADWAY. That is, sort of an allegory; not historical facts?

Mr. CARPENTER. No; the pictures do not pretend to be historical facts.

Mr. TREADWAY. I mean by that, pictures actually taken at the front, and among the war industries?

Mr. CARPENTER. The pictures actually taken at the front were taken by Mr. Griffith. The pictures were taken by Mr. Griffith and his camera man at the front.

Mr. TREADWAY. What company is he connected with?

Mr. CARPENTER. He has his own individual company, the D. W. Griffith Co.

Mr. TREADWAY. Has the Pathe Co. a studio there at Los Angeles?

Mr. CARPENTER. They have, but I understand they have suspended all operations except serials. The star they have had has organized his own company, and is his own producer.

Mr. GREEN. Either I did not understand you correctly or you do not understand the law correctly. I understood you to say you had no objections to the income tax?

Mr. CARPENTER. We have not, as it now stands.

Mr. GREEN. Then how do you object to the tax of 50 per cent on these people? The only other tax they would be liable to is, if they have above \$6,000, a tax at 8 per cent?

Mr. CARPENTER. We are not objecting to the tax as it stands, and we want a distinction drawn between earned and unearned income.

Mr. GREEN. That 8 per cent tax was the one, I assume, Mr. Longworth referred to, and expressed his strong disapproval relative to; but it does not take any large percentage of the income. The other tax which these people have to pay is simply the income tax which everybody has to pay, and which, I understand you, you are not objecting to at all. So, as a matter of fact, it is this 8 per cent—

Mr. CARPENTER (interrupting). The excess-profits tax.

Mr. GREEN. The 8 per cent.

Mr. CARPENTER. Yes, sir.

Mr. GREEN. Suppose we should add that tax to incomes generally; do your people have any objection to it, then, if we make it universal?

Mr. CARPENTER. I don't think the people I represent would have any objection to placing an excess-profits tax where they think it belongs—upon those who are making profits from the war on account of the war; they are not objecting to that.

Mr. GREEN. Let us not trouble ourselves about names, because names do not bring us in any revenue, and that is what we are asking with relation to the 8 per cent tax on incomes. Now, as to

earned income above \$6,000, and to provide for unearned income; now, if that was equalized by putting a larger tax on unearned income, so that the people having the unearned income would be taxed the same, would you then object to the tax?

Mr. CARPENTER. I don't exactly understand you. I have tried to crystallize here the opinions of the people I represent, hastily gathered, because we had so very little time.

Mr. GREEN. I will try to make myself clear. What the committee is seeking in the first place is more revenue, if possible. Now, where it is plain that one class of people are paying more than they should in comparison with others, and thus we find that that particular class is assuming an undue burden perhaps, we are very much inclined to see if we can not raise this other class to equalize, instead of taking off any of the tax.

Mr. CARPENTER. I understand you, sir.

Mr. GREEN. Now, as Mr. Longworth says, there has been a good deal of complaint because unearned incomes are not taxed as much in certain instances as earned incomes. Now, suppose, instead of taking the tax off the earned income, we should simply add some more to the tax on the unearned income, and thereby help the revenues of the Government, instead of reducing revenues by taking it off on the earned income. The task of the committee is to get more money, if possible, and we are somewhat inclined to look upon people who get salaries of half a million dollars a year and upward as getting rather easy money.

Mr. FAIRCHILD. Mr. Carpenter, I was in Los Angeles recently, and I was amazed at the development of the moving-picture industry. I visited all the studios, and talked with the people, and I think Los Angeles has a development along this line larger than any other city in the country. And it is for that reason that I am somewhat surprised, in view of the immense interests there, that the people should complain of the taxation when there is money to be raised for the Government.

Mr. CARPENTER. Well, I am not here to represent the picture manufacturer in the motion-picture business. I do not represent them. I presume that they have had their representative here, and that you have heard from them. The people I represent, as I stated in the beginning, are the people—the artistic element of the business, the actors and the camera men, and the performers, and the directors, the small producer, the director who has made a success directing a picture, and who wishes to get in on a larger scale and goes into the production end; those are the people I represent. Now, as to the easy money. It does seem to the ordinary man like very easy money, but it is only for the few; it goes to the very few that have the easy money. Charlie Chaplin, whose name was mentioned here, was taken to the music halls by his father when he was a child, and he suffered all the privations up to a very short time ago, and served a long apprenticeship.

Mr. GREEN. Oh, my dear sir, can't we find many other professions, lawyers, doctors, and others, those who have gone through privations in the early years of their profession? Do you want the committee to solve distinctions of that kind?

Mr. MOORE. If Mr. Green will allow me, I was going to suggest that we heard the same sort of an argument concerning John D. Rocke-



seller. I do not want to take advantage of you because you have made a strong and interesting argument, but the concentration of capital in the hands of a few men has been referred to before this committee; and the concentration of artists and the ability to reach others in the profession would be probably a parallel case. Now, I understand that you are opposing the application of the excess-profits tax to salaries, in which Mr. Longworth has indicated he agrees with you. Would you object, or do you believe, the profession which you represent would object, if there should be a release of the excess-profits tax so far as salaries are concerned, that the income tax should be increased so as to meet so far as that proportion would help out the exigencies of the Government.

Mr. CARPENTER. I can't say as to that. I think that the people I represent want to do whatever is right and fair.

Mr. MOORE. I believe that.

Mr. CARPENTER. And they want to bear whatever is their share of the burden, and not more. And, in the final analysis, that is what the committee will have to decide.

Mr. MOORE. I believe that, thoroughly, and the representatives of the moving pictures have been here, and they have spoken with equal evidence of patriotism, and they are willing to be taxed, and we have admitted, most of us, I think, that the moving picture industry, and the moving-picture artists, have done wonders to contribute to the success of the various war funds. Now, the President has issued a call for \$24,000,000,000 and the Secretary of the Treasury has said, speaking for him, that we must raise approximately \$8,000,000,000 of that by taxation; we must go into the pockets of the moving-picture actors and artists, and others, and raise twice as much by taxation as we did last year. And the problem we have is raising more, and without any changes, lowering the tax unless we have been properly charged with inequality. I state this to you in all fairness, because I know that you come here in good faith.

Mr. CARPENTER. All that we are maintaining here is the question of the capital proposition and capital principle; and we believe that unearned income should be distinguished and differentiated from earned incomes.

Mr. MOORE. I think you have made that point clear, and many members of the committee agree with you. But let us see; this is not demagogic, I hope. If a man earns \$500,000 a year, whether he is a United States Steel Corporation man or a powder man, or a munition manufacturer, or a moving-picture man, or a moving-picture actor, he can't, from my point of view, escape his share of the tax which we must impose; that \$500,000 man or woman is mighty conspicuous just now; it may be his misfortune to be so, but the probability is that he must give such an amount out of his income for 1919 which will be just about twice as much as he gave in 1918. Now, the question is, How can we best do that without interfering with the profession or with business?

Mr. CARPENTER. I quite agree with you that you are quite right in taking the money from the big incomes, but where you are taking not only the income, but you are taking the capital of the individual, whose capital is intangible. Here is his income, his capital has come from a chance; all that he will be able to earn in five years—for a motion-picture star five years is a long time of activity. Now,

there is all the work of a lifetime concentrated in that. Now, should he be taxed as much as a man who has accumulated or inherited capital, and still has his \$500,000? You take one man's intangible capital, and large proportions of the earnings of his whole life, while the other man, who may pay all his income for the support of the war; but he still has his capital left that produced it.

Mr. GREEN. You do not regard this, then, that by reason of the discovery of the moving-picture industry there have been people who gathered in what most of us would call an enormous fortune in a single year, you regard that as having in some mysterious way become capital that we ought not to reach, as I understand you.

Mr. CARPENTER. I would have you understand that we would regard the intangible, the effort of a man's or a woman's whole life toward a certain actor, a certain profession, or in scientific work—the effort of his whole life, which represent his capital, and that capital is just as sacred as the capital of the man that has been saved little by little and accumulated.

Mr. GREEN. Is it any more sacred in the moving-picture industry than in any other profession, law, or medicine?

Mr. CARPENTER. Not a bit. I have included all the professions.

Mr. GREEN. How would we get at this matter?

Mr. CARPENTER. By the definition I have given. By the distinction made in the English law.

Mr. GREEN. Mr. Longworth has already explained to you that the English law would not cover these enormous incomes because they only undertake to go to \$12,500.

Mr. CARPENTER. That would help some.

Mr. MOORE. May I put this example to you? It is crude, maybe, but it will illustrate to you what I have in my mind at the present time. If I earn \$500,000 this year, and the Government taxes me 80 per cent I still have \$100,000 left. If I earn \$1,000 this year, which the masses do earn, and the Government taxes me 80 per cent, an equal proportion, I have left \$200, haven't I?

Mr. CARPENTER. Yes, sir.

Mr. MOORE. That would be my capital to start on next year with. I merely want to submit that to you as a sample in the effects of taxation. The great number of men who earn no more than \$1,000 per year, if the proportion was carried out to the end, would have only \$200 left on which to live, if this was the end of his earning capacity, whereas the artist who earned \$500,000 would have \$100,000 left with which to meet conditions. It is rather a striking illustration, and it is crude, but it may give some idea of what is in my mind.

Mr. CARPENTER. And the man who had his earnings from capital would not only have his \$100,000 left but would also have his capital, his tangible capital.

Mr. MOORE. Yes; but if he had his \$100,000 he would be pretty well off considering these war times, whereas the man who only had \$200 left would have hard scraping. Don't apply it to the artist only, but apply it to the large manufacturer, if you please, or apply it to the lumberman, or any other of the big interests, and it works out the same. There are some gentlemen who have been

before us who advocated taking everything a man earns above \$50,000 a year. On the basis of \$500,000 per annum earning the highest possible rate of taxation that has yet been mentioned is 80 per cent, and even at that rate it would still leave that man \$100,000, which would be to many a man a fortune. Yet I say if it were not for this war I would not stand for this sort of taxation for a minute. It is just a case where the President has practically ordered the raising of \$24,000,000,000, and we of the committee are put to the stress of using these very harsh examples and taking what appears to be blood money from the people.

Mr. CARPENTER. We feel that it is a question of taking a rather unfair proportion. It is a mere matter of chance that the heavy taxation on incomes falls just at the time when some particular person has achieved some results. Two hundred thousand dollars a year does seem like a large sum of money, and even \$100,000 seems like a large sum of money, but if such earning capacity only covers a short period and then a very large portion of that money is taken away from the person earning it he is losing the result of long and laborious preparation. Take the author, and he may make it from writing one book this year; or the playwright may make it from producing one play, and still not write another play, and that play may go on for years and years, earning as it goes. But as to the moving-picture actor, the big returns may come only at the time when the Government needs money, and if a large part of it is taken away from him it does not make it equitable, in our opinion.

Mr. MOORE. We will agree with you on the equity of what you have said. A man is entitled to the results of his brain-work and results of enterprise, but pressing war conditions modify a consideration of the matter.

The CHAIRMAN. Mr. Carpenter, I was out when you made your remarks. Do I understand that some of these moving-picture actors get \$200,000, \$300,000, and even \$500,000 a year?

Mr. CARPENTER. I stated that there were not more than one, or possibly two, who have made as much as \$500,000 in the last year.

The CHAIRMAN. Are there many whose salaries are as much as \$100,000 a year?

Mr. CARPENTER. I beg pardon.

The CHAIRMAN. Are there many whose salaries run as high as \$100,000 a year?

Mr. CARPENTER. No; not very many.

The CHAIRMAN. I was just thinking that those people who were making \$500,000 a year might have saved a little in the last three or four years, and have it laid by at the present time?

Mr. CARPENTER. They have not been making it for the last three or four years. The people who have made it have made it perhaps during the last year. And the most of this talk about big salaries is press-agent stuff.

The CHAIRMAN. Then your idea is that the earning capacity of these moving-picture actors will not last more than two years?

Mr. CARPENTER. A woman's popularity will not last more than five years. Some of them are taking great risks every day, going into the war for five hours, and then walking around and doing various stunts, and having their pictures taken, and run the risk of having a serious illness, or a scar being made on the face, which may end her earning power for life.

The CHAIRMAN. I have heard some of the members say, just let them make \$500,000 a year and they will be willing to be scarred up after one year and still pay the Government half of it.

Mr. CARPENTER. Yes; perhaps so.

The CHAIRMAN. I had seen in the newspapers something of moving-picture stars making \$200,000 and \$500,000 a year, but I thought it was all stuff.

Mr. CARPENTER. Yes. But a great deal of that is exaggeration.

Mr. LONGWORTH. That looks like a good deal of money even at any time.

Mr. HAWLEY. How many moving-picture actors do you estimate earn as much as \$100,000 a year?

Mr. CARPENTER. I can only speak as to Los Angeles, and not very accurately as to that. Reports of salaries are continually exaggerated, even among the people themselves.

The CHAIRMAN. Of course your proposition would apply to actors, singers, contortionists in circuses, baseball players, and all that?

Mr. CARPENTER. Yes.

The CHAIRMAN. Their earning capacity is just for a few years?

Mr. CARPENTER. Yes.

The CHAIRMAN. You would not only apply your proposition to moving-picture people but to any persons engaged along that line?

Mr. CARPENTER. To all earned incomes by personal service. It is the same with a director, or a skilled photographer in the moving-picture business. He gets a large salary, but the business is very new, and it is progressing so rapidly that the life of his service is very greatly reduced. You take even the directors in the business and the older men are constantly dropping out and new men coming in. Take a man who has been at the work for five years and he is considered an old man and becoming superannuated. His methods are old fashioned and new ideas are coming in to supersede his. If they got big salaries by working at it it is not for a very long period.

Mr. HAWLEY. Can't you send them to the bush league? Have you any such thing in the moving-picture business as bush leagues?

Mr. CARPENTER. No; there are no bush leagues in the moving-picture business.

The CHAIRMAN. What kind of an exemption should they have?

Mr. CARPENTER. We are not asking for an exemption. We are asking that if there is to be an increase in the tax that motion-picture people who earn their incomes by their efforts be excepted from the operation of the excess-profits tax, because their earnings have no connection whatever with the war. On the contrary, the war has depressed the business greatly and has reduced the earnings of the business.

The CHAIRMAN. There will hardly be an excess-profits tax on Mary Pickford or Charley Chaplin or William S. Hart, or these other people, I think I can say.

Mr. MOORE. What Mr. Carpenter complains of is the 8 per cent tax.

The CHAIRMAN. Oh, the 8 per cent tax. I think the committee may consider striking that out and putting them in the same class with the income-tax payers.

Mr. GREEN. In other words, we are very likely to remove the feature that Mr. Carpenter objects to, but in the end the people he represents are likely to pay more.

Mr. CARPENTER. We do not object to paying more, if it is equitable

The CHAIRMAN. In other words, my suggestion is this: A great many members of the committee think the excess-profit tax ought not to apply to individuals. In fact, the bill as it passed the House excepted individuals from the excess-profit tax; but if individuals are omitted from the excess-profit tax, then the income tax is going to be high enough to catch the 4 per cent that they pay now and the 8 per cent that they would pay on this excess-profit tax provision. So, while they may probably be left out of the excess-profit tax and pay our regular income tax, it may be seen what the probabilities are. The real point, in fact, is that parties who make from \$100,000 to \$500,000 have to pay a surtax or an additional tax. That is what gets them pretty heavily, and not so much the 8 per cent tax.

Mr. CARPENTER. Yes; the surtax catches them very heavily. It is taking from them these earnings for a very short period at a big rate. You take the capitalist, the man who gets his earnings from dividends and receives \$500,000 a year. What do you take of that? Look at the small proportion you are taking in the way of taxes from those earnings. But at the end of the war period, at the end of this emergency taxation, he has all the capital left that earned him that \$500,000 a year to struggle along with, while these people, with their whole capital of a lifetime coming to them within a period of a very few years, and you are taxing them heavily, and thereby taxing their capital.

Mr. LONGWORTH. I call your attention to the fact that while the English system did discriminate between earned and unearned incomes, and in that I am entirely with you, yet it does not go up to \$500,000. The distinction stops at \$12,500. I would be willing to even go further than that, as high as \$25,000, but not to continue the difference between earned and unearned incomes to \$500,000.

Mr. CARPENTER. Why not continue it to any limit if it is equitable?

Mr. LONGWORTH. Well, I do not think—while I will not say a man has no right to earn \$500,000 a year as a moving-picture actor, yet, if he does he has a lot to put aside as capital, and when we have war on, he ought to pay at least half of that every year.

Mr. CARPENTER. And yet the man who has inherited from three or four generations back the capital that he puts in securities and gets dividends from does not have his capital touched in that way.

Mr. LONGWORTH. He pays the same, except the 8 per cent, and that is insignificant.

Mr. CARPENTER. Does he pay his tax on his dividends if it comes as income?

Mr. LONGWORTH. Exactly the same. The only difference is this 8 per cent, and that is a relatively small amount. That is the only difference in their situations. I am with you, absolutely, on the proposition of a reasonable salary, where it is in fact an exhaustion of brain power, and where after a few years the ability to earn ceases. But when you get to these enormous income, such as acting in moving pictures and getting \$500,000 a year for it, I haven't very much sympathy with the man who wants to hold that.

Mr. CARPENTER. Mr. Longworth, wouldn't any member of Congress who could satisfy the public all the time be an artist and be worth \$500,000 a year?

Mr. LONGWORTH. It is a question whether he is worth it.

Mr. STERLING. He wouldn't be worth anything if he could do that.

Mr. SLOAN. Every Member of Congress is paying an income tax, and also an excess-profit tax, and no complaint was made by them. I think a distinction between unearned and earned incomes should not go above \$12,500 a year, or something like that. That is based upon a relation between earning power and necessary living expenses, and where the earning power happens to be so very great it becomes clearly capital and is not entitled to the distinction that the lower sum is entitled to. I think that the British rule is a very liberal one in making the distinction between earned and unearned incomes up to \$12,500 a year.

Mr. CARPENTER. What particularly seems inequitable and oppressive to the people I represent is the element of time that enters into it. One man may be in business and accumulate from year to year and year after year, but he is not taxed on that accumulation; he is taxed on his natural income. And then there may be another person, in another line, who works, no matter at what, as a moving picture actor, as a tight-rope walker, as a baseball player, and so on, and he studies and practices and works and works toward a given end and then suddenly achieves success, which may only stay with him, so far as public popularity is concerned, for a year or two or a few years at best, and during that time the most of that income, which is really his capital, is taken away from him.

Mr. LONGWORTH. If I understand you you think there should be no limit between earned and unearned capital?

Mr. CARPENTER. Equitably and justly there should be no limit. If one man's accumulated capital of a lifetime comes within a short period and you take it from him you are just as surely taking his capital as if you, in the case of a capitalist, not only took his income but his capital as well.

Mr. LONGWORTH. What did Charley Chaplin pay in taxes last year?

Mr. CARPENTER. I do not know.

Mr. LONGWORTH. If he had \$500,000 he would have paid 38 per cent under the income-tax law, and in addition to that he would have paid 8 per cent over \$8,000 a year.

The CHAIRMAN. I think you can tell Mr. Chaplin he will not have to pay 8 per cent next year but he will have to pay his surtax, like anybody else.

Mr. MOORE. Which is likely to be considerably larger.

The CHAIRMAN. Yes.

Mr. LONGWORTH. You can take that cheering hope back to Mr. Chaplin, that he will probably get out of paying the 8 per cent.

Mr. HAWLEY. These women have been getting pretty good salaries in the moving-picture business, have they not?

Mr. CARPENTER. In any given case the salary has jumped up suddenly, perhaps.

Mr. HAWLEY. After their unusual popularity is over, haven't they the ability to earn a reasonable sum each year?

Mr. CARPENTER. No; they are almost useless. No one who has been a star at one time can consistently take a minor part.

Mr. HAWLEY. That is a matter of pride.

Mr. CARPENTER. If they are not taxed too heavily they will be relieved of that necessity. Many of them would have a little earning power, of course.

Mr. HAWLEY. There are many other people who would like to be relieved of the necessity of making a living or paying taxes hereafter.

Mr. STERLING. Mr. Chairman, there are three or four other persons on this program who are yet to be heard by us, and I suggest that we proceed a little faster.

Mr. SLOAN. Who can you think of who has profited more by these war conditions than these three or four individuals we have been talking about? Haven't they risen to these large salaries largely on account of the condition created by the war?

Mr. CARPENTER. I am firmly convinced that the war has not benefited one of them one penny, but, on the other hand, it has cost them money. I am positive of that.

Mr. RAINEY. I notice that one of them has been engaged recently in an extra-hazardous employment, having been sued by the wife of another actor; or rather made correspondent in a suit for \$700,000.

Mr. CARPENTER. I hadn't heard that.

The CHAIRMAN. Have you anything else to say?

Mr. CARPENTER. If I may have permission to file a copy of this paper I would like to file it, and to hand you a better copy, because this was prepared very hastily upon the train.

The CHAIRMAN. All right; you may do that.

Mr. CARPENTER. There is one thing I want to say before I close, just a word. I want to call the attention of the committee to the useful and essential character of the services of motion-picture actors. You may think that it is a frivolous employment altogether, but there are about 175,000 people engaged in the industry, showing pictures through about 15,000 theaters to about 45,000,000 people a week. Any industry that can stir up the patriotism and keep up the hopes and confidence of the people of the country is useful. Any business that can do what this industry has done in the way of advancing Government propaganda, second in publicity not even to the press, is absolutely essential. And, gentlemen of the committee, a part of my mission here is to see in the various departments of the Government how the motion picture industry can further help the Government by any publicity or any sort of production that can be given.

Mr. MOORE. I think that Mary Pickford and Douglas Fairbanks and William S. Hart and a number of other moving-picture stars responded to the call of the Secretary of the Treasury recently in an effort to sell liberty bonds.

Mr. CARPENTER. They did, and traveled all over the country and sold millions of dollars worth of bonds.

Mr. SLOAN. Mr. Moore, do you know of anybody who has not done that at this time?

Mr. MOORE. Perhaps not, but at the same time I do not know of a single individual who has drawn such large audiences and spoken to so many people as these moving-picture stars except the Secretary of the Treasury.

The CHAIRMAN. Mr. Carpenter may hand in the paper which he has and it will be considered by the committee.

(The paper is as follows:)

Grant Carpenter, Los Angeles, Cal., assistant secretary Motion Picture War Service Association:

I appear before your committee as the representative of the Motion Picture War Service Association, an organization formed primarily for the purpose of unifying and

concentrating the patriotic work of the 175,000 people employed in the motion-picture business. It includes in its membership persons engaged in all branches of the industry—producing, distributing, and exhibiting. Particularly, however, do I represent a class that heretofore has never had a hearing—the workers in the artistic branch of the business—production—which includes the small independent producers, the actors, directors, authors, editors, photographers, and laboratory operators of southern California, where 75 per cent of all motion pictures of this country are made.

Among the officers of this association are David Wark Griffith, chairman; Mack Sennett, S. E. V. Taylor, Cecil De Mille, Mary Pickford, Charles Chaplin, Lois Weber, Douglas Fairbanks, W. S. Hart, Jesse L. Lasky, Marguerite Clark, and William Fox.

In order that there may be no misunderstanding of our purpose in this hearing, we state positively and unequivocally that we neither urge nor desire any reduction in the income tax. The members of our association are not only willing, but eager, to bear their full share of the burdens of the war, and they consider it a privilege to serve our country in this crisis. We ask merely the opportunity to call to the attention of this committee some of the effects of the existing tax law and some of the results that will flow from a material increase of the present rates.

The minds of the people of this country generally, have been so concentrated upon patriotic work that the question as to who has given the most has scarcely been considered. But we believe we discern some inequalities and inequities in the tax law—such as are usually found in every hastily drafted emergency measure, which may be easily and readily readjusted by the legislation now contemplated and which will equalize the burdens that must be borne.

Especially do we ask for a heavier tax on unearned income than upon earned income, adopting as a definition of "earned income" the phraseology of the English law as follows:

"Income arising in respect of remuneration from any office or employment of profit or in respect of any pension or compensation given in respect to past services of the individual or of the husband or parent of the individual in any office of employment of profit, and income derived from the exercise of a profession, trade, or vocation."

Income derived from any other source, therefore, shall be deemed "unearned." This definition is obviously based upon a recognized distinction between tangible and intangible capital and income derived from accumulated wealth and that derived from cumulative effort. Permit us at this time to draw a comparison between the individual who derives his income from his art, and the individual who derives his income from dividends on investments. I have in mind a woman in one of the arts who began only last year, after many years of poorly paid apprenticeship, to earn large sums of money. Her intangible capital is the experience and the knowledge of her art she has accumulated, and upon which she has only begun to realize.

The tax, as now applied, takes almost half of her earnings. In the nature of her business she can not expect under the most favorable conditions, to enjoy the popularity that brings her this income for more than a few years—five at the outside—and the hazards and risks of her employment, a brief illness or a scar on the face may end herearning power at any moment for all time. During that period she may be taxed anywhere from 25 to 50 per cent of all the earnings of a lifetime and at the end of it her capital is gone.

On the other hand, take a man with a similar income derived from dividends. This man's income would not be taxable at all under the excess profits law, nor would he pay any normal income tax; so that when the war is over and the tax removed this individual's capital would be unimpaired and he would perhaps enjoy a larger income on the increased valuation of his property, through no effort of his own.

Take, for example, a single man with an income of \$10,000 from dividends. He will pay only a surtax of \$100 a year throughout the war period, as the law now stands. Even if he should eventually be taxed up to 50 per cent of his income, he would still have \$5,000 a year and all of his capital at the end of the war. When the war taxes are removed he would again have his \$10,000 a year income and eventually transmit his unimpaired capital to his heirs.

Compare with this man a director, author, or actor, who through many years of apprenticeship has brought himself to the point where he earns \$10,000 per year. His earning power at this point will continue for only a comparatively brief period of his life. His entire productive period may be covered by the war. On his \$10,000 income as the law now stands, he would pay a total tax, income and excess profits, of over \$700, seven times as much as the capitalist with the same income from dividends. At the close of the war his earning power might be at an end, and he has no capital left—tangible or intangible. And bear in mind that though he pays an excess profits tax of \$320 his income has no relation whatever to the war.

While the excess profits provision was designed to take the profits of big business resulting from war activities, it does not so operate. Big business by inflating its



tangible and intangible capital may almost, if not entirely, escape this tax, while the members of this association whom I represent, being what might be called brain-workers with no tangible capital, have nothing to inflate, except, possibly, their heads, and that would get them nothing.

Now, compare with this class the single individual engaged in business in a small way. With a capital of \$100,000, normal prewar profits of \$10,000 a year, and a taxable year profit of \$15,000, he pays no excess-profits tax, because the deductions allowed are equal to his profits, but he does pay an income tax of \$770, only about \$70 more than the professional man, though his income has been \$5,000 greater. At the end of the war he still has his capital, augmented by war profits.

It is hardly necessary to cite a concrete example of big business with tremendous capital on which deductions are allowed, sufficient, in many cases, to wipe out entirely actual war profits.

While we hold no brief for the inventor, the architect, the sculptor, the singer, the musical composer, or others in the class that may be termed brain workers, the inequalities we have called to your attention apply with equal force to all of this class, but the consideration we ask is consistent with the policy of the Government in protecting and encouraging them by copyright and patent laws, guaranteeing them an adequate reward for years of unproductive effort.

Take a man of 40, who at this time perfects an invention which would mean as much to the world as Ford's car has meant. He will have insufficient capital with which to establish his business, and his income might be so taxed that he would not be able to accumulate it. His capital is largely intangible, being the workings of his hands and brain. He must of necessity have recourse to capital in order to develop his invention, and in consequence he parts with a great portion of the earnings of his invention to the capitalist, whose accumulation remained not only unimpaired but may be greatly augmented.

Take a man who after careful preparation and long effort, representing his intangible capital, writes a successful play. It may earn for him \$200,000 in one year, and the tax will take a very large proportion of it. His intangible capital is partly confiscated, for he may never write another successful play, and year by year his one work earns smaller and smaller sums.

The small producer of pictures is confronted by another problem. (I have in mind the experience of one such man.) With his accumulated earnings and a big idea he interests outside capital, and a picture is produced by the corporation thus formed. He takes his profits from this production and puts it all in a new individual production. It proves a failure. His capital is gone, but he can not balance individual losses against corporate gains, and he has to borrow money to pay his income tax. The capitalist, however, still has his profits. The handicap of the income and the excess-profits taxes and the element of chance inseparable from the motion-picture business are obstacles impossible for the artist to overcome in competition with established capital.

Consider the man with investments of \$15,000,000. He would have an income, say, of \$600,000 a year. He pays no excess-profits tax because his income is from dividends, but he would pay a surtax of about \$220,000. If the Government took an additional \$300,000, he would still have \$80,000 a year and his unimpaired capital to struggle along on. But suppose an author, a director, or an actor should this year win public recognition and earn \$600,000 (and I may say right here that the reports of tremendous salaries earned by moving-picture stars are greatly exaggerated; I know of but one, or possibly two, who earn \$500,000 a year). This person would be taxed about \$270,000—almost half of his capital—the accumulation of the greater part of his life. The chances are that he will never have another success. His intangible capital has been taken. But if the Government took a single dollar of the capitalist's tangible millions, you would hear a great outcry about confiscation.

The artist has been compelled to pay a heavy excess-profits tax, though it is scarcely necessary to tell this committee that his earnings have no relation or connection with war activities. As a matter of fact, the war has impaired his earnings, for the motion-picture industry as a whole has felt a great depression. Hundreds of theaters have been closed, many companies have ceased production, and those still operating have been compelled to retrench by reducing forces and cutting salaries.

We believe that to tax the artist, the brain worker, and the individual who renders personal service at higher rates than the capitalist tends to discourage effort, arrest progress, create social unrest, and establish an autocracy of wealth. We are sure that no worker in our industry who may have accumulated capital would object to a direct emergency tax of 5 per cent or even 10 per cent if necessary upon the principal. To urge a direct tax on capital may seem revolutionary, but grave emergencies require drastic remedies; and if a direct tax is imposed to pay the cost of municipal, State, or national police, it may be resorted to in order to pay the cost of international police employed to restore peace and order to the world.

We are not political economists or tax experts, and we do not presume to offer an adequate remedy for the situation. We do, however, offer these suggestions even though some may be considered visionary:

First. That a heavier tax be placed upon unearned income than on earned income, and no person should be allowed an unearned income exceeding \$50,000 a year. Below this sum, and in excess of \$5,000, unearned income should bear a special graduated tax.

Second. That income derived from occupations based on personal service and having no relation to the war be excluded from the operations of the excess-profits law.

Third. That the excess-profits provision be changed to conform to the English procedure; that is, taking 80 per cent of the actual war profits, with a special provision that where such profits are derived altogether from the manufacture of articles essential to the prosecution of the war, all in excess of normal prewar profits be taken by the Government; and in business that had no prewar existence, all profits above reasonable earnings on the invested capital be taken.

Fourth. That a direct emergency tax at graduated rates be imposed upon accumulated wealth, inherited or unearned, in any form whatsoever, in excess of a principal of \$250,000, with provisions that will prevent a shifting of the burden during the war and for 10 years thereafter.

Fifth. That a heavier surtax, equaling the present excess-profits tax be placed on unearned incomes in excess of \$4,000, and an additional surtax on incomes derived from inherited property.

Sixth. That a heavy direct tax be placed on the membership of social and country clubs, and upon private homes in excess of the valuation of \$40,000.

Seventh. That a direct tax of 1 per cent be placed upon all accumulations of wealth in excess of \$200,000 when earned by the possessor; 2 per cent on similar accumulations which have been inherited; 3 per cent on such inheritances in the second generation; and 4 per cent on all inherited wealth belonging to persons residing permanently abroad.

Eighth. That a tax be put on the profits from all manufactured articles used by our Government or our allies in the prosecution of the war or for relief work, so as to allow only an 8 per cent return on the capital actually invested in grounds, buildings, or materials, and that no salary in excess of \$20,000 a year be allowed to persons directing or managing such concerns, or to the partners in such works.

Ninth. That incomes not derived from the manufacture of war materials or articles used by the Government in the prosecution of the war or giving aid to the allies, be excluded from the operation of the excess-profits law.

Before closing I wish to call the attention of the committee to the useful—even essential—character of the motion-picture industry in the prosecution of the war. Any business that, operating through 15,000 theaters and reaching 45,000,000 people weekly, stimulating their patriotism, relieving their anxieties and inspiring their confidence, is useful. As a medium of publicity and a disseminator of Government propaganda, it is not second even to the press. It is not necessary for me to remind you of the immense service that the motion-picture people individually and the industry as a whole have already rendered the Government, and which they will continue to render; but I do desire to tell you that a part of my mission to Washington is to ascertain how the industry, united in one national association, can render fuller aid and assistance to the Government in this war.

#### SUGGESTED AMENDMENTS.

Suggested amendment of section 209 of the war excess-profits law:

"SEC. 209. That in the case of a trade or business having no invested capital, or more than a nominal capital, there shall be levied, assessed, collected, and paid, in addition to the taxes under existing law and under this act, in lieu of the tax imposed by section two hundred and one, a tax equivalent to eight per centum of the net income of such trade or business in excess of the following deductions: In the case of a domestic corporation, \$3,000, and in the case of a domestic partnership or a citizen or a resident of the United States, \$6,000; in the case of all other trades or business, no deductions: *Provided*, That nothing contained in this section shall be construed as taxing the income derived from personal service and not from capital."

Suggested amendment to section 201 of the war excess-profits law:

"Using as a basis of the tax the provisions of the English law—that is, allowing the taxpayer to select the most prosperous two years out of the three years immediately preceding the war as a basis for establishing an average normal profit and taxing all income above the average normal prewar profit so determined (which may properly

be considered actual war profits) at eighty per centum: *Provided*, That where such war profits so determined are derived from the manufacture of or trading in articles essential to the prosecution of the war, a tax of one hundred per centum.

The CHAIRMAN. The committee will now be glad to hear Mr. Johnson.

**STATEMENT OF NORMAN H. JOHNSON, SECRETARY OF THE SOUTHERN WHOLESALE DRY GOODS ASSOCIATION, RICHMOND, VA.**

Mr. JOHNSON. Our organization embraces all the jobbers in the Southern States doing business in dry goods, notions, and furnishings. The States included are North Carolina, South Carolina, Georgia, Florida, Alabama, Louisiana, Mississippi, Kentucky, Texas, and, in fact, all the Southern States, starting in south of Washington and including El Paso, Tex. There are 158 such jobbers in the Southern States. They do a business in the neighborhood of about \$150,000,000 a year; that is, distribution. The business in which they are engaged is classed by all students of the business as being the most hazardous business there is. We are dependent upon the retail trade, and under these war conditions our position has been very much changed. It used to be our function and our only function to finance and supply the retailer. To-day the problem has been shifted to where we have been forced almost to finance the mills, the selling agents, as well as the retailer. In Mr. Hurley's book, *The Working of Business*, you will find it thoroughly confirmed that the retailer always has been and always will be a very hazardous proposition, for 90 per cent of them fail during a period of five years.

Back in 1914 the jobbing business, which is comparatively young in the Southern States—and I say young because it is not 20 years in its full development, and just a few years ago there were such markets only in Richmond, Charleston, New Orleans, and perhaps some scattered in between, so that the great growth and development of the jobbing business has been in a period of the last 12 years, that is, in its full growth. But along in 1914 we found ourselves pretty near "broke." We were just existing. A great many houses went out of business when the slump in prices came after the German guns commenced booming. It showed a depreciation in merchandise stocks of 25 to 30 per cent, and a great many old established houses went out of the dry goods business.

We are not here to seek any especial favor nor to ask for any reduction. We have had our full experience in the South. The peculiar nature of this business is hazardous, and we are now up against a number of problems as to which we can not see our way clear enough to know exactly where we are drifting. Like other businesses, we are confronted by new and changed conditions, of course, but we think that our business is peculiar and different from others. You take all of the very ordinary merchandise and prices have changed wonderfully. The cheapest hosiery that was made prior to the war, purchased at 55 cents a dozen, to-day we can not purchase for less than \$1.85 a dozen, even if that low. For the 84-needle goods, which were 60 cents a dozen before the war, we now have to pay from \$1.35 to \$2.25 a dozen. Ordinary gingham that were 7½ cents a yard can only be purchased to-day at 27½ cents.

Consequently I say all merchandise has increased from 300 per cent to 500 per cent in valuation. If you take the condition as it applies to the jobbing trade, the very small retailer out in the country whom we allowed \$1,000 credit before the war—and that was taking a risk that no other people in the world would assume, that no other credit organization would pass, or even understand—as I say, we allowed that man a credit of \$1,000. You gentlemen have heard it frequently stated that a man could come into the market with \$250 in cash and get \$1,000 worth of merchandise. I regret to say that owing to the demand and the desire to sell that has generally been true. Now the demand upon us by that retailer is not for \$1,000 credit, but the same hazardous risk that we took at \$1,000 we are forced to take at from \$4,000 to \$5,000; we have to give him that line of credit. Consequently a greater amount of the profits which we have counted on during the past year is tied up in these credits, and with the hazards that I have called to your attention.

I want to say right here in this connection that, unlike some other businesses, our profits in 1918 will be larger than they were in 1917; but they are attended by these contingencies which I have mentioned, the greater amount of credit extended and the greater risk. For this reason we base our profits on two very weak propositions—

Mr. GREEN (interposing). It seems to me your trouble is largely psychological.

Mr. JOHNSON. No; it isn't. And I will get to that in just a little while. We are figuring on profits on two bases: First, we are figuring on enhanced value of the merchandise. The merchandise that we bought at 60 cents, of course, the longer we have kept that merchandise the greater the margin of profit. If our merchandise did not turn over and we have some stock left, of course, it is worth more money. One of the big things we might consider is the amount of merchandise that we might have, and of course we have some on hand purchased heretofore. One peculiar situation about merchandise, and of course that depends on when sold and how, but we assume as our profits our back accounts in the hands of the retailers. No matter what our terms may be, the terms are only to show when the bill becomes due. We can not necessarily get the money. That is, the sale may be completed, but we can not get the money until the merchant pays us. Consequently there are some stocks in the hands of retailers to-day, and I would say a larger amount than at any other time, and these stocks are based upon our capitalization and not upon the capitalization of the retail trade. Therefore it is unusually hazardous.

Now, you understand we have to make our contracts six or eight months ahead of the time that they are actually sold to the retailer. You take the year 1914 and our contracts were made for those goods in 1913. When the man shipped us that merchandise it was done after a great deal of it had been reduced from 20 to 30 per cent below the spot market. I mean that at the time they delivered the merchandise we could have gone out into the market, and in fact in some cases did go into the market, and buy the identical goods at a price from 20 per cent to 30 per cent lower than the price at which the merchandise had been actually purchased that was being delivered to us as of that date.

Mr. GREEN. That is back at the opening of the European war that you are now talking about?

Mr. JOHNSON. Yes, sir.

Mr. GREEN. We are not going to tax you on that.

Mr. JOHNSON. I know you are not going to tax us on that, but I was telling you that to show you that we are now in the market in a very different condition.

Mr. GREEN. You are now buying on a rising market?

Mr. JOHNSON. It has been rising continually; yes. And we have made unheard of and undreamed of profits under those conditions. I unhesitatingly say so; that is, according to the standing of book-keeping. But according to the standards of business we have not made those profits; they are hypothetical. We think we have got them, but the conditions are so hazardous that we may not have them in fact. Our taxation during the past year would average about 30 per cent to 40 per cent of profits which we make. I mean, that of the money we made we figure 30 or 40 per cent was represented by excess-profit tax. If they were increased under present conditions, this jobbing business could not possibly stand it, in my opinion. That is for the reason that we own the merchandise at extremely hazardous prices, and that our cost of doing business has been constantly rising and rising. I would figure that it has jumped from about 14 per cent to the neighborhood of 21 per cent, and perhaps higher in many instances. But as well as I can make the average it would come to about that.

Then, again, we are facing a 25 per cent increase in freight rates. Twenty-five per cent in our business is extreme margin, because in the prewar business the best business and the best organized business that we had only yielded 4 per cent.

Mr. FAIRCHILD. Well, you don't pay this freight.

Mr. JOHNSON. The freight—here is a peculiar situation; I think it would be of interest to this committee to know it, that right to-day the primary market which is the market of the mills, you can go into the jobbing houses of the South and the retailer can buy merchandise from the southern jobber to-day at a lower price than if he had the buying capacity—the small retailer with only a small capitalization can buy merchandise to-day from the jobber cheaper than if he had a large capital and went into the primary market to buy merchandise. We are not like the manufacturer who can sit down and make his prices on merchandise. He can make his prices and fix them so much as cash. The munition makers can go ahead and say here is my completed product and say it is worth so and so. But we are the middlemen. We have to supply those merchants with merchandise that is salable to the consumer. It is unquestionably true that the retailer is selling that same merchandise to-day to the consumer at a lower price than he can buy it from the jobber.

Mr. FAIRCHILD. Where do you find those consumers?

Mr. JOHNSON. The further you go into the country districts you will find that condition. It is really a condition that you can buy to-day the athletic underwear, like B. V. D., that ought to sell at 75 or 80 cents a garment, you can buy from numerous small stores from 45 to 50 cents per garment.

Mr. MOORE. You mean to say the rates have not gone up to the consumer?

Mr. JOHNSON. No, sir. I am talking about on the average of dry goods and furnishings and notions in the country districts.

Mr. MOORE. If that is true, that experience is not borne out in cities like Washington.

Mr. JOHNSON. No, sir; it is not. Washington is the exception to all rules.

Mr. MOORE. The Southern Wholesale Dry Goods Association for which you speak has its headquarters in Richmond, has it not?

Mr. JOHNSON. That is, its officers are there.

Mr. MOORE. The members of this association are jobbers—they are middlemen?

Mr. JOHNSON. Yes, sir.

Mr. MOORE. They purchase from the manufacturers or act as manufacturers' agents?

Mr. JOHNSON. Yes, sir.

Mr. MOORE. Then they pass the goods along to the retailer?

Mr. JOHNSON. Yes, sir.

Mr. MOORE. Affording this help as you have indicated in the way of credits?

Mr. JOHNSON. Yes, sir.

Mr. MOORE. The manufacturers' prices have gone up on dry goods?

Mr. JOHNSON. Yes, sir.

Mr. MOORE. The jobbers' prices have gone up on dry goods?

Mr. JOHNSON. Yes, sir.

Mr. MOORE. And retailers' prices have gone up, haven't they?

Mr. JOHNSON. Yes, sir.

Mr. MOORE. Who loses if the consumer back in the country somewhere buys his hosiery or overalls at the same old price?

Mr. JOHNSON. Where the loss comes in—ordinary business suggests, what I mean is if a business would be sound (and we are admitting that the retail business is not a sound business), the cost of an article of merchandise should be the replacement price plus the cost of doing the business, should it not? Wouldn't that be the way of determining that? If you had to go into the market to replace an article which you already had and which you had for sale, would it be good judgment to sell that merchandise on a price below the market level?

Mr. MOORE. It might be. In war times you have to do a great many things you regard as approaching imbecility in times of peace.

Mr. JOHNSON. Yes, sir.

Mr. MOORE. We are dealing with this whole question now as a war problem, because of an exigency with which we are all familiar. But I come from a manufacturing district and I know we are paying larger prices for our raw material, for instance, cotton—for cotton yarns that go into manufacturers' articles as you say are dispensed. If we are paying higher prices due to war conditions and we are getting higher prices from jobbers again and the jobber is getting higher prices from the retailer, somebody must be losing something somewhere.

Mr. JOHNSON. I didn't mean that as a rule with the retailer. I said it was exceptional cases with small merchants and you can find that they are not keeping up their prices in the larger stores. If we didn't sell a few responsible merchants we wouldn't have any chance in the world of doing business. But we are the source of supply for

that class of merchants who do not have any other source of buying power except through us.

Mr. MOORE. The reason is that the consumer is now better able to pay these higher prices than before or we would hear from him. But he is paying higher prices the country over for what he buys, certainly paying it for groceries and household supplies, and certainly paying more for dry goods in communities where I live, more for his collars and shirts and other things that he wears. I want to ask you whether your association is not in a position to control the price situation?

Mr. JOHNSON. No, sir; we are not, and wouldn't like to be. We wouldn't like to get into the price-fixing arrangement, and there is something we are looking forward to now with a great deal of fear and trembling.

The Government has already withdrawn practically a large quantity of all the underwear that we sell. For instance, we have been the largest purchasers in the country of elastic seam drawers and balbriggan underwear. We can't get any of that now. None of it is offered.

Mr. MOORE. How many States are covered by this organization or how many States are represented in it?

Mr. JOHNSON. Thirteen—all of the Southern States. They run all the way down to Texas, Arkansas, and Oklahoma.

Mr. MOORE. All of the cotton-growing States?

Mr. JOHNSON. Yes, sir.

Mr. MOORE. How many separate concerns are represented in the association?

Mr. JOHNSON. About 158.

Mr. MOORE. Does anybody except the members of this association do any substantial jobbing business in those 13 States?

Mr. JOHNSON. Yes, sir. We have to meet the competition of Chicago, Omaha, St. Louis, New York, and all the markets in the world.

Mr. SLOAN. Do you include Philadelphia in those markets?

Mr. JOHNSON. Yes, sir.

Mr. MOORE. Philadelphia is still in the running.

Mr. JOHNSON. Yes, sir; and a very good market.

Mr. MOORE. I want to find out in view of your suggestion that business is not what it ought to be and the taxation is heavy, and I want to find out whether your association is really in a position to control prices in these 13 States?

Mr. JOHNSON. If we had the Government's permission to do so we would be; yes, sir.

Mr. MOORE. Certain collars and cuffs are sold by your jobbers, are they not?

Mr. JOHNSON. Yes. The collar people have gotten together and organized and make the price and we take that price. There are a great many cases where the price is made so that the jobber is not able to pass it on in the merchandise.

Mr. MOORE. The price is made back in the factory?

Mr. JOHNSON. Yes, sir.

Mr. MOORE. And the jobber has to follow that price?

Mr. JOHNSON. Yes, sir; or we don't get the merchandise.

Mr. MOORE. Do the retailers in any one of these 13 States obtain any of these standard goods, the price of which may be fixed at the factory, at any other place than those jobbers?

Mr. JOHNSON. No, sir.

Mr. MOORE. Would a retailer in any one of those 13 States be likely to last very long in his business if he undertook to do it without buying his goods from the jobbers of the Southern Wholesale Dry Goods Association, which is not unable to—

Mr. JOHNSON (interposing). The point we make is they don't last very long. The retailers don't last very long, no matter whether it is in the South or Pennsylvania or anywhere else. The life of the retailer is very hazardous.

Mr. MOORE. I am endeavoring to find out whether you could correct the situation of which you complain without violating any antitrust law, and if the price is made at the factory and you maintain that price, taking off of course whatever allowance is made, why don't you raise the price?

Mr. JOHNSON. I don't mind saying we are trying to do away with as much branded merchandise as we can for the simple fact we can get as good or better quality at a lower price and distribute it with a fairer profit to ourselves and a fairer profit to the retailers than if we buy these so-called standard advertised lines.

Mr. MOORE. If there are two retailers in a given town in Georgia, both of them buying from jobbers, members of your association, and each of them selling a collar that sold before the war for 25 cents, for 30 cents now during the war, wouldn't they be able to meet the new conditions? The consumer couldn't get it anywhere else, could he?

Mr. JOHNSON. He certainly would; yes, sir.

Mr. MOORE. If a consumer is making more wages, is better able to pay, why would your association suffer, or why would the retailer suffer, if he can get 5 cents more for a collar now than before the war?

Mr. JOHNSON. We are taking this into consideration. If you would take one standard merchandise—what I mean, the so-called well-known brands, there would be less than 5 per cent of the merchandise which we distributed. You must bear in mind that our line—our salesmen go out and sell as many as 8,000 different articles. They carry sometimes five, six, and seven trunks. And they represent not one factory, but factories throughout the whole country, and we are distributing all of that merchandise. We are convinced in our own case, notwithstanding certain writers of the Congress, that the jobber is in every respect the most economical distributor of anyone.

Mr. MOORE. We are not prejudiced against the middleman. I don't see very well how we can get along as between the producer and consumer without having the middleman agencies.

Mr. JOHNSON. It wouldn't be possible.

Mr. MOORE. The same with farms and the same with factory products, but if your association is in a position to pass along to the consumers the increased price that starts with the factory, I don't quite get your argument as to the added burden, because it seems to me the burden is passed on.

Mr. JOHNSON. We are not able to do that. For instance, a few years ago, in 1914, some compilation was made of the jobbing business throughout the United States, as between the dry goods, notions, and furnishings. These amazing facts were brought forth, not only in the South but everywhere else. The jobber distributes 20 per cent



of his stuff at cost. For instance, you take some concerns in Philadelphia, they are old-established businesses and they will come out of Philadelphia with their new brand of underwear. He feels that is his leader. Take Mr. Strawbridge, or Mr. Evans, they are great importers of colonial linen. They do a lot of linen business, and consequently they call themselves the linen kings of Philadelphia. When those men get into the Richmond territory, they would get into competition with a gingham king, and consequently it got to where they had leaders, and every market had leaders, and when they got into the whole market those markets would match leaders, and consequently nobody had a leader.

The jobbing business in 1914 was the least productive; that is, the least money-making business in the country. You might take these figures. When I first became secretary of the Wholesale Mercantile Association I undertook to study the failure of retail concerns, and I found out that the jobber of dry goods, notions, and furnishings—I found out that the jobber only sold the general merchant 17 per cent of the stuff he had. In other words, the hardware dealer, the shoe dealer, and so on made up the other per cent. When failures came, it would average that the dry goods and notions made up 80 per cent. By reason of a close study of this situation some of the causes have been eliminated. But business has not adjusted itself to a real solid and sound basis. The hazards they run in selling that stuff have depreciated their profits.

Mr. MOORE. You use the term hazard in connection with credit?

Mr. JOHNSON. Yes, sir; entirely.

Mr. MOORE. That is rather surprising. I thought the word hazardous was used in connection with insurance or perishable commodities and that way.

Mr. JOHNSON. Extremely hazardous. That is using Mr. Hurley's own words. Mr. Hurley says it is the most hazardous business in the world.

Mr. MOORE. I want to ask you one question and then I won't press you any further. You say there is competition with the members of your association in the 13 States enumerated?

Mr. JOHNSON. Every one of them compete with one another.

Mr. MOORE. Other jobbers come in, too?

Mr. JOHNSON. Yes, sir; and other markets come in.

Mr. MOORE. Your jobbers, do they represent principals in Chicago and western cities as well as Boston and New York?

Mr. JOHNSON. We have no principals in a jobbing business.

Mr. MOORE. I mean manufacturers.

Mr. JOHNSON. No, sir; we are independent. We buy merchandise from all over the world. Anywhere in the world we can get it. In ordinary times we are large importers of merchandise.

Mr. MOORE. On your own account?

Mr. JOHNSON. On our own account, and we sell those mostly under our brand.

Mr. MOORE. Then you buy outright in most instances?

Mr. JOHNSON. We buy outright in all instances.

Mr. MOORE. I misused the word agency.

Mr. JOHNSON. We buy outright. We don't sell on commission basis any article of merchandise.

Mr. MOORE. The field is free in these 13 States for any jobber to come in there that wants to?

Mr. JOHNSON. Yes, sir; and they come in there, too.

Now I am making this point further than that. The business as I stated is dependent upon the retail trade. We are stocking up with merchandise that will increase from 300 to 500 per cent in valuation. The manufacturers from whom we buy knowing that we are rather substantial as classed by the retailer, they have already recognized the unusual hazard we are taking and now they have reduced their selling terms to us. We used to buy merchandise at 2.10, and 60 extra, and so on. But it has gotten so now on certain lines of merchandise we have to pay for the merchandise even before they ship us, notwithstanding our solvency is well attested at the banks. They understand the hazard we take and we are likely to go up with the increased pressure brought to bear on us.

The jobbing business is not a healthy business in its outlook; because our problems are two lonesome facts. One is book accounts. You know the condition of the average retailer in the country towns; or small merchant. He will pay if he gets it. With this high-priced merchandise you have got to take into consideration this fact while our business in dollars and cents is growing, our volume in yardage and turnover is decreasing. One reason for decreasing is the population, the second is higher price of the stuff. When a woman could go and buy ordinary gingham at 10 cents and now she has to pay 35 cents a yard for the identical gingham, she is cutting down on her dressing. The people throughout the country are doing it. Wages in the South while increased largely in the munition plants, and have increased in fact very much, the very cost of living, the real necessities, are out of proportion to the cost of merchandise—in other words, merchandise has soared up so high that it is impossible with the increased earnings they get for them to have enough money to buy the clothing and fancy goods and things of that sort. I think that is as it ought to be.

We are not here with the idea of saying, "Cut our taxes down." We want to stand every bit we can. We are just in this position: We are willing to lose an arm, a leg, or any part of our anatomy, just so we don't lose our heart, to keep this thing going. We want to live and let live. When we came up here a year ago you gentlemen discussed the numerous problems we have. I don't see how physical nature can stand it. Here is the great big octopus, the motion-picture fellow and the automobile fellow, that wants the other fellow to stand the tax because they own an automobile. I don't see how the committee can be maintained. But I do want to bring this to your attention. We contributed this last year 30 per cent. Having that 30 per cent is the first time in our lives. We never had in all of our lives from the establishment of it in Philadelphia—and Philadelphia used to be such a fine market that my grandfather used to go there in a wagon from his home town down in the South.

Mr. MOORE. You are improving, Mr. Johnson, as a witness, as you go along. [Laughter.]

Mr. JOHNSON. The southern market has grown. As I stated, we are doing a business down there now, possibly \$175,000,000, classified among businesses, who have a distribution of anywhere from \$200,000 up to \$14,000,000. I mean that we do a business to that extent.

I was very glad to have Mr. Lincoln Cromwell, head of the Munitions Board, say to me when he made requisition for underwear, and so on, that the price at which the southern manufacturers gave him merchandise as well as the quality was far out of the demands of this country.

As a resolution passed in our sixth division, we have gone further than any jobbers in this country. We have said we are going to try to substitute and take all our sheetings, which the Government has not as yet said they would need, but which we feel sure they will need—we are trying to get substitutes in order to turn that over to the Government at the prices we paid for it. We have not attempted to accept a Government contract at a profit. We don't want it. We are willing to give the Government as much as we can. We recognize we have been large payers of revenue to the Government. And we are glad that we were able to do it. We don't believe our own business ability was entirely responsible for that. It was due to conditions that brought it about, the market advanced faster than we could turn the goods over, and when we got ready to turn it over it was advanced so greatly that we made profits by it. We have given the Government that.

If the taxation is increased on the middleman, we don't claim we are producers, but we do claim we are economical distributors. We can prove we are selling merchandise at a lower level of cost than merchandise can be bought at the mill, for the reason we purchase that merchandise from 6 to 8 months in advance of the time that it is sold to the retailer, and 12 months from the time it goes into the hands of the consumer. Furthermore, we buy up the entire product of a number of small mills that could not sell their products—the average selling expense of a mill would be 15 to 17 per cent expense. We go in there and take the entire product and they have no selling expense at all, so consequently we take that and form a necessary and economical link in the retail trade.

Mr. SLOAN. What is the concrete proposition that you ask this committee to follow? What is it you want done?

Mr. JOHNSON. I came up here with a number of jobbers from Richmond, Lynchburg, Dallas (Tex.), Mobile (Ala.), and New Orleans. We came up here without trying to bring any great deal of statistics with us—

Mr. SLOAN (interposing). Without the statistics, what is it you want the committee to observe in making up this bill that will relieve your business?

Mr. JOHNSON. I think I can answer that in this way. That having reported it, the fact that we will sell less merchandise in 1919, and that the profits we anticipated in 1918, and some of which we have already made, equalizes only our losses up to this war period. Notwithstanding that we were equalized to our war period, we then managed to go ahead through the period of 1917 and were able to pay the taxes. Now I don't mean to say that we haven't had to borrow money to pay those taxes. We have certainly had to borrow money to pay the taxes. We couldn't have gotten it any other way, because we haven't a large capitalization. We do business on just the smallest margin it is possible to do.

Mr. SLOAN. Passing that, what is there that you think ought to be done to modify the laws in your particular case?

Mr. JOHNSON. We don't want to modify the present law at all. We can live under the present law.

Mr. SLOAN. You feel the committee ought to let the present law stand?

Mr. JOHNSON. Yes, sir. We feel we can live under this with what we know has got to come. We have merchandise on our shelves to-day that we feel that we had to pay 500 per cent more than it is worth. We know that it is not worth that, but we had to pay for it.

Mr. STERLING. You wouldn't have us make an exception for your concern?

Mr. JOHNSON. We don't want any exception.

Mr. STERLING. You would be satisfied to have an increase?

Mr. JOHNSON. No, sir; we can't stand an increase.

Mr. STERLING. Would you ask this committee to make an increase in getting revenue on other business and except yours?

Mr. JOHNSON. I would make a suggestion, that with the establishment of the Federal Trade Commission and the Bureau of Commerce, that an analysis be made, with a clearer review of what conditions the jobbers were facing under these peculiar conditions and leave it to the actual findings as to what the taxation should be.

Mr. RAINEY. Leave it to what commission?

Mr. JOHNSON. To the Federal Trade Commission.

Mr. RAINEY. As to what taxes should be levied?

Mr. JOHNSON. Yes, sir; as to whether or not the jobbers could stand any taxation, and if we can stand it we want to stand it.

Mr. RAINEY. But we have got to draw this bill now.

Mr. JOHNSON. I know that; but I am saying the jobbers can not stand any more taxation.

Mr. RAINEY. But your proposition is to have the Federal Trade Commission find out what they could stand and then draw another bill there?

Mr. JOHNSON. I think that would be a good way to do it.

Mr. RAINEY. We have got to win this war and we have got to have money to do it with, and we have got to have twice as much. We couldn't do that—wait for a commission to conduct an investigation.

Mr. JOHNSON. I say you have got to take twice as much out of the jobbing business, and if this war goes on to 1920, in my opinion there won't be any jobbing business in the country.

Mr. RAINEY. What do we get out of the jobbing business except excess taxes, the same taxes that is levied on every other business?

Mr. JOHNSON. You don't get any more than other businesses; no, sir.

Mr. RAINEY. Your proposition is that we are to exempt the jobbing business from the imposition of this taxation?

Mr. JOHNSON. I think you ought to exempt them from any further taxation; yes, sir.

Mr. RAINEY. And impose the further taxation upon other classes of business?

Mr. JOHNSON. From the best information I can gather, and this is very hurriedly, we stood 30 per cent. Some say we could possibly survive if a 10 per cent increase was added. Others say we couldn't. The opinion seems to be very much divided among jobbing men as to whether or not we could stand it.

Mr. RAINEY. Nobody will survive if we lose the war.

Mr. JOHNSON. Nobody wants to lose it. We are willing to give you every cent we can make, but you don't want to kill us during

the war. We are having a large line of merchandise withdrawn from us.

Mr. RAINEY. We can't make an exception.

Mr. JOHNSON. All the line of merchandise the consumer is going to have from now on until the close of this war is largely represented in the stocks of merchandise which we have already assembled. You take 600 mills; they have already been commandeered and requisitioned by the Government, so all the merchandise the consumer is going to get is in the hands of the jobbers and middlemen.

Mr. STEBLING. Your taxes are going to be increased. You will charge it up to the retailer, and he will charge it up to the consumer, and you will go on. That is all there is to it. We have got to get this money some way.

Mr. JOHNSON. There is such a thing as carrying things that far. We would like to deliver it. But that is not as easy a proposition as outlined.

I stated in the beginning that we were not always able, by reason of peculiar competitive prices in this country, to get as much for merchandise as we ought to get.

Mr. FAIRCHILD. You understand that we put the same tax on your competitor that we do on you.

Mr. JOHNSON. It is going to lower the whole competition. There are plenty of men that believe they can sell merchandise below cost and survive. There are plenty of them that do that. Of course, it doesn't sound sensible to come before your committee and say that such a thing is a fact, but being that is true, as Bill Arp used to say, "No use in arguing against facts"; but that is a rule that the average business man in America in the distribution of merchandise still believes that he can sell merchandise below cost and still continue. That is the reason of the hazards of this business being so large.

I am representing the practical element of the jobbing business in this country that know we have got to face that proposition. On account of those great hazards we are standing as much as we can.

**STATEMENT OF MR. W. J. D. BELL, OF LYNCHBURG, VA.,  
SECRETARY OF THE SOUTHERN WHOLESALE DRY GOODS  
ASSOCIATION.**

Mr. BELL. I just want to add a few words to what Mr. Johnson said, and that is that we think that the dry goods jobbing business is in a class by itself. I want to assure you gentlemen that we down South are just as much interested in this proposition of winning the war as any class of people on earth. We are buying liberty bonds and we are doing everything. We are just in this war to the end, and we want to do our duty and full part, but we do want you to recognize we are doing business under an extraordinary hazard. We are buying these goods from 300 to 500 per cent up, and we are having to buy them from 6 to 12 months in advance. We take our inventories and arrive at our profits at the end of the year. We have got, say, \$500,000 worth of goods on hand. We don't know whether they are worth \$500,000 or \$300,000 or \$150,000. Our taxes are based on the cost of those goods. It may be that when we go to pay these taxes on June 1 that those goods will be worth \$150,000.

Where would we get the money to pay those taxes with? We don't want to lose our business. We have taken these businesses in

the South in the last 25 years and built them up to a great big interest down there. Our concern paid \$93,000 this year.

Mr. RAINEY. How are we going to get the income for this year?

Mr. BELL. I think the proposition to tax business concerns out of existence is wrong. I think the taxes ought to be distributed among the people.

Mr. RAINEY. We don't want to put anybody out of business. What sort of constructive proposition have you got to leave you out of it?

Mr. BELL. We don't want to be left out of it. We are willing to stand an increase, but this proposition of doubling our tax—

Mr. MOORE (interposing). Can you pass it on?

Mr. BELL. We could if we had any measure of protection of what is going to happen to us, but we have not. When we buy these goods and take an inventory, we don't know what is going to happen in six months. We are making money now and we are not kicking about that. We are willing to give them a large per cent, but what protection have we got that we will finally wind up with anything after these years we have been working? It might easily happen, and doubtless would, that by the end of the war, as some people think, these prices will slump off precipitously, and that we will lose more money than we have made during the war.

Mr. SLOAN. Does that refer any more particularly to your business than to every business in the country that has made money?

Mr. BELL. It occurs to me that it is more so in the dry goods business than any other business.

Mr. TREADWAY. Your business has increased with the present tax?

Mr. BELL. Yes, sir.

Mr. TREADWAY. If the levy applies to your competitors, there is an additional tax on all of you, where is your argument that you can't stand it?

Mr. BELL. We are scared to death about this decline that is about to come in our business.

Mr. RAINEY. You are not scared as badly as we are.

Mr. BELL. We think these things ought to be distributed more generally over every line of business. We are paying taxes in one hundred different ways, in freight, stamps, express, and things like that.

Mr. DIXON. The retail merchant is subject to the same conditions that you are, except in a lesser degree?

Mr. BELL. Yes; but when he makes his loss, we have to take it.

Mr. DIXON. Except in a larger degree he is liable to suffer the same as you are?

Mr. BELL. Yes, sir.

Mr. MOORE. If you put more tax on the dry goods industry, wouldn't the remedy be to ask more for the goods you sell?

Mr. BELL. Well, we would probably try to do that, but our price of goods is regulated by the different markets and the market is regulated every day.

Mr. MOORE. We are in an era where precedents are being broken daily. The old standards don't seem to prevail during war. People must pay more for beefsteaks, potatoes, and everything they eat, and probably have to pay more for everything they wear. They are doing it in certain instances now. Wouldn't your remedy lie in asking more for the goods you sell to meet the increased demand on you by taxes?

Mr. BELL. Yes, sir. Some of our members are already contemplating going out of business.

Mr. MOORE. I want to reecho the statement made by Mr. Rainey, that this committee doesn't want to put anybody out of business. Our task is hard enough to put these taxes upon business, and we know if business goes out of business we get no tax from business, and the committee has every possible desire to have business going.

Mr. BELL. Can't you appreciate the extraordinary hazard of our business?

Mr. MOORE. I think it is sometimes in the way of styles of the people. You may buy a lot of shirts that are very popular to-day that won't be very popular next month. The demand runs in some other way.

Mr. BELL. We are paying 26½ cents for goods we used to pay 6½ cents for.

Mr. MOORE. Isn't there going to be an increased demand for them?

Mr. BELL. The prices have gone 400 or 500 per cent, and we don't know where we are going to get off.

Mr. MOORE. I suppose the wage earner don't know where he is going to get off.

Mr. BELL. He is escaping the tax, too.

Mr. MOORE. He is paying for it in the increased prices he pays for what he gets.

Mr. FAIRCHILD. This increased cost, the freight, will be paid by the consumer.

Mr. MOORE. I merely suggest to you that the remedy would be to be in asking more for the goods you have to sell to meet the taxes you have to pay, because you and Mr. Johnson agree, and most of the gentlemen that appear here agree that we must help the Government out in this cause.

Mr. BELL. It is difficult to buy these Liberty bonds and pay these big prices and still meet this tax. It is very difficult to do. I am afraid some of them are going out of business.

Mr. MOORE. I want to get it out of your mind that this committee wants to put anybody out of business, either in the North, in the South, in the East, or in the West. We want business to go on.

Mr. BELL. We are not afraid of that, but we are afraid the taxes will be doubled.

Mr. MOORE. Here is President Wilson coming along with an address to Congress which we didn't anticipate. We felt we could avoid it, but he came along with that message and said so much money will be needed, and that means just \$2 for this year more than last year.

Mr. BELL. I am as deeply interested in this matter as any of you gentlemen that have the responsibility of it.

Mr. STERLING. The only consolation is that this war won't last long. We are going to win it, anyway.

Mr. BELL. I noticed a piece in the Wall Street Journal that England only paid \$3,500,000,000 in taxes, and we are trying to raise \$8,000,000,000.

Mr. STERLING. We can do it easier than England can raise three.

Mr. RAINEY. We are going to do the best we can for the jobber, as we are going to do the best we can for everybody else.

(Thereupon, at 5.20 p. m., the committee adjourned until to-morrow, Thursday, June 27, 1918, at 10 o'clock a. m.)

# REVENUE BILL

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No. 19

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## HEARINGS

BEFORE THE

## COMMITTEE ON WAYS AND MEANS

HOUSE OF REPRESENTATIVES

WITH REFERENCE TO

## THE NEW REVENUE BILL

[THIS PRINT OF THE HEARINGS IS SUBJECT TO REVISION  
BEFORE THE FINAL PRINT]

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JUNE 29, 1918





COMMITTEE ON WAYS AND MEANS.

HOUSE OF REPRESENTATIVES.

SIXTY-FIFTH CONGRESS, SECOND SESSION.

CLAUDE KITCHIN, North Carolina, *Chairman*.

HENRY T. RAINEY, Illinois.

LINCOLN DIXON, Indiana.

CORDELL HULL, Tennessee.

JOHN N. GARNER, Texas.

JAMES W. COLLIER, Mississippi.

CLEMENT C. DICKINSON, Missouri.

WILLIAM A. OLDFIELD, Arkansas.

CHARLES R. CRISP, Georgia.

GUY T. HELVERING, Kansas.

GEORGE F. O'SHAUNESSY, Rhode Island.

JOHN F. CAREW, New York.

GEORGE WHITE, Ohio.

JOSEPH W. FORDNEY, Michigan.

J. HAMPTON MOORE, Pennsylvania.

WILLIAM B. GREEN, Iowa.

CHARLES H. SLOAN, Nebraska.

NICHOLAS LONGWORTH, Ohio.

GEORGE W. FAIRCHILD, New York.

JOHN A. STERLING, Illinois.

WHITMELL P. MARTIN, Louisiana.

WILLIS C. HAWLEY, Oregon.

ALLEN T. TREADWAY, Massachusetts.

JOHN E. WALKER, *Clerk*.

## REVENUE BILL.

COMMITTEE ON WAYS AND MEANS,  
HOUSE OF REPRESENTATIVES,  
SATURDAY, JUNE 29, 1918.

The committee met at 10 o'clock a. m., Hon. Claude Kitchin (chairman) presiding.

There were also present Representatives Rainey, Dixon, Hull, Garner, Collier, Dickinson, Oldfield, Crisp, Helvering, Carew, Fordney, Moore, Green, Sloan, Longworth, Fairchild, Sterling, Martin, and Hawley.

The CHAIRMAN. The committee will come to order. We will be glad to hear Mr. Post against this morning.

**STATEMENT OF MR. CHARLES JOHNSON POST, DIRECTOR, PUBLISHERS' ADVISORY BOARD, NEW YORK CITY—Continued).**

Mr. RAINEY. Following up the line I was on when we adjourned last evening I would like to ask—

Mr. POST (interposing). Before we begin this morning might I ask about the charts that we used on yesterday? I do not know whether those automatically become a part of the record, but if they do not and it is necessary formally to suggest that they become a part of the record I would like to make that suggestion at this time, for the reason that otherwise very many pages of the record will be absolutely meaningless to anyone reading them.

The CHAIRMAN. Mr. Post, we can not do that unless the joint Committee on Public Printing of Senate and House order it. I will, however, try to have it done.

Mr. POST. You can readily see that page after page of the record of our hearing would be perfectly meaningless to Members of Congress and others reading them without these charts which we used. If there is no technical question about which I am not familiar I should like very much to have the privilege of having plates made, of the same size as your printed reports, so that you might print in these charts, without expense to the Government at all, if that is the point under consideration.

The CHAIRMAN. We just can not put into the record any maps or anything of that kind without the consent of the Joint Committee on Printing.

Mr. POST. Well, all right. As I understand, the Ways and Means Committee will take care of that.

Mr. HAWLEY. I would like to suggest, Mr. Chairman, that if the gentleman, as he has suggested, will be willing to have plates made

and these pages printed and sent over we could very easily insert them.

The CHAIRMAN. All right, we will be glad for him to do that.

Mr. POST. We will do that, if the clerk will tell me where to send the plates.

The CHAIRMAN. The clerk will give you any information you desire along that line.

Mr. RAINEY. On yesterday you said you thought propaganda in your office by which copies of resolutions adopted by woman's clubs were being sent to Members of Congress, had stopped so far as your office was concerned.

Mr. POST. It has stopped as a general rule, and applies only to Members and Senators in whose States those resolutions originate. It is sent to Congressmen of the State from which the resolutions originate, for the information of those gentlemen.

Mr. RAINEY. I want to say that I got one from your office, dated June 24, 1918, mailed to me from your office, but purporting to be a resolution adopted by the Indiantown Household Science Club, of Tiskilwa, Ill.

Mr. POST. That is from your State, I believe, Illinois?

Mr. RAINEY. Yes.

Mr. POST. Well, my answer covered that. Unless you specifically request that no resolutions of that character be sent to you they will be sent.

Mr. RAINEY. I will not request that. I like to get them, and I preserve all of them: "

Mr. POST. They will continue then.

Mr. RAINEY. Very many of them are written in your best literary style.

Mr. POST. I thank you; but I do not feel that I have the right to bow to the compliment.

Mr. RAINEY. As to this farewell editorial of the Woman's Farm Journal, of St. Louis, how extensively did you send that out?

Mr. POST. May I see that?

Mr. RAINEY. Certainly. Here is a copy of it.

Mr. POST. I have no recollection of this having originated in my office at all. When you spoke of it on yesterday, I was looking forward with some interest to seeing it, because it is of a different type, and is of a different manner of composition, and is a different form of slip from that used by us. Of course we have a great mass of printing done for our office, and I would not, offhand—but I will say that we have a scrapbook containing everything that has been printed—so I would not offhand wish to pass upon that proposition, though I am absolutely certain, or as nearly so as I can be of anything which has not been checked up, that, in the absence of my scrapbook and a definite checking up of this list, it never came from our office at all. I know of no slip of this kind being used. This type is not the kind of type it is generally set up in or that is used in printing offices in which matter is set up for us. Therefore, I feel perfectly certain in saying to you that that slip did not originate in my office.

Mr. RAINEY. Other Members of Congress received it, and it was sent from New York.

Mr. POST. Well, I wish to state that even though I have your own testimony that it came to you from New York, I am reasonably certain that it did not originate in or come from my office.

Mr. RAINEY. Well, you want the opportunity of changing that statement if necessary when you look at your scrapbook, do you?

Mr. POST. I will look at the matter in my scrapbook and confirm it, but in the meantime I will stand on my statement. Have you the envelope in which this clipping came to you?

Mr. RAINEY. Yes.

Mr. POST. Might I see that?

Mr. RAINEY. Yes; here it is.

Mr. POST. This bears the hall-mark of Hale Publishing Co., 3550 Vista Avenue, St. Louis, Mo., and is an envelope made of brown paper. We have never sent out any matter from our office in brown envelopes, and I can now make quite positive that assurance heretofore given you that that clipping never came from us. But that is a mere detail.

Mr. RAINEY. But you do reproduce these letterheads?

Mr. POST. We never reproduced that, and I am absolutely positive on that point.

Mr. RAINEY. Do you know Mrs. Holland Louise Johnson?

Mr. POST. I would have to have a little more definite identification in order to answer that question.

Mr. RAINEY. She is the head of the Woman's Federation of Clubs.

Mr. POST. Oh, she is the editor of the Woman's Federation Journal or magazine.

Mr. RAINEY. I believe that is it.

Mr. POST. I am familiar with the name, but have never met the lady, to my knowledge.

Mr. RAINEY. Have you seen her recently?

Mr. POST. No, sir.

Mr. RAINEY. She denies most vigorously that she ever gave you the right, or that anybody else ever gave you the right, to copy the letterheads of their club and send out resolutions thereon.

Mr. POST. We have correspondence that will cover that point completely, sir.

Mr. RAINEY. Would you mind sending that to me?

Mr. POST. No, sir.

Mr. RAINEY. She denies it very positively.

Mr. POST. It is my recollection that we have a letter from Mrs. Johnson on that very point.

Mr. RAINEY. Mrs. Holland Louise Johnson.

Mr. POST. All right. We will make a memorandum of that.

The CHAIRMAN. Does any other gentleman want to ask Mr. Post any questions?

Mr. POST. May I point out to Congressman Rainey, in order to make my answer complete and not to appear to be raising a small point, that the general Federation of Woman's Clubs, at its convention, adopted resolutions concerning the zone law and asking for its repeal, and that the action of the federation is the best evidence of its principles, thoughts, and acts.

Mr. FORDNEY. What prompted the women's clubs to send in these requests to Congressmen asking them to repeal this provision in the second-class mail law?

Mr. Post. Because of the enormously destructive effect of the postal zone law upon the homes and citizens and citizenship of this country, and the progress of this country.

Mr. FORDNEY. Were they not prompted to do that by the magazine owners?

Mr. Post. No, sir. They were given information on this subject, and advice as to how to make their views, after they had formed them, effective.

Mr. FORDNEY. Is it not true that many of the magazine writers have written these people and requested them to write their Congressman asking him to repeal this law?

Mr. Post. I do not know. I can not answer that question on the basis of exact information, but inasmuch as many of the prominent writers—in fact, I should say the most of the prominent writers of this country—are in touch with social, civic, and economic progress, and are positive of the destructiveness of this zone system of postage rates, I have no doubt they have written people, pointing out its destructive effects, and asking them to study the matter, form their opinions thereon, and then express them.

Mr. FORDNEY. Mr. Post, I have received letters from women's clubs and individuals, sending me clippings from magazines in which they were requested to write their Congressman and ask him to repeal that provision of the law.

Mr. Post. Exactly; and providing information of the destructive effects of this postal-zone law, upon which they could form an intelligent opinion. If they did not form an opinion unfavorable to the zone law there was absolutely no power in the world that could compel them to write to you or to any other Congressman to that effect. In fact, they would write to the contrary.

Mr. FORDNEY. Isn't it true that they were prompted to write simply and solely because of the information given and the requests made, and that they knew nothing about the subject at all, except what they received from the magazines?

Mr. Post. The letters that you and other Congressmen have received are the best evidence on the point that they have read the arguments on the postal-zone system, and have formed the conviction that—

Mr. FORDNEY (interposing). That does not answer my question. Isn't it true that they were prompted to write these letters solely by reason of the receipt of the articles or the information obtained from those magazines?

Mr. Post. I should say no, unless you mean that they could not write unless they had received information on the subject. Of course, if they had received no information on the subject they could neither form an opinion thereon nor write letters to a Congressman expressing that opinion. This is merely a public matter conducted in a public manner, and is a subject very seriously affecting the public welfare, as I see it, and I can not conceive of any objection to information being given to the public thereon.

Mr. FORDNEY. How would the average subscriber to a magazine know what the rates of postage were unless the magazine informed him thereof?

Mr. Post. I think that is perfectly correct. Unless there were some means of informing the public of a matter of public interest,

the public would not know anything at all about it. But, in order to meet your point, or the point that I see you have in mind, and in a direct manner, I will ask you the question, do you believe, Mr. Fordney, or are you suggesting, that the publishers have no right to publish in their magazines—

Mr. FORDNEY (interposing). I am not questioning your right—

Mr. POST (continuing.) Matters of great public interest, and of informing the public of the true situation thereon?

Mr. FORDNEY. You are like an eight-day clock, you seem to have been wound up and it takes you all day to go through the process of unwinding in the making of your answers.

Mr. POST. Your questions require complete and elaborate answers, and I am trying to answer them comprehensively, and will certainly make every effort to do so as far as I may be permitted to do so.

Mr. FORDNEY. But you can answer my questions without making a speech in connection with your answers.

Mr. POST. These questions you have been propounding are not questions that may be answered yes or no. I am sure that your court practice will tell you that.

Mr. FORDNEY. You have the right to say whatever you have the mind to say in your own magazine.

Mr. POST. For the information of others.

Mr. FORDNEY. But in the way these articles are written they are misleading. I do not say they are written by you, because I do not ever remember receiving anything through the mails or seeing anything in the magazines that I could identify with you. But—

Mr. POST (interposing). I will say that I have written two letters to Congressmen, signed by my name, and you have probably received them.

Mr. GARNER. You do not mean to say that those articles were for the purpose of conveying correct information, do you, Mr. Fordney?

Mr. FORDNEY. Well, I do not know that I would say that.

Mr. GARNER. I will say that I have heard nobody suggest that to the committee.

Mr. FORDNEY. What I want to say to these gentlemen is this: I am open-minded in this matter. I voted for the rate in the new law imposed upon second-class mail—

Mr. POST (interposing). You mean the zone system?

Mr. FORDNEY. Yes, sir. So that Mr. Kitchin, the chairman, is not altogether to blame for this law, for there are other members who voted for it.

Mr. POST. Mr. Kitchin has never been regarded as wholly responsible for the law. We realize that it is the action of the committee first and then of Congress afterwards.

Mr. FORDNEY. I want to accept my full share of responsibility. It seemed to me to be, so far as I had information, a fair and proper rate of postage under all the circumstances, but I am open to conviction, and will be glad to hear whether some more equitable method might be adopted. But I do want to tell you, Mr. Post, that these articles you have written have prejudiced me. It is an unfair method to apply to attempt to influence the constituency of Members of Congress in that manner. A Congressman who has any back-

bone resents it. You might influence weak-kneed politicians, who would do anything to get back into Congress—

Mr. POST (interposing). I want to say, Mr. Congressman, that I think that an unfair characterization of the men who voted against the zone law.

Mr. FORDNEY (continuing). But you can not influence a man of honest convictions by any such intimidations. He will consider this matter purely from the standpoint of right and justice and the needs of the Government for more revenue. You do not influence him by such propaganda as you have conducted.

Mr. POST. It is perfectly true that each and every Congressman will consider this thing from all standpoints and do what he thinks is right and proper. But I think it an unfair characterization of the Members and Senators who are opposed to the zone system and the zone law, as well as an unfair characterization of any American citizen who may change his opinion or form an opinion unfavorable to this postal zone law, to call him a weak-kneed politician.

Mr. FORDNEY. I do not think it improper to so characterize any man intimidated by your propaganda. And I think your methods are unfair.

Mr. POST. Do I understand you to state that any man in public life who opposes this zone law is a weak-kneed politician?

Mr. FORDNEY. Oh, no; I did not say that.

Mr. GARNER. No, indeed; Mr. Fordney did not say that at all.

Mr. POST. He said the only people who could be influenced were weak-kneed politicians, and I regarded that as a rather remarkable statement and unfair reflection upon those people who might, after very carefully considering all the details of this matter, either change their minds to a point unfavorable to the zone system, or those people who had not made up their minds and should reach a conclusion unfavorable to it.

Mr. FORDNEY. It is easy to change weak-kneed politicians, but when you get at a man who has some judgment, and a mind of his own, he doesn't care whether he comes back to Congress or not. He is going to look at this matter purely from the standpoint of the fairness or unfairness of it, or the right or wrong of it, uninfluenced by any side issues or selfish interests of a few who might be affected thereby.

The CHAIRMAN. Mr. Post, I understood Mr. Fordney to mean that you were sending these letters out in order to try to influence those who voted for the zone system and that you were not interested in sending them to the other Members of Congress because they were not opposed to your view of the matter.

Mr. POST. I beg pardon, then. I understood that Mr. Fordney was speaking of articles published in the magazines on that point and as saying that any Congressman or other person who would be influenced thereby was a weak-kneed politician. Considering that a very unjust reflection upon any Congressman who might change his mind in view of the receipt of additional information or in view of having given the matter further consideration, and therefore arriving, most properly as we see it, at a different conclusion, and I thought that his characterization of such men, whether in private or public life, was a very unjust reflection; and in that view I am sure you gentlemen will agree with me.

Mr. FORDNEY. No. I was talking about your method of reaching Members of Congress that you want to reach as being unfair; that your action in proceeding in any such manner through the magazines and the press of the country and the circular-letter propaganda was unfair and not expressive of any real sentiment of the people.

Mr. POST. In order to make that point perfectly clear in the minds of this committee, I will point out exactly the method which we used in informing the public of the law and the effect thereof. These articles you have spoken of in the magazines are public, open to the public as you have read them, and the readers are requested to read them carefully and form an opinion on the subject, and after having formed an opinion to express that opinion to their Member of Congress. I contend that it is a perfectly legitimate and ordinary proceeding, and the one that is to—

Mr. FORDNEY (interposing). Mr. Post, I have received three letters, with these clippings inclosed, opposing any reduction in the rate fixed by this law on second-class matter to one that I have received the other way.

Mr. POST. Well, that shows the situation, and in proof of my contention that this is a fair and open and legitimate undertaking, and that where people receive the data and do not agree with us they will so express themselves.

Mr. FORDNEY. It has the opposite effect, as I stated.

Mr. POST. Well, that is the effect upon you and upon some others, and still there are many others who see it as we do.

Mr. FORDNEY. Any man who is big enough to be a Member of Congress will not permit himself to be influenced by such things against what he thinks is just and equitable and right.

Mr. POST. That is extremely proper; it is what I would expect of you and of any other man in either branch of Congress.

Mr. FORDNEY. I want to say that no open-minded man, no fair man, no honest man will let some individual or some few individuals working together misdirect him and turn him away from what he thinks is right.

Mr. POST. That is properly correct and absolutely undeniable. As I understand it, individual Congressmen, as well as Congress as a whole, are very much interested in what the opinion of the country is on the momentous questions of the day or those questions that are likely to become the momentous questions of the day.

Mr. FORDNEY. Many of these requests that I have received are wholly misleading, misrepresent the situation, and do not state the facts as to the law.

Mr. POST. That is an opinion subject to argument.

Mr. FORDNEY. That is not an opinion, but a fact. I know what the law is, and I know what the statements contained in the magazines are.

Mr. POST. I think we are wholly within the law in publishing these articles; and more than that, that we are thoroughly within the custom of the times in going to the people with matters of public interest.

Mr. FORDNEY. It is within the law but it is absolutely unfair to misstate the facts to the public.

Mr. POST. Oh, absolutely. And as that is a very serious matter I suppose you will now proceed to point out the misstatement of facts



which, as you contend, have been made. In that way we can take them up as they arise and discuss them and get into very definite form the true situation.

Mr. FORDNEY. I just wanted you to know that these things are not proper.

Mr. POST. Very well, we want to know anything that is improper. And having heard that statement I now ask that you give me some of the misstatements of facts that you allege have been made, and we will discuss them in detail.

Mr. FORDNEY. The real meaning of the law and the amount of postage imposed on second-class mail matter are misstated in many of these articles.

Mr. POST. Will you just point out such misstatements, please sir, so we may discuss the matter and get directly to the point?

Mr. FORDNEY. I have thrown them into the waste basket.

Mr. POST. You say they are misstatements, and as that is a very serious matter and one which should be cleared up I would be glad to have you point them out so that we may take them up and discuss them in detail.

Mr. FORDNEY. The misstatements were as to amount of increase in postage and penalties imposed upon publishers in connection with second-class mail matter.

Mr. POST. That is taken from your war revenue act itself, and if you will quote those figures that you contend have been misstated I will be glad to discuss them in detail.

Mr. MOORE. Mr. Post, you have stood the fire of Mr. Rainey and Mr. FORDNEY, and will have to stand another fire before you get through, so I want to ask you, briefly, a few questions before Mr. Kitchen begins: Have you done anything in this propaganda matter that is unlawful?

Mr. POST. Absolutely not.

Mr. MOORE. You think you have kept entirely within the law in the statements made through the circulars put out and the magazines printed?

Mr. POST. Yes, sir; and as to that I will lay my books before you for your investigation and consideration.

Mr. MOORE. In view of Mr. Fordney's questions to you this morning, and Mr. Rainey's of yesterday afternoon. I want to ask you this question: In your judgment, and that of all the publishers you represent, do you feel that you have the right to approach Members of Congress and to approach their constituents upon public questions?

Mr. POST. Absolutely. Congressmen represent the people of the United States, both collectively and individually by district.

Mr. FORDNEY. Do you know of anybody who has a different opinion?

Mr. POST. I do not.

Mr. MOORE. Have you gone about your work in such a way as to put Congressmen upon notice that you were establishing such a propaganda and that Members of Congress might be prepared for it?

Mr. POST. Absolutely. Everything has been open and above-board.

Mr. MOORE. I want to say that I have received many of these circulars, coming from all sections of the country, and have received them from as far northwest as Seattle, Wash., and from the

southwest as far as San Diego, Cal., and that I have laid them aside, as I do in dozens of other instances, treating them as propaganda upon questions as to which I must form my judgment. They have influenced me, and they have no doubt influenced certain other Members of Congress, in this, that they have appeared to be one-sided.

And I suppose that is the question, Mr. Post, that you will have to settle with this committee before you get through. But along the line of conducting a propaganda, I want to ask you do you know of any other large institutions, or large movements, that have brought their purposes to the attention of Congress by sending out circulars, by inducing boards of trade and chambers of commerce and meetings of farmers and labor unions to send messages down to Washington with a view to influencing Members of Congress?

Mr. Post. Yes, sir. There is an organization known as the National One Cent Letter League, an association which for years has been doing that very same thing—sending form letters out to be copied and mailed to Congressmen.

Mr. Moore. I admit I have received circulars from that league, which states the other side of your proposition, and I have laid them aside, just as I have laid your circulars aside, as bearing upon a matter the right of which I must determine according to my own judgment when the time comes.

Mr. Post. A very right and proper action, I take it, beyond question.

Mr. Moore. Do you know of other organizations that do the same thing you do?

Mr. Post. Yes, sir.

Mr. Moore. But perhaps not doing it so well.

Mr. Post. I thank you.

Mr. Moore. Have you heard of the American Federation of Labor?

Mr. Post. Yes, sir.

Mr. Moore. Do you know of it sending letters into districts of Members of Congress and starting fires burning under Members of Congress?

Mr. Post. Yes, sir; and not only that, but by publishing arguments in its own papers to reach them.

Mr. Moore. Have you ever heard of farmers' granges and alliances and leagues and other organizations that have sent out letters from Washington headquarters and from skyscrapers in New York to bucolic constituencies in order to form and concentrate public opinion on matters in which they were interested?

Mr. Post. Yes, sir.

Mr. Moore. Isn't it strange that the horny-handed son of toil should be so active, both here in Washington and from New York headquarters and other places in the Union, in telling Members of Congress how to vote on questions affecting them?

Mr. Post. No; that is the only way they can disseminate information as to their views. There must be headquarters somewhere, and there must be an organization, and there must be somebody in charge of that organization, and then that somebody must be actively at work collecting data, putting it into form, and seeing that it is given the proper publicity.

Mr. MOORE. And they take brainy men like yourself to head such organizations?

Mr. POST. I do not wish to accept that characterization.

Mr. MOORE. Have you ever heard of prohibition propaganda?

Mr. POST. Yes, sir.

Mr. MOORE. Have you observed its influence upon votes in Congress and the various trick votes recently pulled off?

Mr. POST. I have for many years noticed the work that it has done and other organizations have done.

Mr. MOORE. Do you know where that propaganda starts, and to what extent bills are made for salaries, postage, automobile rides for constituents of Members of Congress, and letter writing, circularizing, newspaper advertising, and so on?

Mr. POST. I do not know the details, but I know they have headquarters for propaganda.

Mr. MOORE. You have not seen their books of accounts?

Mr. POST. No, sir.

Mr. MOORE. They have not been brought forward at the request of any Member of Congress for the scrutiny of Members of Congress?

Mr. POST. Not to my knowledge.

Mr. MOORE. Have you ever heard of any liquor leagues that were at work suggesting that prohibition of the liquor traffic is not beneficial?

Mr. POST. Yes, sir.

Mr. MOORE. The men established in the liquor trade have had their headquarters and have circularized the country in order to keep the liquor business going?

Mr. POST. Yes, sir.

Mr. MOORE. And their books have not been checked over, have they?

Mr. POST. No, sir.

Mr. MOORE. Well, with this statement I will turn you over to the tender mercies of the chairman of this committee.

Mr. LONGWORTH. Mr. Post, do you think from a broad national standpoint we would be justified in raising the rate of first-class mail and not raising it on second class?

Mr. POST. As you are considering a revenue measure purely, the publishers do not care what means are adopted for raising war revenues in the face of the tremendous national and international emergency, provided it be a flat and even rate with all interests in the same class as their own. That I think answers the question as to first-class mail or any other class of mail.

Mr. LONGWORTH. It would not be fair not to make an increase of some kind on second-class mail?

Mr. POST. We are not protesting against an increase in postage, or a tax as you might call it, but protesting against this discriminatory tax or substantially discriminatory tax, as it really is by no matter what name you call it, against advertising in national periodicals and exempting advertising in periodicals of local circulation.

Mr. LONGWORTH. It is not the increase to which you are objecting but the particular manner of applying the increase, which you think discriminatory?

Mr. POST. Yes, sir. I am glad you made that statement.

Mr. MOORE. Do you remember that when President Wilson made his address to Congress on the last revenue proposition that he charged that a lobby existed and that perhaps those who opposed it were influenced?

Mr. POST. I recall his speech on the subject.

Mr. MOORE. Do you know whether that had any application to publishers or to the work you were doing?

Mr. POST. I have no reason to think that it had any application to the publishers, because there has never been any ground upon which such accusation could be based.

Mr. MOORE. Why do you think the President made such a statement in his address? It is rather unusual for a President to make such a statement, isn't it?

Mr. POST. I do not know, and I would think myself far afield to speculate on that.

Mr. MOORE. You do not think it was intended to reflect upon publishers?

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

Mr. MOORE. The publishers stand in fairly well with the President of the United States at the present time, do they not?

Mr. POST. I certainly hope so.

Mr. MOORE. They are promoting everything that he is in favor of, are they not?

Mr. POST. They are doing more than any other single instrument in favor of prosecuting this war to victory. I have in front of me at this moment a copy of the Ladies Home Journal, for July. This periodical has been held up in Congress as one of the worst offenders against the interests of the United States. This periodical has been anathematized on the floor of Congress, and held up before the public as being almost a graft proposition and as a magazine that should be penalized. I have before me the July number—

Mr. RAINEY (interposing). How was that held up did you say?

Mr. POST. I might say almost as a graft proposition.

Mr. RAINEY. Who held that up as a graft proposition?

Mr. POST. My recollection is that this magazine and the justly celebrated Iron Age were distinctly named in Congress last year as particular exemplars of all of the evils of this postal system, and as definite reasons why this postal system that has been in effect should be changed to the zone system. Now, gentlemen of the committee, on the first page of this Ladies Home Journal for the month of July is a picture of 114 men of the Fifth Company, at Fort Sheridan, Ill. This is the officers' training camp. This is a magazine that goes on the newstands all over this country, and into other countries, and does its work in stimulating the patriotic spirit, and does a great work in an educational and patriotic sense.

Mr. GARNER. Do you intend to say that that is put in as purely a patriotic proposition?

Mr. POST. Absolutely.

Mr. GARNER. And not as a commercial proposition at all?

Mr. POST. No, sir; absolutely not.

Mr. GARNER. I differ with you. The owners of that magazine know that this country is fired with war and therefore from a commercial standpoint that picture is beneficial to them.

Mr. POST. It is beneficial to the country.

Mr. GARNER. It is beneficial to them also. I agree with you that it is beneficial to the country, and it is also beneficial to them. But if you say it is a purely patriotic picture, published from a purely patriotic standpoint, then that is not true. That is a commercial proposition, because they know it is a picture that appeals to everybody in this country.

Mr. POST. If you will permit me for a moment to say something of the details of that proposition I will try to explain it to you: Before this war started what were the characteristic pictures on the front cover of any of the great magazines?

Mr. GARNER. They were all the thought of the day.

Mr. POST. No, sir. There was a baby playing with a kitten, or playing with a puppy, something that touched the sentiment of the home; or, there was a pretty girl—

Mr. GARNER (interposing). Yes, sir; because the whole country was at peace and they were appealing to the minds of the people. Now, the country is at war and they are appealing to the minds of a people at war.

Mr. POST. There are times when they must appeal to the country and appeal to the patriotic thought. They could carry other pictures on their front page, but they are rendering a very high and patriotic service. Is there one single thing that could be shown to the people that would make a greater appeal to patriotic thought on the part of the people of the country than to have such a picture as this on such a prominent magazine on the newstands all over the country? The Government is paying hundreds of thousands of dollars to print special stuff of this very kind and character and put it out, and yet this magazine is giving up its front page to it and putting it out all over the country.

Mr. GARNER. I agree with you that that is a fine way to reach the people, but when you say that this is a purely patriotic matter, published from a patriotic standpoint with the intention to help the country, I think you are mistaken. I think it is a commercial proposition as well.

Mr. POST. Well, I think I may say there must be a cover, and that the publishers of the Ladies Home Journal are very patriotically adorning this valuable space with pictures that will appeal to patriotic sentiment. I think we are really talking without any difference in our opinion of the subject.

On the first page of the Ladies Home Journal, July number, there is a very excellent picture of the Capitol, and inside the paragraph you will find—

Mr. GARNER (interposing). What is opposite that?

Mr. POST. Welch's grape juice; not gin, white or black, but grape juice. You can not advertise bourbon or rye or scotch in this publication. I do not know whether that is an argument for or against repeal of the zone rates of postage, but I am merely stating the fact that this publication does not accept liquor advertisements, fraudulent advertisements of any kind, etc. It is like a genuine club to get your advertisement into this publication.

They put you through the sieve before you are permitted to put an advertisement in this publication, and the fact that it is in here is a guaranty that it is a product of quality.

Mr. RAINEY. Isn't there some law about liquor advertisements?

Mr. POST. Yes; but this magazine barred liquor advertisements before there was any law, State or national, touching the subject. The publishers of this magazine threw out advertisements of that kind years ago.

The CHAIRMAN. Do you know what the Curtis Publishing Co. gets for that page, such as is covered in that issue by Welch's grape juice advertisement?

Mr. POST. No, sir. I have their advertising card, but not here, and can not tell you.

The CHAIRMAN. They get \$6,000 a page or \$9,000 for advertising in colors, so I have been told.

Mr. POST. In that respect I would have to speak from recollection, but you are probably correct.

Mr. MOORE. And it is worth it, is it not?

Mr. POST. Oh, yes. An advertiser pays so much for each thousand of circulation, whether that circulation be 10,000 or 100,000 or 500,000 or 2,000,000 copies. He pays pro rata for each thousand of circulation.

Mr. OLDFIELD. Don't you think the fact of their getting either \$6,000 or \$9,000 for one page of advertising helps the Ladies Home Journal or the Saturday Evening Post so that they will be able to pay the Government what it costs the Government to carry their publications through the mail?

Mr. POST. That is not the point at issue. It is not so much the question of ability to pay, as it is the public service rendered. If it were merely a question of ability to pay I have no doubt that John D. Rockefeller could afford to pay \$10 for each and every one of his private letters that he sends through the mail, but that has nothing to do with the propriety of charging \$10 for each letter.

Mr. GARNER. Then, that involves the Government. You say that ability to pay has nothing to do with it?

Mr. POST. I do not think it is a question of ability to pay, but service rendered—service given the people.

Mr. GARNER. You do not go on the theory of taxation advocated by some economic writers, that those best able to pay should be required to pay the most to support the Government?

Mr. POST. No; because I suppose the cost of this war could be borne by 50 families in the United States without decreasing their living expenses one iota, if that were the idea to be followed in financing the war.

Mr. GARNER. No, sir. And I understood you on yesterday to advocate an excess-profits tax, but not to favor a graduated tax. If there is to be a graduated excess-profits or graduated income tax, the point would be that the men most able to pay should pay the most.

Mr. POST. I think I can quote myself almost verbatim, and I said that in the income tax and the excess-profits tax the Government had at the present, or so far, the best instrument that had been put into legislative enactment for the collection of it. But I did not say it was the best method.

Mr. GARNER. And speaking for the publishers, you suggested that method as the way to get more money out of the publishers if the committee saw fit to do it. I will ask you, as the representative of the publishers' association, do you indorse the graduated income tax or the graduated excess-profits tax?

Mr. POST. I do.

Mr. GARNER. You do indorse the proposition that those best able to pay should pay?

Mr. POST. No, sir; you are asking a specific example, and I say that that is the best method adopted by Congress for raising money up to this time. That as a revenue raising instrument you have there the best plan that has gone into any revenue raising problem. I do not think the committee cares to go into my beliefs on economic questions, but I will say I believe there is a better plan which might be adopted, but this is the best plan and most basic plan so far adopted, but not the real basic plan. But I think that would be going a little afar afield, for me to enter into a detailed discussion of that subject.

Mr. GARNER. We are anxious to get the basic manner of handling this matter, the best method of raising the money. If you have that superior knowledge that you speak of you ought, as a duty to the country and especially a duty to this committee, to give us the benefit of that information.

Mr. POST. There are others better prepared to give it than me, as flattering as your references might be taken.

Mr. LONGWORTH. I have a grave suspicion that you are a single taxer. How about that?

Mr. POST. I have heard that name before, but do not think it amounts to much. There are a whole lot of people who believe in taxes on speculation, to force such money into production; but I do not even know of a single taxer.

But I want to say in answer to Judge Garner's question, and I am speaking purely as an individual and not as a representative of the publishers, since you have asked me my economic belief, that you will find them set forth very fully and ably in a hearing recently had in which Hon. William Kent and Judge Ralston presented the case.

Mr. GARNER. You believe in the theory that they presented?

Mr. POST. I think that is the basic proposition; but that is going far afield in this hearing.

Mr. GARNER. Mr. Kitchin wants to conclude this examination, and therefore I will not detain you longer, but I want to say to you that I asked my clerk to check up as far as he could the letters I had received in response to the propaganda you have started, and the letters you have been sending out, and that four out of five, where I have written to the correspondents and asked the direct question whether they thought you ought to pay your way through the mails or whether they thought you ought not to pay your way and be given an opportunity to send your stuff through the mails at less than cost and the Government pay the balance, have written back and said no, and some of them wrote back and withdrew their letter altogether. I tell you that the great majority of these have replied that they were in favor of publications paying their way. That is the reason I asked you on yesterday whether you were willing to pay what it cost after ascertaining what the cost is. If we ascertain to your satisfaction the cost I want to know whether or not your association, speaking through you, would agree that that cost should be levied against second-class matter? I understood you to say you did favor that.

Mr. POST. I want to quote my answer exactly, because we are dealing with very specific quantities and subjects on both sides, because

you said if I would agree to that proposition you would pledge the members of the Ways and Means Committee to recommend the enactment of that kind of a law. I said I would agree to it provided it was decided that the United States Post Office Department is a commercial institution instead of a social service and a social function for the benefit of the people of this country; that if that was to be the principle guiding your action, then we would abide absolutely by the decision of a commission going thoroughly into the matter and settling the cost of the service.

Mr. GARNER. Congress represents the American people, and if Congress, not a commission, decides that it is a commercial transaction, and then a commission passes upon what Congress does through the representatives of the people, that it is a commercial transaction, and a commission then investigates and finds you are not paying your way through the mails, and ascertains what it would cost, I understand that you would be willing to pay that cost?

Mr. POST. It seems to me that that would be putting the legislative cart before the horse. I think legislation should come after investigation, but it would seem that you are proposing legislation first and investigation afterwards. At the present time there is no data upon which Congress can decide other than the Hughes report and the Overstreet report.

Mr. GARNER. I can decide right off.

Mr. POST. Well, if you will permit me to say so, I think that is guesswork, with all due respect to you.

Mr. GARNER. I do not think there is a man in Congress who can not decide whether the Postal Department of the Government is a social organization or a commercial organization.

Mr. POST. Well, that is a matter of opinion about which men may differ and do differ, I have no doubt.

Mr. GARNER. Well, that being a matter of opinion, and Congress having expressed itself that the Postal Department is a commercial business and ought to be run upon such lines, then having decided that you are putting your mail through there as a commercial proposition, are you willing to pay the cost?

Mr. POST. I think that Congress expressed itself when it adopted the postal-zone law, and we are opposing the postal-zone law as absolutely unsound legislation.

Mr. GARNER. That is all right; but I am asking in event of Congress having declared that the Post Office Department is a commercial proposition?

Mr. POST. On what basis do you want me to agree to pay what you call cost? On the basis of a thorough investigation?

Mr. GARNER. It makes no difference.

Mr. POST. But it does make a very great difference.

Mr. GARNER. Suppose it is decided to appoint a commission, and that that commission investigates the matter and finds out you are to pay a certain amount, are you willing to pay it?

Mr. POST. You are asking me will I accept the opinion of Congress not based upon an investigation, as God-like and not to be changed; and I want to say—

Mr. GARNER (interposing). You will not answer me, I see. I want to say that you with your thousands of readers can not convince the



people that you ought to have something for less than the Government pays for it.

Mr. POST. We are not getting something for less than the Government pays for it.

Mr. GARNER. But I asked you about that and you declined to answer.

Mr. POST. I have tried to answer you specifically and positively, and I will try to do it again: Let it be once decided whether the United States post office is a social function as a service to the people as its primary principle of action, or whether it is to be run on commercial lines, and we will abide by a decision based upon this principle; but until we get these two diametrically opposite principles decided we can not agree in advance to accept any legislation on the basis of cost.

Mr. DICKINSON. You claim that second-class mail is not carried at a loss?

Mr. POST. That is our belief, and based upon inferences and figures furnished by the Post Office Department itself.

Mr. DICKINSON. Let me ask you another question: Do you believe the first-class mail brings a profit to the Government?

Mr. POST. The Post Office Department states that it does, and I accept that statement without question.

Mr. DICKINSON. You are willing to accept the statement of the Post Office Department that carrying first-class mail brings a profit?

Mr. POST. Yes; I will accept that. I do not want to even quibble about it.

Mr. DICKINSON. You understand as compared with the over \$300,000,000 collected by the Post Office Department from carrying first and second class mail that there is a very small profit; I believe it is said to be about \$12,000,000 and—

Mr. POST (interposing). I do not follow the figures exactly.

Mr. DICKINSON. Anyhow, the receipts are very little more than the expenses.

Mr. POST. One cent a pound is about \$12,000,000, I believe; I believe that is the amount.

Mr. DICKINSON. If as a matter of fact letter mail brings a considerable profit do you believe that that profit ought to be used to make up the loss for carrying second-class mail because of the peculiar benefits that the public gets from reading second-class mail?

Mr. POST. Mr. Congressman, I do not believe that first-class mail should pay a profit. I believe that first-class mail is just as much a social service and as invaluable to the country as second-class mail.

Mr. DICKINSON. Do you believe it ought to be carried simply at cost?

Mr. POST. Do you mean first-class mail?

Mr. DICKINSON. Yes.

Mr. POST. I certainly do. I should say it should be carried at less than cost, but I am speaking personally, the same as the Agricultural Department is a total deficit but conducted in the interests of the people.

Mr. DICKINSON. I am inclined to believe with you that as far as possible there ought to be no especial profits in conducting the Post Office Department, and that the Government ought to carry first and second class mail both at as low a rate as reasonably possible, but

I am disposed to think that first-class mail ought not to yield a large profit in order to make up for large losses from second-class mail, and I am not disposed to agree with your thought that second-class mail is not losing the Government a very considerable amount in its handling.

Mr. Post. Mr. Congressman, I do not believe that the means of communication between sections of the country should be based upon its cost, or communication between minds should exist on the basis of whether it pays a profit or breaks even in the matter of cost. It is too valuable a social asset to be measured in terms of profit and loss.

Mr. GARNER. I gather from your argument on yesterday and what you have just stated here that you think the post office should be run just as the War Department, or the Navy Department, or the Department of the Judiciary, or other departments of the Government are run; that the cost thereof should be paid out of the Treasury, and that we should consider the Post Office Department as a public necessity?

Mr. Post. Mr. Congressman, in answer to your question, if you ask me do I support that kind of legislation for to-day or to-morrow, I will say no. But I believe that is the natural trend of the postal functions. But it will not come in your day or mine, though I do believe this country will see the day, as will other countries, when the postal service of communicating intelligence from one section of the country to another and from one mind to another will be absolutely free, just as to-day we have absolutely free highways, with no tollgates, because the same proposition affects them both.

Mr. RAINEY. This latest addition to the literature of the country, this little pamphlet entitled "Readers Defense League Hand Book," when did it first make its debut?

Mr. Post. I could not give you the exact date off-hand, but probably about March. I would have to refer to the files if you wish me to give you the exact date, but it was somewhere in March, or possibly February, or at any rate along about that period.

Mr. RAINEY. I would like to have the exact period put into the record, and you might furnish it to the clerk. You say this date is "All tending to the repeal of the destructive 50 to 900 per cent second-class zone postage act that will destroy our national press?"

Mr. Post. Yes, sir; that is on the book.

Mr. RAINEY. Your position is that we increased the postage on second-class matter from 50 to 900 per cent?

Mr. Post. That is on the book.

Mr. RAINEY. Your statement in reference to that reminds me of an occasion when I made a Democratic speech in Vermont before an audience almost as unsympathetic as your audience here.

Mr. Post. I hope not, Mr. Congressman.

Mr. RAINEY. After the election I received a letter from a citizen up there congratulating me upon the effect of my speech. He said I had increased the vote 100 per cent. Of course, I was glad to hear that, because I knew it was a good speech; but then when he said that before I made the speech the Democratic vote in that township was one and that after I made it the vote was two the situation seemed a little different.

Mr. Post. Mr. Congressman, you evidently have some inside information as to what member of this committee has changed his opinion.

Mr. RAINEY. Your doctrine of percentages does not amount to much if you commence with nothing.

Mr. POST. It amounts to a great deal. If we had only one member of the Ways and Means Committee before and now have two that is a pretty large and substantial increase.

Mr. STERLING. He is speaking about the percentage of increase on this second-class postage.

Mr. RAINEY. I increased the vote in Vermont 100 per cent as the result of my speech, but when you consider the fact that I only started with one and wound up with two it did not amount to much. Now, if we have increased this second-class postage but haven't got any higher than that it doesn't amount to much.

Mr. POST. Well, the number of people in Vermont would make it amount to a great deal.

Mr. MOORE. We haven't had the size of Mr. Rainey's audience as yet.

Mr. POST. No, sir.

The CHAIRMAN. I would now like to ask you a few questions, Mr. Post?

Mr. POST. All right.

The CHAIRMAN. You sent out some letters?

Mr. POST. Yes, sir.

The CHAIRMAN. You sent this letter out, didn't you?

Mr. POST. Yes, sir; this came from my office.

The CHAIRMAN. In a letter to Mrs. A. R. Johnson, of Texas, under date of June 12, 1918, you used this language:

Chairman Kitchen is claiming that a very erroneous impression is given by the fact that the Postmaster General states it only costs one-half a cent a pound for railway transportation on periodicals.

Do you state that is a fact, that the Postmaster General says it only costs one-half cent a pound?

Mr. POST. On the basis of 4,000 carloads that I read you about on yesterday.

The CHAIRMAN. Oh, no. You said nothing about 4,000 carloads in the letter.

Mr. POST. Well, that is in the Postmaster General's report.

The CHAIRMAN. You state that in the letter, don't you, which I have read?

Mr. POST. That is in my letter.

The CHAIRMAN. And that is not a fact, is it? If you ever said it only cost one-half a cent to transport mail you knew when you wrote this letter that it only referred to magazines published not more frequently than twice a month, and that the Postmaster General referred to freight transportation and not to transportation of periodicals through the mails? You knew that it was what it cost sending them by freight, and that he is not allowed under the law or the regulations to transport the Saturday Evening Post, or Collier's, or any magazine that is printed more frequently than twice a month, by freight. But you did not tell that to the lady to whom your letter was addressed, did you?

Mr. POST. Let me read you the quotation in the Postmaster General's report, which is the best evidence.

The CHAIRMAN. All right.

Mr. Post. On page 18 of the Postmaster General's report for the year 1918 he says:

The total shipments of periodicals by freight during the fiscal year consisted of 4,367 carloads, weighing 127,298,781 pounds, at a cost of \$686,608.75.

The particular part of the quotation and which he emphasizes is as to the total shipments of periodicals by freight.

The CHAIRMAN. You didn't tell this lady, when you wrote her that the Postmaster General said specifically that it didn't cost but one-half a cent a pound to transport periodicals; that he was referring to magazines shipped by freight, did you?

Mr. Post. I used the language of the Postmaster General's report.

The CHAIRMAN. No; you didn't. No such language is in the Postmaster General's report to which you refer.

Mr. Post. He doesn't qualify it. He says the total shipments of periodicals.

The CHAIRMAN. He says "by freight," and you knew or ought to have known when you wrote that letter. The Postmaster General referred to, and so declared, shipments of certain magazines "by freight." He used that term. You know as well as I do that you can not carry by freight any periodicals published more frequently than twice a month, don't you; that the Post Office Department does not and can not under the regulation carry by freight trains periodicals like the Saturday Evening Post or Collier's Weekly?

Mr. Post. The Postmaster General's statement is the basis for my letter.

The CHAIRMAN. Just answer me. Didn't you know when you wrote this letter that the department did not and could not carry under the regulations of the Post Office Department any periodical published more frequently than twice a month?

Mr. Post. I based my statement upon the report of the Postmaster General.

The CHAIRMAN. Answer my question.

Mr. Post. The Postmaster General himself doesn't qualify the statement. His statement is "The total shipment of periodicals."

The CHAIRMAN. We will get to what his statement was presently. You can answer this plain question: When you wrote this lady on June 12, 1918, didn't you know under the rules and regulations of the Post Office Department they could not transport any periodicals that were published more frequently than twice a month?

Mr. Post. I only knew what the Postmaster General's report states, that it referred to shipments of all matter. He doesn't qualify it.

The CHAIRMAN. We will get to that and show by the report itself that you are now misquoting him and the report. I ask you again, didn't you know on June 12, 1918, when you wrote to this lady in Texas, that under the post office regulations you could not transport by freight periodicals published more frequently than twice a month?

Mr. Post. I only know what the Postmaster General's report stated. He does not qualify it at all.

The CHAIRMAN. The Postmaster General did qualify it, and you know it—

Mr. Post (interposing). He says—

The CHAIRMAN (continuing). Wait a minute. You are an intelligent man. I will tell you why you don't answer my question, because

you did know the Postmaster General could not transport by freight periodicals published more frequently than twice a month, such as Saturday Evening Post, Collier's Weekly, and hundreds of other periodicals.

Mr. POST. I will tell you, Chairman Kitchin, that——

The CHAIRMAN (interposing). You can answer that question.

Mr. POST. In order not to have even the appearance of quibbling, Mr. Chairman, I will say that I did not know of that particular regulation, but——

The CHAIRMAN (interposing). Why couldn't you answer that before——

Mr. POST (interposing). Will you please let me finish my answer?

The CHAIRMAN. You were trying to make an impression upon this lady, who apparently was fighting Mr. Blanton because he favored the zone rate——

Mr. POST (interposing). Let me answer——

The CHAIRMAN (continuing). And to make her believe that the Postmaster General had actually said that it did not cost but half a cent to transport periodicals, when you knew as a matter of fact that the Postmaster General never said and never had intimated that he referred to anything except shipments by freight, and then a small portion of periodicals, only what we call magazines.

Mr. POST. I have it here.

The CHAIRMAN. Here is what you said, and I am going to read you exactly what the Postmaster General said. You know that you invited Mr. Fordney to quote any misstatements of fact that you have made. I am going to accept your challenge from now on during the next hour.

Mr. POST. All right; it is still open.

The CHAIRMAN. Here is what you said that the Postmaster General said:

By the fact that the Postmaster General states it only costs one half a cent for railroad transportation on periodicals. \* \* \*

Now, you never limited it to monthly magazines, or you never limited it to periodicals of once a week or twice a week, or to shipments by freight. That lady thought, and she so wrote Mr. Blanton, that it did not cost the Government but one-half a cent a pound, and she was a subscriber to the Saturday Evening Post, to transport the Saturday Evening Post to her place, when Mr. Blanton told her it cost more than 6 cents to do it. You misled that woman in making a statement that was absolutely untrue. You did it in ignorance or by design, which?

Mr. POST. No, sir; I still say that the Postmaster General made no qualification in his report, and if I misled anybody it was his fault.

The CHAIRMAN. Your letter was not only misleading, but I think I will show you that you did what you tried to do, to make an impression on the woman's mind to the contrary of the actual facts. Mr. Blanton was claiming it costs from 6 cents to 8 cents a pound to transport the Saturday Evening Post to Texas, and you wrote saying it only cost a half a cent a pound, and she sent your letter to Mr. Blanton to prove it. Now, since you have said positively several times that the Postmaster General made no qualification in his reports, let us see what the Postmaster General said and compare it with what

you said he said. Look at page 18 of his report for 1917. He starts out with—

The freight shipments of periodicals during the fiscal year moving over all rail routes consisted of 4,297 cars, with a total weight of 125,499,419 pounds, or average weight per car of 29,206 pounds. The transportation cost, consisting of freight, cartage, and unloading charges, was \$678,784.51. The freight shipment of periodicals over steamer routes for the four months ending June 30, 1917, consisting of 70 carloads, weighing 1,799,362 pounds, at a total transportation cost of \$7,824.24.

The total shipments of periodicals by freight during the fiscal year therefore consisted of 4,367 carloads, weighing 127,298,781 pounds, at a cost of \$636,608.75.

So this makes about half a cent a pound. You see and the committee will see that you misquoted the Postmaster General to this lady, as you have several times this morning to the committee. You wrote her that "the Postmaster General states that it costs only one-half a cent a pound for railway transportation on periodicals." The report shows the Postmaster General never stated any such thing. You never intimated to her that what he did say and refer to was, "freight shipment of periodicals"—only a small per cent of total periodicals hauled by the Government—and that he was in no way referring to periodicals and magazines shipped through the regular mails being nine-tenths of the periodicals and papers handled by the Government.

Do you now contend that what you wrote this lady in the letter here and what the Postmaster General said in his report mean the same thing.

Mr. Post. Absolutely; if they can ship some magazines at half a cent a pound they can ship all magazines at half a cent a pound.

The CHAIRMAN. You do not mean that. You can not mean to say that the statement that you made and the statement that the Postmaster General made mean the same thing.

Mr. Post. I have made it as explicit as I can, Mr. Chairman.

The CHAIRMAN. You think that means the same thing?

Mr. Post. Yes.

The CHAIRMAN. There is not a man on earth that has any intelligence at all that will believe, or think, or can think, that they mean the same thing. I believe you are a little excited.

Mr. Post. I know with the committee or with many people anyone who feels that the zone postal system is unjust, they are not regarded as intelligent men, and as one that so believes, I will have to accept your criticism.

The CHAIRMAN. No; I do not think you are not intelligent, but I think you are either not intelligently giving thought to what you say, or you are excited or uncandid; I prefer to believe you are excited about it.

Mr. Post. I should like to take up this report, if I might, and make my comments on the point.

The CHAIRMAN. All right.

Mr. Post. In the Postmaster General's report, beginning on page 17, he is dealing with shipments of periodical matter by fast freight, and all the way through he speaks of periodicals, not making the distinctions you make between weekly and monthly and bimonthly.

The CHAIRMAN. Is the Saturday Evening Post a periodical?

Mr. Post. Yes, sir.

The CHAIRMAN. The department can not or does not send it by freight. You can only send by freight periodicals that are published not more frequently than twice a month.

Mr. Post. Yes.

The CHAIRMAN. That is, you can send twice-a-month or once-a-month or once-in-three-months publications; but you did not put in "freight" in your letter, and you did not tell her that what was sent by freight was only about 10 per cent of the total weight of magazines, periodicals, or papers hauled by the Government, and that nine-tenths were sent by regular mail, just like she receives her copy of the Saturday Evening Post.

Mr. Post. What can be done with certain classes of magazines at half a cent a pound can be done with others at half a cent a pound; and if they can take some at half a cent a pound, they can take others.

The CHAIRMAN. They can not take the Saturday Evening Post or other periodicals published more frequently than twice a month.

Mr. Post. By a postal regulation it is possible to change that. It is not necessary to have a congressional enactment to change that.

The CHAIRMAN. Congress could authorize, or possibly the department could by regulation send daily newspapers or weekly periodicals from one end of the country to the other by fast or slow freight; but what publisher would patronize the department, or who would subscribe to periodicals or papers so transported?

You represent the magazines?

Mr. Post. Yes, sir.

The CHAIRMAN. And you represent these magazines that are published not more frequently than twice a month?

Mr. Post. I represent all those, within our membership, which are a matter of record.

The CHAIRMAN. How can this zone system possibly affect those magazines or other periodicals if as you say they and all other periodicals can be sent at half a cent a pound. If you are correct when the zone rate goes into effect, from 2 to 10 cents per pound on the advertising portions the publishers can send on their own account by fast freight without going through the department, their periodicals and magazines at half a cent. With a 50 per cent portion devoted to reading matter and 50 per cent devoted to advertising the total in the farther zone would be about 5½ cents, wouldn't it?

Mr. Post. Yes.

The CHAIRMAN. Now, if you think they can be carried even for 1 cent a pound by freight, and handled all right, and the publishers are willing to ship by freight, what are you objecting to this zone system for, so far as these magazines and periodicals are concerned? Why do you not use freight, and carry it at half a cent?

And another thing, why do you not use the freight now? You could use the freight now and save that half cent, if you are correct.

Mr. Post. Magazines use freight or express or the post office according to the business economies or business principles that apply in any business, or the facility of distribution. That is a question for the answer to which I would have to refer you to the details.

The CHAIRMAN. Right in this letter, that attempts by misstatements of facts to prejudice the lady against Mr. Blanton, did you mention the word "freight" in here? Have you got a word there to intimate to her that you mean or the Postmaster General meant the small proportion of magazines that went by "freight shipments"?

Mr. Post. The letter itself is the best evidence, and I do not recollect it verbatim or on that point; but they can deliver other magazines at half a cent.

Mr. KITCHIN. No; it does not mention "freight," and you left her under the impression, and it was your intention to leave her under the impression, that the Government carried and could carry periodicals of all kinds through the regular mails at half a cent a pound.

Mr. POST. They can carry all magazines at half a cent a pound if they can carry any.

The CHAIRMAN. You know that is impossible. Now, you remember that these freight hauls are not over very long distances, because if very long distances it would take too long to get there.

Mr. POST. There is nothing in the report that mentions the distance, sir.

The CHAIRMAN. I know; I am just telling you the fact now, looking at your letter there. And there is nothing in the report that in any way sustains what you have wrote and many statements you have made to the committee as to what the report stated.

Mr. POST. I want to tell you that the Post Office, as mentioned in that letter from Postmaster General Coons yesterday, has undoubted information concerning postal matters that it can place before you which it refuses to us. We think that that position is absolutely unsound; that there is no reason for regarding these costs figures as untrue.

The CHAIRMAN. I will get it all, if we get time enough. Now, you said this in your letter to this lady in Texas:

Congressman Blanton, of Texas, voted for this postal-zone law, a law that will compel every reader of magazines in Texas to pay, approximately, from five to seven times more for postage on his magazine in Texas than will be paid by readers living in Northern and Eastern States.

You say that is true?

Mr. POST. Yes, sir.

The CHAIRMAN. Let us see if it is true.

Mr. POST. I will take—

The CHAIRMAN. No; I want to ask you my question and let you explain in your answer, and let us see if it is true.

Mr. POST. All right.

The CHAIRMAN. Then, if a magazine published in New York City is sent to a subscriber in Texas, it will cost him from five to seven times more for postage than it will cost a person living in Boston, if sent to him?

Mr. POST. It depends on where the magazine is published you are speaking of now.

The CHAIRMAN. I am saying it is published in New York, now. Here is your periodical. Have you a copy of your letter containing the names of the magazine publishers whom you represent?

Mr. POST. I have the letterhead here.

The CHAIRMAN. All right; you have the names of the magazines and periodicals you represent on the back of the letter.

Mr. POST. I have it here [indicating].

The CHAIRMAN. Look at the periodicals or magazines published by your association. There are some 40 or 50 in the first bracket, the names of which are given there. Name one on which a single person in Texas—not only that lives in the sixth and seventh zones, but living in the eighth zone—would have to pay from five to seven times more postage than a person in Boston would pay on the same magazine sent to him in Boston.



Mr. POST. I will name the Ladies' Home Journal.

The CHAIRMAN. There it is, right there [indicating magazine]. Of course, this is published in Philadelphia, but it answers as well as if published in New York.

Mr. POST. I have better evidence than that.

The CHAIRMAN. How much would it pay in postage if published in New York under the zone-system rate when sent to a subscriber in Boston.

Mr. POST. Boston is just in the zone where the increase on advertising matter is 200 per cent.

The CHAIRMAN. It is in the third zone?

Mr. STERLING. You mean from Philadelphia to Boston, do you not, Mr. Chairman?

The CHAIRMAN. No; I am taking this as if published in New York, since he gave that periodical or magazine as illustrative of his statement. That is in the third zone. That periodical contains about 50 per cent advertising and about 50 per cent reading matter?

Mr. GARNER. Between 45 and 50 per cent.

Mr. POST. All right.

The CHAIRMAN. The zone rate when it goes into full effect on the advertising portion is 3 cents in that zone and the advertising portion being 50 per cent, the rate is  $1\frac{1}{2}$  cents. On the reading matter there is a flat  $1\frac{1}{2}$  cents and 50 per cent being reading matter, the rate on the Journal is three-fourths of a cent, or a total postage charge of  $2\frac{1}{4}$  cents for transportation and delivery to reader in Boston.

Mr. POST. I assume your figures are correct. I do not question them.

The CHAIRMAN. You said it was from five to seven times more that the reader in Texas would pay on his magazine than the reader in the eastern or northern States, that is, in Boston.

Mr. POST. Yes.

The CHAIRMAN. Five times  $2\frac{1}{4}$ . [After making calculation.] It is  $11\frac{1}{4}$ . Now, do you not know that under this postal zone rate, when it goes into full effect, that the postage on no magazine published in the United States will be as high as  $11\frac{1}{4}$  cents from New York to Texas or from any point in the United States to any other point. Don't you know it?

Mr. POST. Let me tell you—

The CHAIRMAN. No, answer this, now; do you not know that it will not be even as much as 6 cents? Figure it up, and you will not get it to 6 cents.

Mr. POST. We are talking about increases.

The CHAIRMAN. I am talking about what you wrote and the misrepresentations you made to this body.

Mr. POST. I get the point you make there, and I am answering, and I have the figures. The Ladies Home Journal is a publication whose figures I have. One pound and 4 ounces per copy is the average weight of it. Published in Philadelphia, it is sent to the sixth and seventh zones; Texas is in the sixth and seventh zones.

The CHAIRMAN. Let us call it the seventh, which is better for your proposition.

Mr. POST. Call it the seventh zone, then. It means that on their advertising—

The CHAIRMAN. It is  $4\frac{1}{2}$  on the advertising, and take your three-quarters for your half reading matter; that is  $5\frac{1}{4}$ .

Mr. POST. The increase is 600 per cent—600 times—in the sixth zone, and 800 per cent in the seventh zone, 8 times in the seventh zone.

The CHAIRMAN. No, sir. Have you ever read this zone rate provision?

Mr. POST. I have, sir.

The CHAIRMAN. The zone rate only applies to the advertising portion.

Mr. POST. Yes.

The CHAIRMAN. And the flat rate of increase, after it goes into operation—it is increased half a cent—and that applies a flat rate of  $1\frac{1}{2}$  cents to all zones on the reading portion.

Mr. POST. I am just getting the books here with the accurate data on that.

The CHAIRMAN. The Ladies Home Journal in going to Texas goes in the sixth and seventh zones, according to what you said, and the difference in postage charges will be less than half what you wrote this lady.

Mr. POST. On what weight are you basing the Ladies Home Journal?

The CHAIRMAN. I am taking it at 50 per cent advertising and 50 per cent reading—

Mr. POST. No; what is the weight you are taking of the publication?

The CHAIRMAN. A pound.

Mr. POST. It is over a pound.

The CHAIRMAN. Take it at 2 pounds or any number of pounds and ounces; it is the same thing, because the rate is on the pound, not on the copy.

Mr. LONGWORTH. Is that the saverage?

Mr. GARNER. Yes; between 45 and 50 per cent; 1.4 pounds is the average weight of the Ladies Home Journal, so Mr. Post says.

The CHAIRMAN. Now, your Ladies Home Journal, even in the seventh zone, sent to Texas, could not possibly, under the law, with 50 per cent advertising and 50 per cent reading-matter proportion, cost over  $5\frac{1}{2}$  cents; while in a Northern State, in the eighth, the farthest zone, it could not possibly cost over  $5\frac{1}{2}$  cents per pound; from New York to Boston or from Philadelphia to Boston, it would cost 2 $\frac{1}{2}$ .

Mr. POST. Or in Connecticut or Rhode Island or in portions of other States—New Jersey.

The CHAIRMAN. It is not more than from 2 to 3—not as high as 3 times as much: is not that a fact? Yet you wrote this lady it would be from 5 to 7 times as much.

Mr. POST. I disagree with you. From the present rates, Mr. Chairman, it is not.

The CHAIRMAN. I am going to make you agree to this, because the law is too plain. What is the seventh zone rate? Nine cents, is it not, on the advertising portion of the paper or magazine?

Mr. POST. Ten cents on advertising matter.

The CHAIRMAN. Not in the seventh zone.

Mr. POST. No; it is 9 cents.

The CHAIRMAN. Nine cents; that is what I said. Half of this pound, now, is advertising matter. How much would that pay? It would pay  $4\frac{1}{2}$  cents, would it not?

Mr. POST. Wait a moment until I check up your figures.

The CHAIRMAN. All right. You will get that. Half of that pound is advertising matter, is it not, and half of 9 is  $4\frac{1}{2}$ .

Mr. POST. Half of 9 is  $4\frac{1}{2}$ ; yes, sir.

The CHAIRMAN. Now, it is  $1\frac{1}{2}$  for the reading matter, is it not?

Mr. POST. One and one-half for the reading matter.

The CHAIRMAN. All right. Now, half of that pound is reading matter. That is three-quarters of a cent, is it not? You know that, do you not?

Mr. POST. I am trying to answer you. I am not as good at arithmetic as you are, and you have a pad on which you are figuring in front of you.

The CHAIRMAN. All right. The rate on half the other 50 per cent or of the paper or magazine, that is, on the one-half pound reading matter is three-quarters of a cent. Add together the  $4\frac{1}{2}$  and the three-quarters. That makes  $5\frac{1}{4}$ , does it not?

Mr. LONGWORTH. There is no doubt about that.

Mr. POST. There is no doubt about that arithmetic.

The CHAIRMAN. That is the amount of postage the Ladies' Home Journal in the seventh zone in Texas would pay, and this lady to whom you wrote is in the seventh zone.

Mr. POST. That is five and a quarter times more than it is paying now.

The CHAIRMAN. But you wrote the new zone provision would make a person living in Texas pay five to seven times as much as a person living in a Northern or Eastern State, and not that it would pay  $5\frac{1}{4}$  times as much as it is now paying.

Mr. POST. Are you taking  $1\frac{1}{4}$  pounds for the magazine?

The CHAIRMAN. There are 12 issues of the magazine. The rate is not according to the copy but according to the pound.

Mr. POST. My recollection is that in that letter I am speaking of per copy.

The CHAIRMAN. No; you wanted her to believe that the subscriber would have to pay the increased postage and the postage is on the pound, no matter what the copy weighed.

Mr. POST. The average weight is  $1\frac{1}{4}$  pounds for the Ladies' Home Journal.

The CHAIRMAN. Very well; it will be the same proportion, making no difference what a copy weighs. The rate is on the pound. If a copy weighs two pounds the postage will just be twice as high from New York to Boston and from New York to Texas, respectively, as if it weighed one pound.

Mr. POST. The weight will be the same, but the average on the Ladies' Home Journal is more than a pound.

The CHAIRMAN. But the proportion is the same?

Mr. POST. I do not think we will disagree on the proportion.

The CHAIRMAN. If the Ladies Home Journal weighs a pound and a quarter, in Texas it will go at the same rate per pound as if it weighed under or over a pound.

Mr. POST. No; it will cost more to send to Texas if it weighs a pound and a quarter than if it weighs a pound.

The CHAIRMAN. It will also cost more when sent to Boston when it weighs a pound and a quarter instead of a pound, but in either case the per pound cost will be the same. No; you were simply

trying to prejudice this lady against her Congressman by attempting to make believe that, though living in the South—in Texas—he was voting for a law that operated, as you claimed, to the disadvantage of the South and to the advantage of the North. Here is what you said:

Congressman Blanton, of Texas, voted for this postal zone law, a law that will compel every reader of magazines in Texas to pay, approximately, from five to seven times more for postage on his magazines in Texas than will be paid by readers living in Northern and Eastern States.

Mr. POST. Yes, but——

The CHAIRMAN. Is not Boston in Massachusetts?

Mr. POST. Boston is in Massachusetts.

The CHAIRMAN. You can answer that readily, now, without any explanation. Is not Boston in a Northern and Eastern State?

Mr. POST. It is; but the great bulk of Massachusetts is in the zone where it goes at the cheapest rate. There is an area there, including a portion of New York, Vermont, New Hampshire, Rhode Island, Connecticut, New Jersey, and Pennsylvania and those portions are in that zone.

The CHAIRMAN. You told this lady that the people living in those States and reading magazines published in the Northern States, would pay from one-fifth to one-seventh only as much as a lady, or a lady reader, in Texas would have to pay; that is, that the Texas lady would pay from five to seven times more than the northern lady.

Mr. POST. That is true of one living in Connecticut and these States I have named.

The CHAIRMAN. I am asking now if that be true—Boston is in the third zone?

Mr. POST. Yes, sir.

The CHAIRMAN. Now, the publication is composed of 50 per cent advertising and 50 per cent reading matter. That would be  $1\frac{1}{2}$  cents for the advertising and three-quarters of a cent for the reading matter, which would be  $2\frac{1}{4}$  cents. That is what the person in Boston, living in a Northern State, would have to pay;  $2\frac{1}{4}$  cents a pound. The lady in Texas to whom you wrote would have to pay  $5\frac{1}{2}$  cents. But you deliberately wrote to her, to prejudice her against Mr. Blanton, that it would cost her from five to seven times more than it would cost the reader in Boston. Now, that is not true, is it?

Mr. POST. The major portion of Massachusetts is in the zone where no increase occurs—Boston is—and a very small section of Massachusetts is just outside.

The CHAIRMAN. Well, let us take your Ladies Home Journal published in Philadelphia. What zone would Portland, Me., be in?

Mr. POST. I can tell you in a second.

The CHAIRMAN. I will tell you right now: if you send it by mail from Philadelphia to Boston or to a city 10 or 20 miles from Philadelphia, or a publication from New York to Boston or to right across the river in New Jersey, only a few miles from New York, then the lady in Texas would not pay from five to seven times more than one in Boston or New Jersey or in any northern city, and you ought to have known that when you wrote this letter. She wouldn't pay three times as much postage, even if you charged the increased postage to her.

Mr. POST. That is one of the peculiarities of this zone matter. It is perfectly possible for a publication in St. Louis to be in one zone and pay one rate and another in another section of St. Louis to be another zone and pay another rate, just across the river.

The CHAIRMAN. When you wrote this lady in Texas did you know that it would not cost her, living in the seventh zone, for the Ladies Home Journal, over 5½ cents postage a pound, even if you charged her the increased postage?

Mr. POST. I know——

The CHAIRMAN. Did you know that?

Mr. POST. I know these figures are true here.

The CHAIRMAN. I know, but did you know that it would not cost this lady in Texas for the Ladies' Home Journal more than 5½ cents a pound?

Mr. POST. Those are my figures. It is rather difficult to go over the details of my arithmetic so long ago, but the calculation was based upon the Ladies' Home Journal, with an average weight of 1 pound and 4 ounces per copy, which was their official statement to me.

The CHAIRMAN. It makes no difference what it weighs per copy.

Mr. POST. But you are computing these figures, as you have done, on the pound, and I am computing on the copy.

The CHAIRMAN. The law does not compute it on the copy, but on the pound. You will not admit it, because you say you have not got the time for arithmetic. I want to tell you that that was absolutely untrue, and it would not be three times instead of as much as five to seven times more, as you wrote her. It would not be two and a half times as much instead of from five to seven times.

Now, either by design or by ignorance—and I will say it was by ignorance—you did not calculate that very accurately when you wrote her. In fact, you left that calculation to somebody else in the office, didn't you?

Mr. POST. That would be no excuse for——

The CHAIRMAN. And you misled that woman by a clear misstatement of fact in the hope she would oppose Blanton for it. Did you dictate it?

Mr. POST. I can not say, but I was responsible for those letters.

The CHAIRMAN. I can not think that a man of your standing would dictate such a letter so full of misstatements and deceptions to that lady.

Mr. POST. I assume all the responsibility for the office.

The CHAIRMAN. The letter states that you did dictate it, but I can not conceive of a man of your character and standing dictating such a letter except through ignorance. And if you are so ignorant as to this proposition in this letter, I do not think you are intelligent enough to inform this committee or Congress what kind of a rate and what kind of second-class postal provisions to write into a new bill.

Mr. POST. Congressman, I will have to leave it to you—and gentlemen—as to whether I am ignorant or not. I might refer, almost, to Congressman Rainey on that.

The CHAIRMAN. I notice you said in the letter that Washington and Lincoln had condemned the postal-zone system for which Congressman Blanton voted.

Mr. POST. Yes, sir.

The CHAIRMAN. Will you quote anything that Mr. Lincoln ever said relative to the zone system? Now I have taken a little pains to look at the debates and to look at the reports of the Postmaster General, during Mr. Lincoln's term, and to look at the message of Lincoln and many of his utterances, and I have been unable to find that he ever mentioned a zone system. I have been unable to find that George Washington ever mentioned a zone system. They were both, in their time, perhaps, in favor of decreasing the then existing high rate, because it was very, very high at that time, many times higher than the provision which is in the present law.

Mr. POST. And on a zone basis.

The CHAIRMAN. Yes. Now, will you tell me where I can find that Lincoln ever uttered a word in condemnation of a zone system, or ever made a reference to the zone postal system.

Mr. POST. I do not know the title of the volume in which that could be done, but it was President Lincoln; and he signed the bill abolishing the zone system, the very strongest evidence of his condemnation of the zone system.

The CHAIRMAN. Didn't Mr. Wilson sign the bill establishing the zone system?

Mr. POST. Because it went through under the cloak of your war-revenue measure and as an emergency measure.

The CHAIRMAN. Did not Mr. Wilson sign this measure? Now, in the bill that Mr. Lincoln signed, there is what you call the second-class postal system. There are pages after pages relative to the Post Office system, to the appropriations for the Post Office Department and its operation only one little provision containing the newspaper and magazine proposition. He no more condemned a zone system by signing such a bill than Mr. Wilson approved the zone system by signing the same act.

Mr. POST. It does not take a very long statute to abolish a zone system.

The CHAIRMAN. When you wrote to that lady that Lincoln and Washington had condemned the zone system, did you not intend to leave the impression upon her mind that Lincoln and Washington had specifically denounced the zone system, and that Blanton was voting contrary to Lincoln's and Washington's expressed position? Now, you did, did you not?

Mr. POST. President Lincoln abolished the zone system, which is the best evidence of his opinion of the zone system.

The CHAIRMAN. He no more abolished the zone system than he approved of everything else in the bill. If he abolished the zone system because he signed that general Post Office appropriation bill that covered hundreds of other matters in it, then Mr. Wilson approved the zone system provision in the present law, because he signed that with hundreds of other matters in it, did he not?

Mr. POST. President Wilson signed a law establishing the zone system in which appropriations are made, and it was an emergency matter which he had sent to Congress. It was a war-revenue measure.

The CHAIRMAN. And so it was proper for Mr. Lincoln to sign that bill. If he had not, the Post Office Department would have to cease operation, because that bill appropriated the money to maintain it. Is that the only reason you had for saying that Mr. Lincoln had denounced this zone system?

Mr. POST. I think that is the very best and most fundamental reason.

The CHAIRMAN. That is the only connection you ever heard Mr. Lincoln had with the zone system, that in 1863 he signed that bill?

Mr. POST. I think that is sufficient, and fundamental.

The CHAIRMAN. But you did not tell this lady that he signed a bill that included hundreds of other items and also included the 1863 postal appropriation—you told her nothing about the bill but that Mr. Lincoln had denounced the zone system which Blanton voted for.

Mr. POST. I did not tell that lady all that postal history, no, sir; and there are many other things that I did not mention of that minute character.

The CHAIRMAN. Are your magazines, and your periodicals willing now to write into the law the very postal provision which was contained in the act which Abraham Lincoln signed?

Mr. POST. That legislation of 1863 was but just a step in the progress of postal evolution.

The CHAIRMAN. If Abraham Lincoln showed that he condemned the postal zone system because he signed that bill, then he condemned any further decrease of postal rates, did he not, because the act of 1863 was what Lincoln approved?

Mr. POST. Simply speaking of the postal zones, it seems to me that is what lawyers sometimes call a non sequitur.

Now, I am going to take up a matter that is pretty interesting to me and to Congress. Here is a letter that was written by you to a publisher. This letter was written confidentially, and I have torn out the name of the publisher to whom you addressed it [indicating and showing letter to Mr. Post].

Mr. POST. I do not think it is a confidential letter.

The CHAIRMAN. You certainly did not want me or any Member of Congress to get hold of it, or the public to get hold of it, because an intelligent man like you would not have written this letter for the public eye—

Mr. POST. I would not like to have an inference go into the record that the portion of that letter which you have torn out was marked "confidential," or "secret," or anything like that. I want to say that our files are as open as our financial records.

The CHAIRMAN. I am the only Member of Congress that seems to have been able to get hold of this kind of letters.

Mr. POST. If you had sent to me I would have been very glad to send you one.

The CHAIRMAN. You sent the other letters to which Mr. Rainey referred to to everybody. You only sent this letter to the members of your publishers' association. I am going to read some of it, and I will say that it is a letter in which you are asking for money to wage a big campaign for the repeal of the zone system and to bring pressure to bear on Congress. I will put into the record of the hearing the entire letter.

Mr. POST. I remember that letter, now. It was to an agricultural publication.

The CHAIRMAN. Well, you wrote to other publishers, too. You made a statement in regard to the postage rates in Canada?

Mr. POST. Yes.

The CHAIRMAN. You said that under the postal laws of Canada one could send a paper or magazine anywhere in the Dominion for a quarter of a cent a pound. Here is the best post-office authority in Great Britain—in Europe—on postal matter and postage rates. This book is by Mr. A. D. Smith, who was for years under secretary of post office department in Great Britain. This has an introduction by the Right Hon. Herbert Samuel, postmaster general of Great Britain in 1910–1914, 1995–1916. This was published in 1917. Some people wonder why Canada has that low rate of one quarter of a cent a pound. Let me read what Mr. Smith says in his book about it:

In well-informed quarters it is held that, in general, the leniency shown to newspapers is not due solely to the acceptance by Parliament of the arguments usually advanced in their favor—

Just the argument you made yesterday—

plausible and convincing as they are to many minds, but has also been dictated by fear of the political power wielded by them, or, what is the same thing, as a result of direct pressure at Ottawa by the newspaper proprietors, based on their influence with the electors, or the chiefs of parties, and exercised in their own interests.

Now, he used this term "pressure," which was brought to bear on the legislature at Ottawa, as you used it in speaking of the necessity of bringing pressure to bear on Congress.

Mr. POST. That is merely an individual opinion.

Mr. GARNER. It is high authority.

The CHAIRMAN. It is pretty high authority in Canada and in England, anyway. Now, I am going to read parts of your letter—

Mr. POST. Are you going to discuss the Canadian situation?

The CHAIRMAN. No; I am going to read your letter. You had read this book, had you not?

Mr. POST. No, sir; I had not. I have read the Canadian Postal Guide.

The CHAIRMAN. Let us see if you are not trying to bring pressure to bear on this Congress and writing for money contributions from publishers to help do it.

Mr. POST. Unquestionably we are trying to bring pressure to bear on this postal matter.

The CHAIRMAN. You do not have to bring pressure to bear on this committee. All you have to do is to inform us if we are not already properly informed.

Mr. POST. You have been informed and it has not altered your views.

The CHAIRMAN. I am now going to read you portions of this letter and ask you questions about them.

Mr. POST. I think it might be well to put in that whole letter.

The CHAIRMAN. The letter is as follows:

[Publishers' Advisory Board, 300 Fifth Avenue, New York City. Telephone, 1738 Gramercy. Charles Johnson Post, director. Periodical Publishers' Association, Associated Business Papers (Inc.), American Association of Medical Publications, Agricultural Publishers' Association, Association of Religious Press, Allied Printing Trades Council, Authors' League of America (Inc.)]

MARCH 13, 1918.

GENTLEMEN: You are, no doubt, familiar with the work of the Publishers' Advisory Board. Bulletins have been sent you from time to time through the Agricultural Publishers' Association and otherwise.



You will find herewith a copy of our Bulletin No. 8, showing general plan of campaign now being carried on to acquaint the public with the facts relating to second-class postage matter. Pressure must be brought upon Congress to induce our law-makers to repeal this iniquitous postal "rider."

The results are already apparent in Washington. A broad background or foundation of popular opinion is being created; and the increasing weight of this influence is being brought to bear upon Congress; our committees are in close contact with public officials and Members of Congress; and the efforts of all the publishing factors, including the labor unions and the authors, are being coordinated. The Publishers' Advisory Board is in its nature the general staff of this campaign.

The farmers of America are interested, and the farm papers must recognize that this is the entering wedge to post-office legislation that is going to be disastrous to us all. Sixteen hundred papers went out of existence in 1917, and the whole printing industry was greatly affected by the increased cost of paper. It is difficult to conceive of a more unjust and destructive law than that embraced in the "rider" referred to. We must kill it or be maimed or killed by it.

A great campaign is being carried on by the Publishers' Advisory Board. Already liberal subscriptions have come in from magazines, trade papers, religious papers, business papers, and a goodly number of farm papers. There are still quite a few papers that have not contributed. It should be universally supported, because the benefits to be derived accrue to all farm papers.

The present postal law must be repealed. It contains the very worst features of either a zone or a horizontal increase. It is the opening wedge to other restrictive measures—measures that will put the press of the country under the thumb of irresponsible oppressions and postal rates can shift with every Congress.

The magazines, the trade papers, the religious papers, etc., all have contributed liberally. The work is for the benefit of all periodicals, and you are now asked to do your share. You are asked to help. Will you do it? Your proportion has been estimated at \$150. You may pay it in installments or by check in full, as you prefer.

Very truly, yours,

PUBLISHERS' ADVISORY BOARD.  
C. P. POST, *Director*.

The CHAIRMAN. In this letter you say:

Pressure must be brought upon Congress to induce our law makers to repeal this iniquitous "rider." The results are already apparent in Washington.

This was March 13, 1917. Now I want to ask you, what was the source of your information as to the results being apparent in Washington?

Mr. POST. The correspondence we knew was arriving in the offices of the Congressmen.

The CHAIRMAN. In the offices of the Congressmen. Does not your office here in Washington keep you informed about that?

Mr. POST. No, not unless we want specific information.

The CHAIRMAN. Name one Congressman who wrote you that he had changed his views on the postal zone provision in the present act, or that he was going to change his vote? Name one, now, that wrote you. You said you wrote that on the strength of what you knew as to Congressmen.

Mr. POST. I can not name any single one.

The CHAIRMAN. No; you can not name one.

Mr. POST. But you know as well as I know that when matters of great public interest begin to arise throughout the country, it has its effect upon legislation, because legislation shapes itself in response to the wants and opinions of the country at large. That was the basis, that there was a tremendous weight of popular opinion arising in this country, and that is still rising, and that was the basis on which that statement was made.

The CHAIRMAN. All right; so that you had no direct information from any Congressman or from anybody, that any Congressman had changed his views?

Mr. POST. We have a number. I do not want to be misunderstood.

The CHAIRMAN. Name one. You were trying to get this \$150 from this little agricultural paper. You asked him to send you \$150. You told him that the results of your campaign were apparent in Washington. If they were not, you intentionally or in ignorance were getting it under false pretenses unless the results were apparent. Now, I ask you to name one single Member of Congress that anybody informed you had changed his opinion with reference to this postal zone matter.

Mr. POST. That statement was not based upon that premise. It was based upon public opinion.

The CHAIRMAN. When you wrote this man for \$150 to wage the campaign to have this provision repealed, and told him the results were already apparent in Washington, why, you had no evidence of the "apparent results," did you?

Mr. POST. When public opinion arises it has its reflection in the acts and opinions of Congressmen.

The CHAIRMAN. All right. Then who told you that any Congressman had changed his opinion or was going to change his opinion or his vote?

Mr. POST. No one has told us that a Congressman changed his opinion. As public opinion rises——

The CHAIRMAN. You would find that out from general rumor in the air or from newspapers?

Mr. POST. From the historical evidence we know that when public opinion rises——

The CHAIRMAN. I am not talking about historical evidence. You got this from public opinion in the air, did you? Now, name one Congressman that you learned had changed his opinion.

Mr. POST. I did not say that one Congressman had changed his opinion.

The CHAIRMAN. Then you did not refer in your letter to any Congressmen. Did it refer to the administration?

Mr. POST. No; it was not based upon that, at all.

The CHAIRMAN. Then what was the truth; that you wrote this fellow in order to get his \$150, saying how effective your campaign was? What evidence did you have?

Mr. POST. The number of resolutions that important bodies throughout every State in the country were adopting; the amount of discussion that was arising showed that it was having an effect.

The CHAIRMAN. Did you ever have any reply from any of those important bodies, or chambers of commerce or others, naming any Members of Congress who wrote them or had intimated to them that they were going to change their opinions or their votes on the zone system?

Mr. POST. I think my files—I am speaking purely from recollection—contain several letters of that kind.

The CHAIRMAN. Do you remember the name of any Member of Congress being mentioned in these letters?

Mr. POST. I do not think that would be a fair question, even if I had the information at my finger tips, because there is a confidential letter in my files——

The CHAIRMAN. No; you can not leave it there, because you wrote this publisher that it was apparently the results of your efforts in

Washington; and now you say you have had letters from these correspondents, who sent letters and petitions to Congressmen, saying that Members had changed their positions, but you will not give the names of those Members of Congress. It is only fair to those who have not changed their minds to give the names of those who have, because an innocent Member may be under suspicion of instability of opinion. Unless you identify the ones who have changed their opinions you will reflect on the whole body.

Mr. POST. I did not do that on that premise at all. I did not base it or state it on that premise or that statement, at all. Do you wish information as to that letter, because I can bring it to you, Mr. Chairman, on that letter.

The CHAIRMAN. On what letter?

Mr. POST. On that letter [indicating].

The CHAIRMAN. No; I do not wish information on it. I have it in my hand. The fact is when you wrote us that letter that the results were apparent in Washington, nobody had told you or written you that any Member of Congress had changed his position and you had no evidence in the world that it was apparent, or that your campaign or efforts of any kind had affected any Member of Congress. Now let us go a little further.

Mr. POST. I wish to say that that inference of yours is not correct, to my way of thinking.

The CHAIRMAN (reading):

A broad background, or foundation of popular opinion is being created, and so forth.

That is what you mean?

Mr. POST. That is what I meant, as far as it went. I would like to have you read the rest of it, where you said "and so forth."

The CHAIRMAN. I will read it. [Reading:]

You will find herewith a copy of our Bulletin No. 8, showing a general plan of campaign now being carried on to acquaint the public with the facts relating to second-class postage matter; pressure must be brought upon Congress to induce our lawmakers to repeal this iniquitous postal "rider."

So that you now do admit that pressure must be brought to bear on Congressmen?

Mr. POST. Pressure is continually being brought on Congress by Republicans and Democrats and Socialists and every other party.

The CHAIRMAN. But you did not say that to this man. You said that "pressure must be brought upon Congress," as it had been brought upon the Ottawa Legislature.

Mr. POST. Of course, I disagree to the sinister action that the author of that book attributes to the publishers. That is, I would not say that it was true as to Ottawa or not, but the statements I have made as to Canada rest upon the Canadian Postal Guide.

The CHAIRMAN. Here is one of the most important parts of this letter, it seems to me [reading]:

Our committees are in close contact with public officials and Members of Congress.

All right. Now, name a Member of Congress with which your committee was in close contact on March 13, 1918, with respect to the postal zone rates? Name him.

Mr. POST. I have a file in New York containing all of the correspondence with Congressmen and Senators, and I shall be very glad to place that entirely at your disposition, because it can not be deemed

confidential, being from public officials, dealing with a great public matter.

The CHAIRMAN. Did you mean you were simply writing to Congressmen, when you used that language? You say you are "in close contact."

Mr. POST. I mean wrote to them, with the exceptions I made yesterday.

The CHAIRMAN. You said on yesterday that you had only talked with Mr. Gordon and Mr. Crosser about repeal of the zone system.

Mr. POST. Mr. Gordon is not one, although we have a mutual admiration for Tom Johnson.

The CHAIRMAN. Do you mean to say that you have never talked to anybody but Mr. Gordon and Mr. Crosser with respect to this repeal of the postal zone system?

Mr. POST. I mentioned Mr. Keating, who was a personal friend. But that was personal.

The CHAIRMAN. With the exception of those three Congressmen you mean to tell this committee that you have never had any conversation with any Member of Congress in regard to the repeal of the postal zone system?

Mr. POST. I can answer that with absolute certainty; no. I know, challenging my recollection for the period since January.

The CHAIRMAN. Since January?

Mr. POST. Since January.

The CHAIRMAN. Yes.

Mr. POST. I have not the slightest recollection of even having met any Congressmen except those named. Now, it is possible that in the purely incidental travel on trains I may have met Congressmen; but I do not think I have even met them.

The CHAIRMAN. Did any representative of your board or any agent of your board or of your office ever tell you that he had talked with Members of Congress about this?

Mr. POST. Yes.

The CHAIRMAN. They have told you?

Mr. POST. Oh, yes.

The CHAIRMAN. All right.

Mr. POST. We had a committee that came down perfectly open and called upon you, sir.

The CHAIRMAN. All right; now we are going to get down to another important matter. You admit that by saying that you were in "close contact" with Members of Congress, you meant writing to them and having replies from them?

Mr. POST. Yes.

The CHAIRMAN. Now, of course, you are one of the smartest men ever called before this committee, and I am going to let you explain this. You said:

Our committees are in close contact with public officials and Members of Congress.

What public officials outside of Members of Congress had you had letters from?

Mr. POST. Not letters. I will tell you, I came down here on one special trip to see George Creel, chairman of the Public Information Bureau.

The CHAIRMAN. George Creel?

Mr. Post. Yes.

The CHAIRMAN. You saw him?

Mr. Post. Yes; and asked him his opinion on this matter.

The CHAIRMAN. How long ago?

Mr. Post. That was this year.

The CHAIRMAN. How long ago?

Mr. Post. I think that was in the neighborhood of three or four months ago. I have been so many places that it is rather difficult to charge my memory.

The CHAIRMAN. Was it not about the 1st of May that you had this conversation with George Creel?

Mr. Post. No; I think it was far earlier than that.

The CHAIRMAN. What did George Creel tell you? You were in close contact with this one public official. What did he tell you?

Mr. Post. I think, Mr. Chairman, while I see absolutely nothing of a confidential character in the conversation with Mr. Creel, that Mr. Creel is perfectly available, and in view of the fact that he is a responsible public official in high place, he had better be asked that himself.

The CHAIRMAN. I am a friend of Mr. Creel. You must not leave the imputation that he told you something that he ought not to have told you.

Mr. Post. Mr. Creel did not believe it a good thing.

The CHAIRMAN. You wrote this letter to get money from this publisher, and told him that you were in close contact with public officials. Of course, if no officials of the United States had told you that it could be or ought to be repealed or given you some hope to believe that he would help you, then it would appear you would have been getting something under false pretences from this publisher, because you were trying to make him believe that you were having some influence with these public officials and bringing about results; and if they had told you no, you ought to have written him, "I have tried to get in close contact with public officials, but haven't succeeded yet."

Mr. Post. That is a rather sinister interpretation of a perfectly harmless and usual phrase.

The CHAIRMAN. You do not know what public officials you were in close contact with about this postal zone system?

Mr. Post. I have named one.

The CHAIRMAN. You have just named one. Did you want this man to infer that you had seen only one public official, one who had no influence whatever in the matter—that is, one not even in a branch of the service connected in any way with this postal rate provision?

Mr. Post. Mr. Chairman, I do not know that I am entirely proper in referring to matters of a purely family character. I might say I think you will understand that reference.

(At this point Mr. Post made statements which, at his request and consent of the committee, was not reported by the stenographer.)

The CHAIRMAN. From your conversations with the officials of the Government mentioned, here in Washington, you felt justified in writing this publisher a letter that you were in close contact with public officials.

Mr. Post. I certainly felt justified. It was perfectly harmless

The CHAIRMAN. That is all right. You say here "We must kill it or be maimed or killed by it."

Mr. POST. I think that is correct.

The CHAIRMAN. You continue, "The postal law must be repealed."

Mr. POST. That is our belief, not only of ourselves, but others.

The CHAIRMAN (reading from the letter):

The magazines, the trade papers, the religious papers, etc., all have contributed liberally. The work is for the benefit of all periodicals, and you are now asked to add your share. You are asked to help. Will you do it? Your proportion has been estimated at \$150. You may pay it in installments or by check in full as you prefer.

Do you remember whether he paid the \$150 or not?

Mr. POST. I do not. I should judge from your comments that he probably did not.

The CHAIRMAN. He would have paid up if he had felt you were telling the truth, which no doubt you thought you were.

Mr. POST. That is just an ordinary letter of solicitation and the amount there computed was by the agricultural publications.

The CHAIRMAN. Do you know how much the Literary Digest paid?

Mr. POST. No, sir; none of those. I did not come in contact with that.

The CHAIRMAN. They did contribute?

Mr. POST. I assume so.

The CHAIRMAN. And the Metropolitan contributed?

Mr. POST. I assume so.

The CHAIRMAN. Collier's Weekly?

Mr. POST. I assume so.

The CHAIRMAN. Leslie's?

Mr. POST. I assume so.

The CHAIRMAN. Practically all these periodicals on the printed list on the back of your letter paper.

Mr. POST. I think that is a fair estimate, but a thing I have no knowledge of.

The CHAIRMAN. And you assessed them according to their ability to pay, or did you assess them according to the circulation of the periodical?

Mr. POST. I have already said that I had nothing at all to do with that.

The CHAIRMAN. Who is the man that manages the money part?

Mr. POST. That is Mr. Neal. He is treasurer of the organization, of the Publishers' Advisory Board. He can give you much fuller information.

The CHAIRMAN. I understand he wishes to appear.

Mr. POST. I simply check the accounts, as I told you yesterday.

The CHAIRMAN. Did the religious papers contribute very liberally?

Mr. POST. I have no knowledge of that.

The CHAIRMAN. You do not include in religious papers those which are maintained by religious organizations, and from which no profit inures to individuals?

Mr. POST. That class of papers are practically negligible.

The CHAIRMAN. Did the Christian Herald, which seem to be pretty active in this matter, contribute anything?

Mr. POST. I presume so; I have no direct knowledge.

The CHAIRMAN. I notice later that you wrote to Mr. Keys, of Frankfort, Kans., in which letter you use this expression: "Congressman Helvering's statement, therefore, is utterly disproved. I am inclosing a handbook with some publications, and I will suggest that you treat Helvering's correspondence," etc—that is one of your letters?

Mr. POST. Yes; I assume so. I notice that it is on my letterhead.

The CHAIRMAN. And you wrote Mr. Helvering in which is postscripted "I am inclosing a copy of my letter to your correspondent as you request. There is no doubt that we shall hear from this correspondent." You really were trying to build a fire under Mr. Helvering; to bulldoze him and intimidate him into changing his vote on this postal matter.

Mr. POST. Yes; that can apply to Republicans against Democrats, or Democrats against Republicans, or Socialists against them all.

The CHAIRMAN. That is true, isn't it?

Mr. POST. That is part of the ordinary propaganda of individuals.

The CHAIRMAN. Now, I am going to come to this little book or pamphlet, which you have been sending out.

Mr. POST. I should like to state in connection with the Committee on Public Information that one of the things that we wanted from them was the amount of advertising that had been given by the publications absolutely free and without charge. That is one of the facts.

The CHAIRMAN. Now, you send thousands of this little book all over the country?

Mr. POST. We had about 30,000 of them printed, so they could not go very far.

The CHAIRMAN. "These are the facts"—you said that practically on every page. You sent them out as facts.

Mr. POST. Yes, sir.

The CHAIRMAN. And you wanted the people to believe that what was said in here were facts.

Mr. POST. That is correct, sir.

The CHAIRMAN. Now, on the very first page, the very first sentence—let us see whether there is any truth in your statement. You use this expression, I will say to the committee, about three times on practically every page: "Congress has passed a law increasing by 50 to 900 per cent the postage on periodicals." Didn't you know when you wrote it that that was not true?

Mr. POST. No, sir; I did not know, and do not now.

The CHAIRMAN. Name one magazine on which such increase in postage amounts from 50 to 900 per cent. That per cent. It is from 1 cent to 10 cents per pound, isn't it?

Mr. POST. It has increased it on all.

The CHAIRMAN. But an increase from 50 to 900 per cent, you said, which is an increase on the magazine or periodical from 1 cent to 10 cents per pound?

Mr. POST. We make the same distinction as the law made.

The CHAIRMAN. You did not tell in these pages that you made that distinction.

Mr. POST. Publications that consist almost entirely of advertising will be increased 900 per cent. The law does that in the seventh zone where the rate is 9 cents and in the eighth zone where it is 10 cents.

Mr. GREEN. Nine hundred per cent is impossible with those figures.

The CHAIRMAN. I think I will get the gentleman to admit that this was an intentional deception.

Mr. POST. Take the trade magazines——

The CHAIRMAN (interposing). Trade journals, you mean. Take the Ladies' Home Journal. Suppose, now, that the fellow that gets this pamphlet that you sent out was a subscriber of the Ladies' Home Journal. Didn't you tell that subscriber that his postage on that has been increased from 50 to 900 per cent, which is from 1 cent to 10 cents per pound?

Mr. POST. Nine hundred per cent does not apply to the Ladies' Home Journal, but I represent the trades publications as well, and they are publications that carry an enormous amount of advertising. That is their function, and those publications do carry such rates.

The CHAIRMAN. Name one. You can't—for not one in the United States would pay that much increase.

Mr. POST. I did not say 10 per cent, I said 900 per cent.

The CHAIRMAN. "Increasing by 50 to 900 per cent the postage on periodicals," which is an increase from 1 to 10 cents.

Mr. POST. The flat rates were a cent and a half, and those were increased to 10 cents a pound, which is 900 per cent increase.

The CHAIRMAN. But you didn't want the people to know the whole truth and you withheld from them what was the truth, that the rate in the act is a flat rate, regardless of zone, of 1½ cents on the reading matter and only the advertising portion at the zone rate—not for the whole periodical—in the last zone, it would be 10 cents. For instance, if one of these periodicals has 50 per cent of its columns or pages reading matter and 50 advertising matter, the total postage in the seventh zone is 5½ cents and the total increase is 4½ cents, an increase of only 4½ cents, and in the eighth or farthest zone—of 1,800 miles and over—the total postage would be only 5½ cents, or a total increase of 4½ cents. But you desired and intended to leave the impression on the reader that the postage on his periodical would be increased from 1 cent to 10 cents per pound, which is the same as an increase of from 50 to 900 per cent.

Mr. POST. If I had wanted——

The CHAIRMAN (interposing). I know what you wanted.

Mr. POST (continuing). If I had wanted to deceive the public as to the facts, I would not have published the law in the booklet.

The CHAIRMAN. But you desired them to take your construction of the law.

Mr. POST. Well, we have a right to give our construction of the law.

The CHAIRMAN. Do you think a man is going to read this book and the statute in the back of it and study out its construction?

Mr. POST. The same as the rest of the books.

The CHAIRMAN. Why don't you mention one of the magazines or periodicals that you represent, one on the list on the back of your letter, that would have such an increase?

Mr. POST. The law itself raised the rates to 10 cents a pound, which is 900 per cent increase by law.

The CHAIRMAN. Then you might have said, "See law on page so-and-so." The law made no such raise on the postage of any periodical or magazine in the United States.



Mr. POST. I gave an index on page 52, which is a cross index.

The CHAIRMAN. Anyway, you stated here what was not a fact, didn't you?

Mr. POST. We disagree as to facts.

The CHAIRMAN. You stated in the booklet also that it would destroy magazine reading and destroy magazines—those mentioned here on the back of your letter—American Agriculturist, American Boy, American Magazine, the Christian Herald, etc., 50 or 60 of them. Name one of those that this zone rate is going to destroy.

Mr. POST. If I knew—and I probably have the best opportunity for securing confidential information in regard to magazines—if I knew the name of a single publication that was tottering under this law and about to go out of business, I would have absolutely no right to mention it and put that magazine at the mercy of its competitors.

The CHAIRMAN. We had a gentleman on the stand the other day acquainted with all these publications protesting against the zone system.

Mr. POST. What gentleman do you mean, Mr. Farrelly?

The CHAIRMAN. Yes; he is the biggest handler of papers and the magazines you represent in the United States.

Mr. POST. He does not represent the Publishers' Advisory Board.

The CHAIRMAN. Oh, I know; but he handles more than any other man in the United States.

Mr. POST. As a jobber.

The CHAIRMAN. I asked him specifically about each of them, and he said, "No; it would not destroy them; they could take it out of their advertisers." I am going to come to that before I get through.

Mr. POST. I venture to say that Mr. Farrelly, if he knew of a magazine that was facing failure as a result of this legislation, he would regard it as confidential information, and would not publish it.

The CHAIRMAN. But he said not one of them would be destroyed. Has a single one of these magazines gone out of business because of this law?

Mr. POST. I would not attempt to answer a question like that.

The CHAIRMAN. No; you saw the experience of Mr. Meredith yesterday in dealing with such a subject with respect to agricultural papers?

Mr. POST. No; simply I do not know. I think the best thing to do on that point would be to call these publishers who have gone out of business and interrogate them particularly.

The CHAIRMAN. Mr. Meredith thought he knew of several that had gone out of business, but as was shown, he was mistaken in several instances.

Mr. POST. I think that list still stands.

The CHAIRMAN. They have not.

Mr. POST. Here is a simple side light that I offer as evidence on that point, without making myself responsible for it. Brownell's Dairy Farmer sent a letter to the cooperating committee for farm papers, Agricultural Publishers' Association, Chicago, Ill.

The CHAIRMAN. What paper?

Mr. POST. Brownell's Dairy Farmer. In his statement he says:

It is with much regret that I inform you of the inability of this publication to take part in the commendable plan to offer free advertising space to the liberty loan and Red Cross campaigns.

The reason is that this publication is no longer to be issued. Our last issue came out on April 1 of last year and bore President Wilson's war proclamation on the first page. Following that there came the announcement that Representative Kitchin was promoting a bill to create a zone system of second-class postage, that if passed would put this publication entirely out of business.

The CHAIRMAN. When did he go out of business?

Mr. POST. April 1, of last year.

The CHAIRMAN. Let me tell you right there that that fellow is trying to deceive you and the public. Mr. Kitchin had never called the committee, nor had the committee even been elected, nor had he discussed the matter of revenue legislation with any Member of Congress. This postal legislation was never discussed with or by Mr. Kitchin until April 15 or 20. Congress had not yet been called together. We did not meet until April 2. On April 1, 1917, when you say that publication ceased business neither Mr. Kitchin nor any Member of Congress had considered or discussed a revenue bill, and the postal zone system had not been mentioned by or to him.

Mr. POST. I am offering this as a statement of—

The CHAIRMAN. I am just impeaching your witness.

Mr. POST. You impeach all of our witnesses, Mr. Chairman.

The CHAIRMAN. I say that the man who gave you that letter tried to deceive the public.

Mr. POST. I am offering it because you did not—

The CHAIRMAN (interposing). I am telling you why you did not use that letter because you knew that it was not true.

Mr. POST. Now, this has nothing to do with publications going out of business. If I may simply introduce this statement, I should like to do so.

The CHAIRMAN. I am trying to say that there has been a propaganda not of information, but a propaganda of intentional deception, and I think I am going to convince you to-day. This Brownell letter is an evidence of it.

Mr. POST. Mr. Chairman, you asked me to name a publication that had gone out of business on account of this law.

The CHAIRMAN. And you mention this Brownell paper, this dairy farm paper, when it went out of business before the zone system was ever mentioned by or to me, before Congress had even convened.

Mr. POST. I would like to complete my answer on that, and offer the statement of the paper itself as to why it went out of business.

The CHAIRMAN. But I was not criticising you for it, but do advise you not to be deceived any more by magazines attributing the cause of their going out of business to the zone system.

Mr. POST. I would like to offer this as an answer and insert the answer in the record.

The CHAIRMAN. You may put it in the record.

Mr. POST (reading):

We decided that we could not take a chance on Representative Kitchin, and so decided to stop the publication until we were assured that the bill would not pass. It did pass, and so our publication died a quick death—after 8 years of fairly profitable existence—instead of lingering through the summer months.

We have no complaint to make and no regrets to offer—except that we can not now respond to that call to donate our advertising space to the Government in this time of need. Sometimes we wonder at the wisdom of a taxation measure so unjust and so unreasonable that it taxes out of existence a property capable of yielding its small share of tax money if it had been allowed to exist—not to mention that proposed

ability and willingness to help in the campaign to raise funds for the campaign without thought of compensation.

Very respectfully, yours,

(Signed) BROWNELL'S DAIRY FARMER,  
GEORGE H. BROWNELL,  
*Publisher.*

The CHAIRMAN. Now, Mr. Post, I know you do not indorse this.

Mr. POST. I simply offer it as the statement of the paper itself.

The CHAIRMAN. I want to show you that that man is willing to lend himself to deception, and newspaper men and magazine men ought to frown down on that. They ought always to be messengers of truth instead of falsehood. It is impossible for his statement to be the truth when he says that his publication ceased operation on April 1, 1917, or any time in April, because Representative Kitchin was promoting a bill to create a postal zone system.

Mr. GARNER. He said he was lingering, anyway.

The CHAIRMAN. Now, I am going to show how the fellow deceived you and got you to deceive the public, unintentionally it may be, because you would not do it intentionally—

Mr. STERLING (interposing). I do not think it is necessary to repeat that quite so often, Mr. Chairman.

The CHAIRMAN. Congress had not then met, April 1, 1917. It convened on April 2, 1917, yet on March 5 he says the paper stopped on April 1, 1917, because Mr. Kitchin was working for the zone system. As to the zone system, as to increasing any rate, it had not been discussed by me or anyone to me. I never had a letter about it. Members of the committee had not even been named, no discussion of a revenue bill of any kind had been discussed by anyone.

Mr. POST. I wish you would make it plain for the record that you are speaking about this letter.

The CHAIRMAN. Yes.

Mr. POST. Because I have introduced the letter from the man that has stated his reasons for discontinuing.

The CHAIRMAN. I am speaking about a man by the name of George H. Brownell, the headlines on whose letter states that he is the editor of Brownell's Dairy Farmer.

The reason that I make these remarks to you is that I want to warn you not to be misled by every interested fellow that writes you, and if you had been cautious with respect to getting the facts and truth you would not have issued this booklet or written some of these letters I have before me.

Let us go a little bit further. You say in this booklet:

This remarkable and destructive legislation was thus jammed through by Congressman Claude Kitchin, of North Carolina, chiefly assisted by Congressman Rainey, of Illinois.

Mr. POST. I think that is the statement of a historical fact.

The CHAIRMAN. You refer to this postal zone provision in the present law?

Mr. POST. Are you still reading from the first page?

The CHAIRMAN. Yes.

Mr. POST. I lost my place.

The CHAIRMAN. Down about the middle of the third paragraph. Now, as to the statement that I chiefly assisted by Congressman Rainey jammed this through. My conduct and Mr. Rainey's, with

respect to the provision going into the act, are only known by the 10 conferees—5 on the part of the Senate and 5 on the part of the House—and the clerks that were present during the conference, Mr. Walker, Mr. McCoy, who is present, Mr. Beeman, and, I believe, Mr. Wright. As you know, the provision that is now in the law was not the provision which this committee recommended, or which the House passed, before the bill reached the Senate. Now, which one of the 10 conferees or clerks that I have mentioned ever told you that Mr. Rainey or myself, or both, even favored, as an original proposition, this provision before the conference committee?

Mr. Post. None of them. The Congressional Record shows the vigor with which you and Congressman Rainey defended this zone system. You were the chairman of the Ways and Means Committee, and we could certainly infer that you took an active part.

The CHAIRMAN. Did you have the right to mislead the people and make them think that we jammed this legislation through Congress, when you did not know the action of the House and the Senate in the conference or what took place in the conference? Don't you know that the record will show that Mr. Rainey and myself, when such a proposition was suggested, were against separating advertising portion from reading portion and we favored, as this committee did, a zone rate as it passed the House, which made a rate graduated according to the zones for the whole entire paper, without separating advertising from the reading matter? And don't you know, as a fact, and didn't the papers so state at the time, that the House conferees were standing on their original proposition? And don't you know, as a further fact, that this proposition that is now in the law was suggested by the Senate conferees as a compromise? If you desired to state the truth about the business, didn't you know that we resisted this provision in the bill for as much as two days and finally the House conferees accepted it? Mr. Moore, Mr. Fordney, Mr. Rainey, and Mr. Dixon, all present here, were on the conference committee. You didn't know the true facts.

Mr. Post. You have asked a number of questions as to facts, and the only answer I can give is a blanket answer, as it was a blanket question. The record of yourself and Mr. Rainey, I think, is the very best evidence on the point of your enthusiastic championing of the law as it is in the statute books. The Senate have twice, as my understanding and recollection is, defeated the postal zone system in two forms, and after this legislation, this postal zone system initiated in the House, or in the committee here, and went to the conference committee where it succeeded in establishing itself in the revenue act of 1917, and so it has passed. I think it is a historical fact that your position as chairman of the Ways and Means Committee, and Congressman Rainey's position as senior member of the Ways and Means Committee made you avowed champions of the postal zone, and it is a fair inference and a fair fact that the responsibility of that legislation rests with the House leaders.

The CHAIRMAN. I do not care, Mr. Rainey and the other members of the committee do not care, but why didn't you tell your readers that that is what you gathered, that because I was chairman of the Ways and Means Committee, and Mr. Rainey was the ranking Democratic member—Mr. Fordney is the ranking Republican—that we jammed it through. If we did any jamming, and jammed it through

the conference, where were those five senatorial conferees; if we jammed it through the House, where were the 435 other Members of the House; where was the Senate all this time of jamming?

Mr. POST. I think I am paying a tribute to your skill and your ability, sir.

The CHAIRMAN. Now, the fact is that neither Mr. Rainey nor myself ever initiated the bill that is on the books.

Mr. POST. I did not say initiated, sir.

The CHAIRMAN. That proposition came over from the Senate conferees, and we opposed it at first until we saw that that was the only thing we could get to increase the grossly low postage rates on second-class mail matter. We preferred the proposition which the House bill contained. While preferring the House's original proposition, I think this is a most wise provision, and while, as I stated the other day, I am not the real father of the specific provision now in the act, I will adopt it as one of my offspring, esteem it as an adopted son of mine. I think there is a good deal of merit in the proposition of separating the reading portion, which causes one to subscribe and is for his benefit, and the commercial advertising portion.

Will you give me that Ladies Home Journal? I am coming back to your booklet in a few minutes. You see this advertising page there of the Columbia Grafonola. Tear that page off and let the Columbia Grafonola concern send that out through the mails, or print the page just as it appears in that periodical, same print, same size, same everything, and it would cost the Grafonola Co. a rate of from 8 to 14 cents a pound to send it through the mail, but attach it to the periodical, just bind it between the covers of the Ladies Home Journal or other paper or magazine and it goes at 1 cent a pound. Now, don't you think that the papers and periodicals ought to pay more postage than 1 cent per pound on such advertisements when they send it out that way, on or between their covers? Ought not the commercial advertising portion pay more than the reading portion?

Mr. POST. Are you asking me about taxing advertising? That is one of the things I suggested.

The CHAIRMAN. No; here is an advertisement of Welch's grape juice. When one knows the facts, then he will see in the large advertising business of papers and periodicals the motive behind the magazines and periodicals in this fight against the zone system. It is in the interest of their advertisements and advertisers. Take this Welch's grape juice advertisement in this same paper. If you were to take this and tear it off and send out thousands and hundreds of thousands of copies, it would cost 16 cents a pound, by single copies, but if you sent them in bulk a pound or more it would cost 8 cents a pound. But the very minute you attach that page to the Ladies' Home Journal, that same sheet or page goes through the mails, is handled on the train, and delivered to each man's door in the city or in the rural delivery at a postage rate of 1 cent per pound.

Now, while the act imposes a flat rate, regardless of zones on the reading portion, that which the subscriber wants—1½ cents a pound—it was thought that the advertising portion, inserted for the commercial use of the periodical and the advertiser, that were sent out this way, should pay an increased zone rate. The advertisers under the zone-system rates will still be able to send through the mails

more than 50 per cent cheaper than if detached from a paper or periodical and sent separately.

Now, what is your proposition? You propose, if this zone system remains—and I believe that it is going to remain—that, when it goes into effect, instead of charging the increased cost of postage back to the rich advertisers, which the spirit of the law says you should do, to charge it up to the innocent subscribers.

Mr. Post. Because you can not charge it up to the advertisers.

The CHAIRMAN. Oh, yes, you can. If the Ladies Home Journal, for instance, would increase its advertising rates 3 to 5 per cent, leaving the subscription price just like it is, it would more than compensate the increased postal cost. Instead of doing that, you say to your subscriber that he has got to pay the whole increased postage cost. The increased cost of the postage of the Journal to the subscriber for the reading matter will be 3 cents a year, and yet you have sent out your literature saying that it will be necessary to increase the subscription price from 50 cents to a dollar.

Mr. Post. You mean the increase is 3 cents a copy?

The CHAIRMAN. It is 12 pounds a year.

Mr. Post. What is the increase per copy?

The CHAIRMAN. And we have figured it on a basis of 50 per cent reading matter and 50 per cent advertising matter, that would be one-fourth cent a pound or copy, as a copy averages 1 pound, and being a monthly it is 12 pounds a year. For the 12 pounds the increase is only 3 cents to a subscriber a year.

Mr. Post. Per copy?

The CHAIRMAN. No, I am talking about the year, 3 cents a year. I want this to be plainly understood by the public, and it is going to be plainly understood by Congress, that the paper or magazine, like the Ladies Home Journal, which for one page of advertising charges \$6,000, and for one of these outside wrappers advertisements, that page there [indicating] I understand, though I won't be absolutely sure, charges \$9,000 an issue, insist that they are going to put on the subscriber from 50 cents to a dollar a year to cover the increased cost of sending out these advertisements throughout the country and relieve the advertiser of all increased postage, while the spirit of the law only imposes upon the subscriber for such periodical 3 cents a year.

Mr. Post. You can not say it will cost 3 cents. It will be more in some zones and less in others.

The CHAIRMAN. You do not understand. You never read the law as to the flat rate on reading matter.

Mr. Post. You can not separate reading matter from advertising.

The CHAIRMAN. You don't separate it physically, but you can in your proportion of charges. I can tell you why you don't separate it. Take this 40 or 50 pages and tear it from your reading matter and print it with the same wrappers and send it through the mail and it will cost those advertisers at least 8 cents a pound to do it.

Mr. Post. And where is the revenue for the publication—

The CHAIRMAN. Twice as much as under our zone rate under the present provision, but just pin it in here to the reading matter of the magazine and it goes at 1 cent throughout the length and breadth of the land under the proposition of Mr. Post and the publishers.

Mr. POST. Why not pass a law prohibiting advertising in periodicals?

The CHAIRMAN. Here is an example to bring to the attention of the country—we can not to the country, as the press will not take it to the country—but to Congress. Here is the Metallurgical and Chemical Engineering Magazine.

Mr. POST. To facilitate the matter, Mr. Neal, secretary of the Business Papers (Inc.), is here and is prepared to speak on all business publications.

The CHAIRMAN. I am going to bring it up in this connection, and show what a fraud is being perpetrated upon the people under the old law which Mr. Post favors.

Mr. POST. Might it not be well for Mr. Neal to be heard?

The CHAIRMAN. Just wait. I hold here the Buffalo Foundry & Machine Co. catalogue. It weighs 1 pound and contains 64 pages of advertising. To send that out through the mails it would cost 8 cents, as it would go third class as a catalogue. They were paying 8 cents a pound to send it through the mails, and some shrewd fellow on this engineering magazine no doubt went to the foundry people and said, "You are sending out that catalogue through the mails and it is costing you 8 cents a pound. Now, they have a law on the statute books which the publishers of newspapers and magazines had put on in 1885, which says that if you put it within the covers of my magazine, which contains a little reading matter, it will go for 1 cent a pound. You will thus save 7 cents. In other words, by sending it as it is you will have to pay 7 cents more than if you would let us include it within our covers. You can afford to pay us half of your saving on postage." Of course, the fellow saw the point at once and made a contract and took his catalogue bodily and put it right between the covers and sent it in that shape, every line, every word, at 1 cent per pound.

Mr. GARNER. Not only that magazine, but others.

The CHAIRMAN. I want the public and the committee to see it. Here is the original catalogue as it was sent out at 8 cents per pound by the foundry company. Here it is within the covers of the Metallurgical and Chemical Engineering Magazine, the same identical catalogue. It saves 7 cents on every pound and robs the Government of 7 cents on every pound. Any other periodical or magazine can do the same thing under Mr. Post's old law.

Mr. POST. You don't think it is a good thing to have advertising distributed?

The CHAIRMAN. I think it is a good thing to prevent fraud on taxpayers through the mails.

Now, here, again, is a catalogue of Maurice & Knight, acid-proof stone work. If they were to send it singly like this through the mails it would cost at least 14 cents a pound to do it because this weighs about an ounce or an ounce and a half. They were sending it. But this shrewd magazine publisher went to them, no doubt, and showed how they could save money and the publishers make money by incorporating their catalogue in the magazine. It is a good deal larger than the page of the magazine, so the magazine publishers cut the edges down and put a blue streak around it. Here is the original catalogue and here is the catalogue as it appears within the covers of the magazine. But the law of the flat rates, without zones, which

my friend, Mr. Post, so much favors, permits just such frauds. Do you indorse, and do the publishers you represent indorse that conduct upon the part of this honorable member of your association?

Mr. POST. The Publishers' Advisory Board indorses the function of advertising absolutely as one of the greatest economic forces for the additional production of wealth that has ever been devised.

Mr. GARNER. Do you indorse this particular practice as exhibited here?

Mr. POST. I indorse advertising.

The CHAIRMAN. Do you indorse this specific thing? If Bill Jones went into Tom Smith's stable and stole his horse, you would not indorse that?

Mr. POST. You are describing a felony. Is the act you described a felony or was it done under the law and regulations?

Mr. GARNER. Do you indorse that particular action?

The CHAIRMAN. Do you indorse that action or do you indorse a law that will permit that to be done which I have just shown to the committee?

Mr. POST. I think that the legislation stands for it. You have made a comparison with a felony and asked if I condemn advertising on the ground that it is a felony.

Mr. GARNER. Do you indorse this particular method of advertising?

Mr. POST. I would not pass an opinion upon this particular action.

Mr. GARNER. But do you—

Mr. POST (interposing). Let me make my answer complete. It is only fair. The question that you are asking involves two factors. One is the fundamental economic value of advertising in its basis. The other question is the function and advantage of advertising in trade papers. Trade papers are a distinct and separate class of publications. They are publications that serve a highly technical and important field which I could not classify and discuss in detail. We have Mr. Jesse Neal, the executive secretary of the Business Papers, (Inc.), who can discuss that.

The CHAIRMAN. You do yourself great injustice in evading such questions.

Mr. POST. I never uphold specific instances, but ask whether it makes any difference in the principles involved.

The CHAIRMAN. I want to call attention to the charge made against Mr. Rainey and myself, which, if you really insist on, you must make more emphatically against the President and against Mr. McAdoo.

Mr. POST. Are we finished with the subject of advertising? I thought there were some questions.

The CHAIRMAN. I have been trying to get you to answer, and you never will answer.

Mr. POST. You have illustrated with the Ladies' Home Journal the question of advertising, and asked why do not the publishers pass it on to the advertisers instead of the readers. They can not by reason of trade conditions, and the competitive discriminatory conditions that are raised by this law. The relation between the advertisers and the publishers is the relation of service, but throughout the long years of the growth of periodicals and advertising there



has come a fixed ratio between the price that the advertiser pays for service, and that unity of service may be a thousand copies or a hundred thousand copies. But whatever it is, it is a fixed amount. Now, you can not go to the advertiser and increase the price of the advertising in that periodical without showing him where you are going to increase the service, and the contrary is true, that as the service falls the price deceases.

The CHAIRMAN. You think that is a good answer from your standpoint?

Mr. Post. It is not complete. Now, then, this law puts a tax, or whatever you choose to call it, on periodicals of national circulation, and exempts periodicals of local or comparatively small circulation from any impost whatsoever on their advertising pages, and a discrimination comes in in this law in favor of the periodical having a local circulation. If it is attempted to raise the price on advertising, he can offer a given unit of circulation cheaper, and impost free, to advertisers in his publication than can a publication of general circulation if he attempts to pass that advertising charge on to his advertisers. That is the reason that it can not be done.

The CHAIRMAN. Mr. Post, the whole thing is that when the zone rates go into effect the cost of the paper to the subscriber, on your theory, will be increased, the cost of getting out and shipping the paper, whether to the advertiser or to the subscriber?

Mr. Post. The cost of production, the cost of paper?

The CHAIRMAN. This law will add another cost to your paper.

Mr. Post. This law would add another cost, just as any tax levied on anything adds to the cost.

The CHAIRMAN. If print paper goes up from \$3.10 to \$5.10, that will be a cost, and that will be added to your paper?

Mr. Post. That is added to the paper of local circulation as well as the paper of national circulation.

The CHAIRMAN. If labor goes up from \$4 to \$8?

Mr. Post. That is a flat increase over the whole field of publication.

The CHAIRMAN. That is an increase in the cost. We will call it a tax—which it is not—but call it a tax. If we tax your paper, it is an increased cost.

Mr. Post. Yes; but you tax one one rate and some another rate.

The CHAIRMAN. Here is what I want to know: If the newspapers and magazines can increase their prices to the advertisers because of the increased cost of print paper and of materials which they just add on, why can they not pass on as an increased price to advertisers the increase cost by reason of the tax?

Mr. Post. They can if you will tax all classes of advertising, all classes of publications, on the same basis, and not put a discriminatory tax on papers of large circulation in favor of papers of small circulation.

The CHAIRMAN. You refer, of course, to the county-free circulation. That has been the law since 1850, I believe, and nobody has asked to have it changed,

Mr. Post. Nor do we. I believe absolutely in the free-in-the-county circulation.

The CHAIRMAN. But still you pay a cent now, and they pay nothing in the counties.

Mr. POST. Yes, sir. Every argument in favor of free-in-the-county circulation, which I indorse, is true of cheap postage for other classes.

The CHAIRMAN. Let me read another statement in your booklet: "In order to appreciate what this 50 to 900 cent per increase in periodical and newspaper postage means, you have only to compare it with the 15 per cent increase in freight rates that was the subject of much careful deliberation by the Interstate Commerce Commission, and then rejected because of the vicious chain of disorganization and increasing costs with which it would saddle the country, and that was only 15 per cent."

Now, Mr. McAdoo and the President have increased the freight and passenger rates more than 15 per cent.

Mr. POST. Yes, sir; war emergency.

The CHAIRMAN. The war was on; they had taken charge of the railroads three months before you prepared this booklet. Now they have increased in passenger and freight rates more than that. Was that a vicious thing?

Mr. POST. This was written before those increases were made by the Government.

The CHAIRMAN. All right, then; but they were not sent out before, if they were written before.

Mr. POST. They were sent out as soon as they came off the press.

The CHAIRMAN. But you are stating here that if the Interstate Commerce Commission had increased the rate 15 per cent after full investigation it would have been vicious. But you say that if the President and Mr. McAdoo have increased it 25 per cent, why it is all right. Where is your consistency?

Mr. POST. I will admit cheerfully that, speaking for myself alone, I am a considerable admirer of the President, if that is what you want me to go on record for.

The CHAIRMAN. I believe that on the second page you said that this would destroy these magazines: "It means the end of the home reading circle, inasmuch as it carries a death sentence to the majority of American magazines."

Mr. POST. What page?

The CHAIRMAN. Second page. Must we believe that it will destroy and be the death blow to a single one of the magazines that you represent?

Mr. POST. You are not quoting my words, those were written by Rex Beach.

The CHAIRMAN. "These are the facts." Those are your words, aren't they?

Mr. POST. Oh, yes. I did not wish to be understood as not regarding Mr. Beach's article as sound.

The CHAIRMAN. You did put that in, and at the end of Mr. Beach's article—I know he has been deceived like you have about the facts in these matters—you added, "These are the facts." Well, you know now that they are not facts, don't you?

Mr. POST. No, sir.

The CHAIRMAN. Do you believe that this zone system, and this zone provision of the present law will destroy a great number of the magazines in this country?

Mr. POST. I have said that I do not know the percentage of the magazines that will be destroyed. That magazines will be destroyed is without question.

The CHAIRMAN. You do not know the percentage of magazines that will be destroyed. Isn't this pamphlet that you sent out to inform the public deceiving the public by putting in what Mr. Beach said, to wit, "that it would destroy the magazines," and then end by saying, "These are the facts."

Mr. POST. Mr. Beach might have said it, and I might be in the minority.

The CHAIRMAN. Do you know of any that would be destroyed?

Mr. POST. I stated I could not mention any.

The CHAIRMAN. Do you know of any—you need not mention them—that is on your list there which you represent?

Mr. POST. I do, sir.

The CHAIRMAN. How many will be destroyed?

Mr. POST. I do not think I could answer that question for the same reason.

Mr. GARNER. How many in that list, you need not give the names?

The CHAIRMAN. There are 60 or 70 in the list. How many do you know will be destroyed? You need not mention the names?

Mr. POST. Well, I know that some will. I could not make an estimate, a detailed estimate of that character, but I think the facts will speak for themselves before the zone law is in full operation.

The CHAIRMAN. I think you wrote this humorously, of course, from what you testified this morning, "That means you. It is well that you should know and meet the facts." That was put in as a piece of humor?

Mr. POST. Which page?

The CHAIRMAN. On the second page.

Mr. POST. That is Mr. Beach's own article.

The CHAIRMAN. Do you indorse it?

Mr. POST. I indorse the whole article. I could not write half as cleverly or forcibly as he does.

The CHAIRMAN. Here is a thing which I thought you would indorse. It is not true. "No longer will magazines and periodicals sell for the same price in the West and the South as in the East, for the war revenue bill increases the postal rate no less than 900 per cent for those western and southern sections of the United States," and you have just been shown that it could not possibly increase 5 cents. Take the Ladies' Home Journal, the Metropolitan, or the Cosmopolitan, or the Saturday Evening Post, or the North American Review. On not one of those magazines could the increase possibly be as much as 5 cents, and yet people read here that it is going to increase no less than 900 per cent for those sections. Could you say, "These are the facts."

Mr. POST. Yes, sir.

The CHAIRMAN. But you know they are not the facts—no way near the facts.

Mr. POST. I have a telegram, just received from one of the members of our organization; a telegram to this effect:

Have just seen Butterick's announcement increase in price Delineator, basis new postal zone rate. Eastern, one year, \$1.50; two years, \$2. Middle West and South, \$1.75; two years, \$2.50. Far West, one year, \$2; two years, \$3.

Mr. GARNER. That is not 900 per cent.

The CHAIRMAN. Of course, that is not 900 per cent. Wire back to the Butterick Publishing Co., and tell them that the reading matter for their magazine for which they are going to increase the price from \$1.50 to \$2 has only been increased by the law 3 cents a year, and that the other increase in postage is what the advertisers should pay under the law, and the reader should not be obliged to pay. Why should all the increase of the Delineator be put on the subscribers and none on the advertisers?

Mr. POST. I have just explained why, because you can not tax them equally.

The CHAIRMAN. According to the telegram the subscriber in the far West has got to pay Butterick Co. \$1 increase, but he would only have to pay 4 cents increase under the law as to reading matter, the subscribers' part of the magazine, and yet they are going to make the reader pay 96 cents for the advertising portions of the paper, which the advertisers like Welch's Grape Juice Co., R. J. Reynolds Tobacco Co., American Tobacco Co., automobile manufacturers, etc., put in. The advertisers ought to pay that increase, as the law intended.

Mr. POST. The law may have intended that the advertiser should pay it, but it was so drawn that only the advertising departments of the national papers are affected and the locals go free.

The CHAIRMAN. If they put such an injustice on the subscribers by making them pay the increased cost properly payable by the advertisers, you will have to increase your rates to the subscribers of course, and they will have to bear the burden. But your magazine and not the law will put this burden on them.

Mr. POST. The conditions are such that that is the only thing to be done.

The CHAIRMAN. The Butterick Publishing Co., or any other publishing company, that increases the rates to subscribers ought not to be surprised if their old subscribers resent the injustice by dropping their publication.

Mr. POST. It will. It will make a tremendous difference in the circulation, and that is why it will make a difference in advertising returns.

The CHAIRMAN. Can you come back at 2.30?

Mr. POST. Yes.

Mr. OLDFIELD. I submit a letter for printing in the record.

The CHAIRMAN. Without objection, the letter will be printed. There is no objection.

The letter is as follows:

FURTH, ARK., June 7, 1918.

HON. SAMUEL M. TAYLOR, M. C.,  
Washington, D. C.

DEAR SIR: We understand that publishers having become convinced that they can not possibly secure repeal of recent zone advance in the mailing rates of their high-priced advertising pages are now urging the public to write Congressmen, asking for a postponement of the enforcement of the legislation until one year after the war. Such action as that would simply defeat the legislation completely. We users of letter postage have been loyally paying our war tax on same since November last, and we have a right to ask that publishers shall with equal loyalty begin to pay a larger proportion of the cost of distributing their magazines.

We ask that you as our Representative in Congress use your efforts to prevent the repeal of any of the legislation adopted at the last session and to also oppose the postponement of the enforcement of that legislation beyond July 1, 1918.

We, the undersigned, most respectfully submit this petition.

C. W. PENICK (and others).

(Thereupon the committee, at 1 p. m., took a recess.)

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AFTER RECESS.

(The committee reassembled at 2.30 o'clock p. m., pursuant to recess.)

The CHAIRMAN. The committee will come to order. You have two gentlemen, I believe, that want to go on now, Mr. Post. You will come on later.

Mr. POST. Mr. Chairman, I would like to introduce Mr. Matthew Woll, who is representing the American Federation of Labor here. Mr. Woll is the president of the International Allied Printing Trades Association, the International Labor Press of America, and the International Photo Engravers Union.

The CHAIRMAN. Proceed, Mr. Woll.

**STATEMENT OF MR. MATTHEW WOLL, REPRESENTING THE  
AMERICAN FEDERATION OF LABOR.**

Mr. WOLL. I was greatly interested in the discussion which took place on this subject between the committee and the representatives of the periodicals and publications.

Let me say that I am representing the American Federation of Labor, the labor publications, and the printing trades organizations here, and I am not representing the interests of the publishers in any way whatsoever.

We are deeply and vitally concerned in this question of postage rates. We are interested from the standpoint of labor and trade-union publications; we are interested from the standpoint of the producers of printed matter; we are interested from the standpoint of the readers. We have given this subject of postage rates years of consideration. It is not a new matter with us. We have appeared on this question before the Hughes Commission and others. Unfortunately we were denied the opportunity of being heard by the Ways and Means Committee in the framing and the drafting of the present revenue law dealing with this subject.

The CHAIRMAN. Now, wait one minute. Did you ever ask to be heard? Every newspaper man and every magazine publisher was asked to come, and several did come. They did have a hearing before members of the committee, a subcommittee.

Mr. WOLL. Of Ways and Means?

The CHAIRMAN. Yes; every man that wanted to be heard.

Mr. WOLL. We had no knowledge of it.

The CHAIRMAN. You did not ask, but I am not criticizing you for not asking, for this reason, we did say that we were not going to have a public hearing, but every man that applied to have a hearing we heard him in that subcommittee, and I recall very well that the Curtis Publishing Co. was heard. Two of the gentlemen were there,

and Mr. Moore and myself gave them all the time they asked. And as my friend Mr. Dunn knows he came down and had all the opportunity in the world to talk.

Mr. WOLL. Of course we had no connection with any of the publishers on the subject, and hence we had no knowledge or information of it.

The CHAIRMAN. I did not want it to go into your speech unchallenged that you were barred or refused.

Mr. WOLL. I will say there that we had no knowledge of it, and I am sorry we did not.

The CHAIRMAN. That is all right, of course.

Mr. WOLL. We did, however, have information that the Senate committee, the Senate Finance Committee, dealing with this subject, would hear us, and I am not going to burden this committee with the reading of the brief that was prepared by Mr. Samuel Gompers and myself on this subject, but I will ask leave to introduce that and make it a part of the proceedings here, because whatever was said before the Senate Finance Committee on this subject is applicable at this hearing to-day and is emphasized more strongly.

The CHAIRMAN. Very well; you may put it in.

(The paper referred to follows:)

AMERICAN FEDERATION OF LABOR OPPOSED TO ANY INCREASE ON SECOND-CLASS POSTAGE.

The American Federation of Labor is opposed to any increase whatever on second-class postage.

*To all organized labor:*

An immediate protest against the proposed increase in postage rates on second-class matter and against the application of the "zone system" should be immediately directed to every Congressman and Senator. Every central labor union, State federation of labor, and all affiliated unions should immediately voice their protest against this menacing proposal.

Action, to be effective, must be had at once. Respond to the appeal without delay. Act now.

Faternally, yours,

SAML. GOMPERS,  
*President American Federation of Labor.*

ARGUMENT AGAINST POSTAL SECTION OF THE WAR-REVENUE BILL MADE BEFORE THE SENATE FINANCE COMMITTEE MAY 15, 1917, BY SAMUEL GOMPERS AND MATTHEW WOLL.

Organized labor is in full accord with the principles of the sound economic policy laid down by the Ways and Means Committee, that the present generation should bear a fair and equitable portion of the burden of financing the war. Organized labor, however, dissents from and emphatically protests against the legislative approval of a number of provisions contained in this bill. Organized labor holds that every individual, concern, or institution should be required to pay its just proportion of war taxes. This should be done by increasing the income and inheritance taxes, a tax upon profits and land values. Organized labor holds that it is wrong, socially and economically, to tax the very sources and opportunities of employment. It believes that the rewards of industries and of industrial activity rather than the essential factors of production should be taxed for the conduct of the war.

That section to which particular exception is taken relates to the proposed increase of postage rates on second-class mail, applying the principles of the zone system as a method of computing the charges. The enactment of these proposals into law spells disaster and ruin to the labor press of this country, and will seriously hamper, retard, and to a very large extent completely destroy that part of the public press which is sympathetic to the appeals and needs of the working men and women of our Nation. The increased postage on second-class mail and the zone method of charging, as proposed, will create a condition wherein only those publications which are supported and financed by large combinations of wealth can survive. Such a condition would

be deplorable; it would lead to the exclusive control of the means of information by a small coterie of men of wealth, who would ultimately be afforded the opportunity of dominating the minds of the people of our country.

Unquestionably there are some persons who would desire and who would rejoice if some of the existing publications were forced out of existence. This is a matter of individual inclination, discretion, or judgment, determined by motives good, bad, or indifferent. Legislation intended to direct the activities and control of the destinies of a free people must be free from any taint of individual indiscretion or prompted by motives of vengeance or unfair advantage to one class over another. While the proposed increase of postage rate on second-class mail is unquestionably prompted by the highest motives of loyalty and patriotism, nevertheless the enforcement of this legislation will suppress a very large part of the public press and almost completely annihilate that part which pleads the workers' cause for an improved condition of life and work.

We have in this country the labor-union press, representing over 275 weekly and monthly publications, with a circulation approximating over 1,500,000 copies. These publications during their entire period of existence have done much to enlighten workers of our country upon all issues having confronted the American people from time to time. These publications have become indispensable to the welfare of the Nation and have performed a public service that can never be estimated or calculated upon a monetary standard.

All of these publications have carried out their mission with little or no profit whatever to the owners of these publications. Indeed, many are produced at a loss and are only enabled to live by the voluntary contributions of members of trade-unions.

While it is true that publications not for profit maintained by and in the interest of labor organizations, are not included in the most vicious provisions of this bill, it is also true that many of the labor papers do not come within the exemption, and it is these publications that would be entirely destroyed. We protest against the method of reasoning that would accept a few large financial and profitable publications as a standard and in order to decrease their margin of profit completely destroy that part of the public press so essential to the welfare of the working men and women of our country.

To increase postage rates of second-class mail matter in a permanent form under the guise of a war-revenue measure is an unwarranted interference with the processes of the publishing business, and if put into effect many publications can not and will not survive.

The proposed increase in postage rates will in many cases require a very much higher payment of postage than the total income netted by many of the publishers. The only equitable method of taxing the publishing industry is to tax incomes and profits. By that method no excessive burden will be placed on any one publication, freedom of the press will remain unimpaired, and the industry may continue without forcing anyone out of business. In other words, we hold it wrong to place a prohibitive tax upon the processes of the elaborately constructed and delicately adjusted printing industry. We favor taxing the results of that industry obtained under conditions that have come to be recognized natural and normal conditions of production.

However serious the proposition to increase postage rates from 1 to 2 cents may prove in actual application, most of the publications able to survive under the first proposal are doomed to failure by the proposal to increase still further the rate of postage in applying the zone method of charging. The proposed charges under this system are not only unjust but the system is grossly discriminatory in that it penalizes the readers in the distant zones. It would be equally fair and sound to determine the postage rates by a zone system of all first-class mail. The fact that the Ways and Means Committee found such a system unjust and undesirable to first-class mail is in itself sufficient ground to condemn its application to the second-class mail. Why should that part of the public situated in distant zones be penalized by a higher tax than those more closely situated to the printing and publishing centers. There can be no justification whatever for a charge of 6 cents being placed upon one class of citizens in one State and 1 cent upon citizens of another State.

A more effective aid to sectionalism might be conceived but it would be difficult to devise and apply.

The monthly and weekly magazines and newspapers with a national circulation have served the nation as great exchanges of thought and feeling. They have proven powerful agencies in substituting a national for a sectional sentiment.

The proposed zone system would again bring into vogue the feeling of sectionalism. The burden of expense of the publishing industry is already staggeringly heavy upon periodicals of all sorts, including daily newspapers.

The cost of publication has risen enormously partly, in the general increase of all materials, and especially because of the great increase in the price of paper. The additional imposts of the high postage undoubtedly will prove a last straw. The circulation of magazines and newspapers which are now national would again be restricted to sections and zones. Under the zone system no continental medium of national sentiment could exist for the crystallization of national opinion.

Under the proposed zone system a number of publishers would be undoubtedly compelled to change their publication offices to the center of zones of their publications in order to minimize their charge of distribution. Many of the present-day publishers do not own the printing establishments in which their publications are printed. Such a removal would logically lead to the destruction of many of the commercial printing offices in the country and many others would be compelled to remove their establishments to different localities. This would compel thousands and thousands of working men and women to dispose of their homes and to break ties of friendship and social bonds in order to follow the trade unjustly diverted and restricted by the enactment of these unjust proposals of taxation.

No one more fully appreciates the seriousness of the conditions that this proposed legislation will establish than do the workers themselves. No one will be compelled suffer more.

To increase the postage on second-class mail and to employ the zone methods of charging will not only destroy the labor press, but will have a far-reaching and detrimental effect on the manifold business relationships involved in the printing and closely related industries. The great educational white way of our periodical literature is builded upon the wood pulp molded through the various processes of manufacture of steel and iron and the labor of hundreds of thousands of working men and women. Whatever legislation will reduce the demand and lessen the opportunities for printing matter necessarily will reduce the demand for the services of labor engaged in the production of the materials and machinery entering into the manufacture of printed matter. Thus the men engaged in the lumber camps, in pulp factories and paper mills, in mines and machine shops, and in the transportation occupations will be proportionately affected to their great detriment.

Thousands of workers indirectly dependent upon the printing industry will be forced out of employment. While the several divisions indirectly affected run into many tens of thousands, in the great divisions of the printing trades the number of workmen runs into the hundreds of thousands. We refer to the great printing and publishing trades—trades which turn the wood-pulp paper into periodicals, newspapers, books, etc. The number of persons in this Nation who to-day are earning their shelter, apparel, and substance (not including office or clerical forces) in the great printing and publishing industry is over 400,000. If the counting rooms and general office forces are included, the total number (not including the owners and publishers) will reach close to 500,000. If we total the people who would be affected by this legislation, which will force a shrinkage of approximately 50 per cent or over, counting from lumber cruisers to publication counting rooms, we will find the total to be not less than 700,000, probably 800,000. And, mark you, this total does not include the wives and children dependent upon the vast army of men employed in the printing industries. If they are counted, the figures must be doubled, probably tripled. It is this vast army of people—men, women, and children—who will be affected by this proposed harsh, discriminating, and therefore unjust, legislation.

Stress, no doubt, may be laid on the assertion that the cost involved in handling second-class mail is more than 1 cent per pound. To ascertain what second-class mail costs has been found to be a puzzling proposition. Many have tried to solve the problem and all have failed. It is admitted, officially and otherwise, that the tremendous development of every branch of the postal business has been due, primarily and principally, to the increased circulation and influence of newspapers, periodicals, etc., brought about by reduced postage rates. But even if the cost involved should be declared more than 1 cent per pound, it would not be good policy for Congress to increase it, because to increase it would cause much reading matter to be placed out of reach of many who are now receiving the benefits of it. The charge for carrying second-class mail was intentionally fixed low in order to encourage the dissemination of information of educational value to the people.

In harmony with this sound and judicious policy, Congress has deliberately established a low rate with the expressed design of encouraging and aiding the distribution of recognized means and agencies of public information. It is not a matter of favor, but of approved judgment. It is not for the publishers, but for the people.



In this connection we direct your attention to that portion of the Penrose-Overstreet Commission's report relating to the effect that an increase of postal rates upon second-class matter would have upon educational features involved, which reads as follows: "Even if it should be found that second-class matter was being carried at a distinct loss, that loss would be entirely justified by the educational value of the periodical press. From the beginning of the Republic it had been the policy of Congress to foster and assist the dissemination of information and intelligence among the people. Next to the great public-school systems maintained by the States, the newspaper and periodical are the chief agency of social progress and enlightenment. So far from this being a subsidy to the publisher, the advantage of the low postage rate had been passed on to the subscriber, in the form of a better periodical and a more efficient service. Any substantial increase in the postal rates, while for the time being bearing heavily upon the publisher, must eventually fall upon the subscriber, either in the form of an increased price for his reading matter or of a deterioration in the quality of that matter."

As a matter of fact, the proposed increase upon second-class mail would not be a tax upon publication but would be a direct tax upon knowledge.

We protest most emphatically to adding this restriction and heavy burden upon one of the principal agencies of social progress and enlightenment of our people.

To increase the postage rates on second-class matter and to apply the zone methods of charging would simply bring ruin to the printing and publishing industry and throw hundreds of thousands of workers out of employment. The harmful effects would bring far-reaching wreck and ruin to the homes and lives of hundreds of thousands of workers and their families, and in the end would fail to accomplish the very purpose the Ways and Means Committee intended for this taxation.

The people of this country to day no more expect a revenue from the Government's Postal Service than they expect from the Agricultural, Interior, or other service departments. The people want service, not revenues from any Federal service department. The publishers one and all should be required to contribute their just share of taxes to the conduct of the war. The men and women employed in the printing and closely related trades welcome the opportunity of bearing their just share of the burdens arising out of the war. The profits of the printing industry should be taxed and, if need be, entirely confiscated, and the income of the men in the industry should likewise be justly and properly taxed. However, their means of employment should remain unimpaired. Neither should the arbitrary taxing power of Congress be invoked to curtail the liberty and independence of the press, which is an inheritance from the fathers, or to cripple the publishing enterprises and bankrupt those engaged in this calling.

We heartily concur and fully approve of the attitude expressed by the President of these United States, Hon. Woodrow Wilson, who, while governor of New Jersey, pronounced the following:

"A tax upon the business of the many widely circulated magazines and periodicals would be a tax upon their means of living and performing their functions. They obtain their circulation by their direct appeal to the popular thought. Their circulation attracts advertisers. Their advertisements enable them to pay their writers and to enlarge their enterprise and influence.

"This proposed new postal rate would be a direct tax, and a very serious one, upon the formation and expression of opinion—its most deliberate formation and expressions—just at a time when opinion is concerning itself most actively and effectively with the deepest problems of our political and social life. To make such a change, whatever its intentions in the minds of those who propose it, would be to attack and embarrass the free process of opinion."

Labor's voice is raised in earnest plea for what it considers itself competent to speak upon and with the hope that you will aid in maintaining for us our present conditions, which we esteem necessary for our welfare and the welfare of those dependent upon us.

Mr. WOLL. I also wish to introduce a resolution adopted by the American Federation of Labor on this subject, November 12 to 24, 1917, at their convention in Buffalo.

(The paper referred to follows.)

ANNUAL CONVENTION AMERICAN FEDERATION OF LABOR, BUFFALO, N. Y., NOVEMBER 12-24, 1917.

Whereas the Congress of the United States in the enactment of the war-revenue law has placed an unwarranted tax on all publications, both in the volume of advertising, reading matter, and profit by means of an increased postage rate and the application of a zone system; and

Whereas the new system and rate of second-class postage constitutes a special or super-tax on newspapers and magazines in addition to the large number of general taxes that publishers will pay in common with other industries; and

Whereas the enforcement of this new system of postal rates on second-class matter will destroy thousands of newspapers, business papers, farm papers, medical papers, religious papers, agricultural papers, labor papers, and national periodicals, thus crippling or destroying many of the printing shops in the country dependent on publications for their existence and throwing out of work many thousands of compositors, stereotypers, electrotypers, photo-engravers, pressmen, feeders, binders, mailers, and other workers employed in the printing and manufacturing of the publications of the United States; and

Whereas the public press, and more especially the labor press, is the bulwark of our liberty and freedom, a great source of education, information, and recreation to millions of men and women, and the only means through which the Government can send its messages to the farmer, housewife, manufacturer, merchant, mechanic, and the great army of workers; and

Whereas the publishing industry is one that does not profit under war conditions, but on the contrary is burdened with unusual financial obligations: Therefore, be it

*Resolved*, That in the opinion of this convention, Congress should not have altered the system of rates on second-class postage; that the system of rates provided are not a legitimate war tax, in that they are merely a destructive charge against a fundamental operation of a great and invaluable industry; that it will not raise revenue, but actually destroy business from which the Government seeks revenue; that the system of taxes proposed are burdensome to the public press and will result in decreased publicity and materially and unwisely curtail the publications of our country: Be it further

*Resolved*, That Congress be urged to amend the existing war-revenue law by eliminating that section dealing with second-class postage, and that this subject be then dealt with by Congress as a separate and distinctive matter viewed from the standpoint of service rather than for war revenue; that we tender to the printing trades-unions and to the press of the United States our aid and assistance in any way that it can be effective in securing for them justice and fair dealing: Be it further

*Resolved*, That copies of these resolutions be sent to President Woodrow Wilson, Postmaster General Burleson, to all members of the President's Cabinet, and to all Members of Congress.

Mr. WOLL. The convention of the American Federation of Labor, which recently adjourned, which met in St. Paul, gave further consideration to this question upon a resolution introduced by five international printing trades unions, the International Typographical Union, the International Printing Pressmen's Union, the International Stereotypers' Union, the International Electrotypers' Union, the International Bookbinders' Union, and the International Photo-Engravers' Union. I want to read this resolution, because it gives the reasons of our viewpoint on this subject:

Whereas the new postal law effective July 1, 1918, especially hampers and embarrasses the public and labor press of America in the dissemination of news at a time when information regarding the progress of the war, the activities of the workers, and the participation of American troops in the war is most vitally important to citizens in every part of the United States; and

Whereas there are few families who have no member of their family or relative in war service to whom the most important information of the day is news regarding the events of the war; and

Whereas the tendency of the zone provision of the new law will be to create zones of thought destructive to a national unity and act as a stimulant to the promotion of sectionalism which will result in the limitation and circumscription of the interchange of expressions of public opinion and thought throughout the United States, and will tend to encourage the development of a sentiment inimicable to the purpose of the Government in zones largely alien in thought; and

Whereas the radical change involved in the zone law will establish oppressive and destructive methods in the delivery of publications and with the establishment of six postal zones will involve inconvenience and delays to both publications and Postal Service by the creation of 18 instead of 3 weighings now in vogue; and

Whereas over 600 publications in the United States have already suspended publication and many other are facing an almost unbearable burden; and

Whereas the enforcement of these sections of the law will affect detrimentally many of the 31,000 printing shops in this country, throw out of work thousands upon thousands of men and women employed in the printing industry, and deprive millions of men and women, boys and girls of their source of education, information, and recreation by enormously restricting their reading matter and penalizing those distantly situated from the source of the production of reading matter; and

Whereas Canada and Great Britain in dealing with postal matters, international and otherwise, have deliberately and carefully exempted publications from higher rates of postage during the war, to preserve the widest spread and most accessible means of stimulating patriotism and education in patriotic self-sacrifice during the war; and

Whereas the United States Government has guaranteed the owners of railroads and steamships that they shall suffer no financial loss because of Government control; it is, therefore

*Resolved*, That the American Federation of Labor in convention assembled hereby protests against the enactment and the enforcement of the war-revenue law, relating to the zone system, and increase of postage on second-class mail. That we consider the resulting development of sectionalism and the creation of zones of thought so dangerous a menace to our national unity and effectiveness as to justify war emergency action. That we view the system of rates provided in the war-revenue law not a legitimate war tax, but as a destructive charge against the fundamental operations of a great and valuable industry; that we urge immediate repeal of these sections because they will not increase revenue but destroy business from which the Government seeks revenue, and that we demand that profits and incomes of publishers be taxed instead, and, if need be, that all profits be taken over by the Government; and further

*Resolved*, That we tender to the printing trades unions and to the press of the United States our aid and assistance in any way that we can in securing for them justice and fair dealing by the withholding the enforcement of these sections of the war-revenue law, and by their entire elimination, so that this subject may be dealt with by Congress from the standpoint of service rather than for war revenue; and further

*Resolved*, That copies of these resolutions be sent immediately to President Woodrow Wilson, Postmaster General Burleson, to all Members of Congress, and to all affiliated unions, with the request that the voice of labor in this matter be given immediate and prompt consideration and attention.

The committee concurs in the resolution as amended and recommends its adoption.

The report of the committee was adopted.

Your committee considers the threatened situation outlined in resolution No. 123 so serious that it recommends that the executive council be instructed to make an effort to bring about a congressional investigation of the Post Office Department, which shall establish the cost of carrying the various classes of mail, the approximate increase in first-class mail attributable to second class, and shall charge to the proper departments, at least as bookkeeping items, the cost of service under franking privileges; this investigation also to include a thorough-going study of wage and working conditions of all classes of employees under the Post Office Department.

The committee makes this recommendation because Postmaster General Burleson and a number of Congressmen insist on approaching the problem from the standpoint of profit rather than of service to the public, and the facts at issue should be established beyond contravention. But your committee believes that the Postal Service is primarily a public service, essential to our existence and development as a nation, and should no more be asked to be self-sustaining than the Department of Justice, Agriculture, of the Army or Navy, or any other of the Federal departments. Any consideration of the Post Office Department as a source of revenue is based on a fundamental misconception of its functions.

Delegate Gayner discussed the question.

The report of the committee was adopted.

Those in brief are the reasons prompting the attitude of the American Federation of Labor on the subject. We believe first of all that the publishing industry, as every other industry, should be required to bear its just burden of taxation for the purposes of carrying on

the war. We feel, however, that the enactment of the war revenue law, so far as it relates to second-class matter, is not a war tax measure. We believe that it would be a destructive charge upon the proceeds of production; that if the publishing industry is to pay its just and full share it ought to be based on incomes or profits, if necessary. We are not defending the profits in any way of the publishers. We say take them all if necessary to carry on the war.

The CHAIRMAN. Do you regard the increases of President Wilson and Secretary McAdoo of passenger rates as a tax? Has it ever been called a tax? How do you call the increase in the rate which newspapers must pay for their poundage a tax?

Mr. WOLL. The presumption of this legislation is that it is a war revenue act.

The CHAIRMAN. No; it is not. It is expressly stated in the bill presented to Congress, and the terms of it show that it is not a war tax. It does not end with the war, and that part of the increase in charges provided by law does not have to be turned over by the Post Office Department to conduct the war.

Mr. WOLL. That is the very reason for our objection to it.

The CHAIRMAN. The increase in the rate charge is on the ground that the rate charge is about one-eighth of the cost to the Government for the service rendered the publications and the publishers.

Mr. WOLL. Then we answer you in this way, sir, that if it is based upon the assumption that the Post Office Department ought to be on a self-sustaining basis, or that the rate for the carrying of second-class postage ought to be higher because it is being carried at a loss to the Government, that they ought to be predicated upon an investigation of that subject purely and simply.

The CHAIRMAN. How many times has this been investigated now?

Mr. WOLL. It has been investigated a number of times.

The CHAIRMAN. By whom?

Mr. WOLL. It has been investigated last by the Hughes Commission.

The CHAIRMAN. Hasn't it been investigated here by the experts of the department since the Hughes Commission twice, and haven't the men who have given a life study to it, men who have been under all administrations—that is, under the McKinley administration, under the Roosevelt administration, under the Taft administration, under the Wilson administration, and are now in the Post Office Department; these experts whose business it is to ascertain the best they can with all the data at hand the cost of the service, and haven't they made their report twice since the Hughes Commission?

Mr. WOLL. And do they find that the findings of the Hughes Commission are ill founded?

The CHAIRMAN.—They find that the Hughes Commission was practically right in declaring that the cost of transporting—the transportation cost of second-class mail matter was 5½ cents. I say 5½ cents.

Mr. WOLL. The Hughes Commission recommended 2 cents.

The CHAIRMAN. The Hughes Commission found the fact as a fact that it cost 5½ cents to transport it, and said they were not finding, because they did not have sufficient data to render a decision upon it, the overhead expense charge.

Mr. WOLL. They recommended 2 cents.

The CHAIRMAN. Yes; the Hughes Commission recommended 4 cents and not a publisher in the United States, none of these people that you represent, are willing to go to 2 cents, and that was a fight against it. The fight against it was for 2 cents. That was what Mr. Hitchcock and Mr. Taft recommended, a law in accordance with the decision of the recommendation of the Hughes Commission.

Mr. WOLL. I recollect well, and your statement is absolutely correct, that we did fight even that recommendation.

The CHAIRMAN. How many more times do you want an investigation when practically every investigation for the last 25 years has covered the same ground and come to the same conclusion that the Government is losing an enormous amount of money in transporting and delivering the second-class matter?

Mr. WOLL. Our position is now, as it was then—

The CHAIRMAN (interposing). Have you ever read fully—I have never seen one man yet who has—I believe I am the only man foolish enough to read it all—I want to ask you have you ever read the report of the Hughes Commission in full and all the evidence they took?

Mr. WOLL. Yes; I read it at that time.

The CHAIRMAN. How long did it take you to read it?

Mr. WOLL. That is quite difficult for me to say now.

The CHAIRMAN. I will tell you, it would take you a week or two weeks or three weeks to read it. Here is their report.

Mr. WOLL. Yes; I have a copy of that.

The CHAIRMAN. Now the evidence that they took—I read it all, and I want to say to you and to the committee and to these other publishers that there has been investigations since the Hughes Commission, and experts have been working on the subject to see—to get it down to a scientific proposition, the exact relation between the different classes of mail as to costs, and they have gotten it just as near a basis as an outside investigating committee could if it worked for the next hundred years.

Mr. WOLL. No; their investigation has disclosed—

The CHAIRMAN (interposing). Let me put it in the record right there now. Here is what they find—and it is not very contrary to the Hughes Commission; in fact, it is in conformity with the Hughes Commission so far as the findings of facts of the Hughes Commission—that is, they find practically the same costs with respect to transportation. Here are the findings. Here is Mr. Koon's testimony before the Senate committee May 1, on page 80. The first cost to the Government in the first, second, and third zones is 5.44 cents a pound, or \$5.44 a hundred; for the fourth zone, \$6.35 a hundred pounds; in the fifth zone, \$7.76 a hundred; in the sixth zone, \$9.18 a hundred; in the 7th zone, \$11 a hundred; and in the eighth zone, \$12.62 a hundred. This includes, for all zones, a flat cost of overhead and general post-office expense charges of \$3.86 per 100 pounds.

The Hughes Commission found that the transportation cost was 5½ cents. Little economies have been effected—it found really it was 6 cents, but 5½ cents it averaged, and they suggested then some little economies by which it might be reduced so that the cost would not amount to but a fraction over 5 cents.

In addition to this the Post Office experts, acting under the direction of Congress, went into all the facts and data with respect to the

weighing and separation of the mails into different classes under the act of 1907, and from that data and other data they gathered after several months of arduous and painstaking work, they found that it cost the Government 9 cents a pound to handle and deliver and haul the second-class mail matter. Now how many more investigations do you want? This was in 1909. And experts—some of the same—in the department have been investigating and ascertaining the costs every year since.

Mr. WOLL. Let me say, of course, to derive a conclusion as to the particular cost of one class of service as distinguished from another can only be found by arbitrary figures. We know positively that there has been no scientific rule yet devised by which can be distinguished the cost of delivery of the first and second from the various other classes of mail. But however that may be—

The CHAIRMAN (interposing). How do you know that? Have you ever been in the Post Office Department connected with any of this statistical and data work?

Mr. WOLL. No, sir.

The CHAIRMAN. As to the cost, the expenses of the Post Office Department, overhead charges, and all the expenses?

Mr. WOLL. No, I have not; but it is reasonable to suppose—

The CHAIRMAN (interposing). And why do you say and why does your Federation of Labor say that these costs that have been worked out by the department are all wrong—that there is no foundation for them? I want to see what testimony you have on that.

Now, do you know the poundage that they haul of first-class mail?

Mr. WOLL. Am I in a position to answer that definitely?

The CHAIRMAN. Do you know the poundage of first-class mail, the poundage hauled for the last year, say?

Mr. WOLL. Do I know the figures? No.

The CHAIRMAN. Do you know anything, approximately, as to the figures?

Mr. WOLL. No.

The CHAIRMAN. You never thought about that, did you?

Mr. WOLL. Yes, I have.

The CHAIRMAN. Do you know, approximately, anywhere in the neighborhood of the amount of pounds hauled in the third class?

Mr. WOLL. I haven't those figures in mind; no.

The CHAIRMAN. Have you ever studied those figures?

Mr. WOLL. Certainly I have.

The CHAIRMAN. Do you know how much more the Government pays the railroads and other transportation companies for hauling a pound of first-class mail than for a pound of second-class mail?

Mr. WOLL. I can not answer you to-day, no; because I haven't the information with me.

The CHAIRMAN. You can answer me by denying it pays the same thing. Now, here is a pound of letters that pays on the 2-cent basis—I am not talking about a war tax on that—a 2-cent basis, and on that basis a pound of letters pays between 82 cents and a dollar a pound. A pound of your second-class mails pays the Government 1 cent, yet the Government pays the railroad and the transportation companies identically the same amount for hauling a pound of letters that it does for hauling—and no more—a pound of papers.

Mr. WOLL. Of course, you don't mean to have me believe though that the delivery of those letters addressed to different addresses does not cost more than to deliver just one publication to one address?

The CHAIRMAN. I say the transportation does not cost any more.

Mr. WOLL. But the matter of distributing that matter is what costs.

The CHAIRMAN. And the transportation does not cost now under the space basis quite as much a pound for letters as for papers, because a pound of papers or magazines takes up two or three times more room than letters.

Mr. WOLL. But the sorting of the mail, the distributing of it, the carrying of it—the transportation is a very small item.

The CHAIRMAN. Do you admit then that they can not find out the transportation cost?

Mr. WOLL. I am speaking of the general distribution cost.

The CHAIRMAN. Wait now. I am getting down to the transportation cost.

Mr. GARNER. May I interrupt there a moment? Suppose we take a recess for 30 minutes to go to the House and vote.

The CHAIRMAN. We will take a recess then for 30 minutes.

(Whereupon the committee took a recess for 30 minutes.)

The CHAIRMAN. I think when we adjourned I was asking you about the transportation cost.

Mr. WOLL. Yes, sir.

The CHAIRMAN. Several Postmasters General, on the advice of their experts, even before the Hughes Commission investigation, stated in their reports that it cost  $5\frac{1}{2}$  to 6 cents to transport a pound of second-class mail matter. The Hughes Commission found that it cost at least  $5\frac{1}{2}$  cents, though there were some economies that could be instituted that would reduce the cost to a fraction possibly over 5 cents. The experts in the department here estimate that it will cost between 4 and 5 cents now on the space basis—in the neighborhood of 5 cents a pound. Now, you do not doubt the reasonableness of that estimate, do you—the transportation cost?

Mr. WOLL. Assuming that to be correct, and assuming that we are not doubting those figures, then the Hughes Commission upon that investigation concludes that the rate should be but 2 cents per pound.

The CHAIRMAN. Yes; they recommend that it should be 2 cents a pound as a step in the right direction.

Mr. WOLL. Yes, sir.

The CHAIRMAN. And they said also that that was far below the cost of transporting and delivering, or even transporting the second-class mail matter, but that if you put rates high enough to cover the total cost it would be too injurious as a first step to the publishers. I agree with them.

Mr. WOLL. Which conclusion I believe the committee did not follow in its recommendation to Congress when they enacted this law.

The CHAIRMAN. Yes; we knew, or felt, after a full investigation of the facts, that the publishers and newspapers generally could stand the rate, and in order to make it so that they could adjust their business to the new rates we gave them four years—that is, three years after July 1, 1918, which would make it practically from the passage of the bill three years and eight months—permitting the rate to go into effect one-fourth each year, and we felt that there was not a publisher that could not try and adjust his business to that gradual

rate, and unless I have a good deal more evidence than I have here since we passed the bill and at this hearing I think we can do so now.

Mr. WOLL. Well, it is evident, though, that the committee here, while taking the figures of the Hughes Commission as true, not disputing those, has failed to recognize the validity of other recommendations contained in that report and in its superior judgment believes that the Hughes Commission erred in saying that the rate of 2 cents was sufficiently high.

The CHAIRMAN. At that time, to put it at once, yes.

Mr. WOLL. Of course we feel that the conditions at the present time are accentuated; that the business conditions at that time were much better; that the publications at that time could have stood 2 cents or perhaps 3 cents better than they can stand anything to-day under the various conditions confronting industry.

The CHAIRMAN. Of course you have not heard the evidence before us, but every newspaper man that came before us admitted that they made more money in 1917, the very year in which this zone system was discussed and considered and enacted into law than ever before. We were particular in asking each one that appeared before us, and while they hesitated a good deal over it, we finally got out of them that they were making more money than they ever did before, and some of them I will say were making 100 per cent more. Some of them did make in 1917 100 per cent more than they did in 1914.

Mr. WOLL. I shall be very much interested to receive that testimony, because we know from the conditions of employment that those figures can not be verified very readily.

The CHAIRMAN. That they can be?

Mr. WOLL. Can not be.

The CHAIRMAN. Suppose you are the owner of a paper. You kept up with its business. You came before us and we would ask you this question, "Did you make more money in 1917; did you return more net income on your publications than you did in 1914, or 1915, or 1916, or 1911, or 1912?" And you would say, "Yes," we ought to believe you then, ought we not?

Mr. WOLL. I should think you ought to.

The CHAIRMAN. That is what these fellows told us.

Mr. WOLL. I shall be very glad to get that evidence, if it is going to be a matter of record.

The CHAIRMAN. It is a matter of record.

Mr. WOLL. Then I want to thank the committee for being helpful to these printing trades.

The CHAIRMAN. You will find it, and if you think you can get more wages out of these newspaper gentlemen for the printers, and generally, there might be some way that you could find their increasing income from an investigation of the income returns; that is a way that you could find out.

Mr. RAINEY. Somebody ought to get it out of them. They don't want to give it to the Government.

The CHAIRMAN. We have asked two or three large publishers, after they admitted they were making more money than they were before the war, to file their returns, net income returns for 1914, 1915, 1916, and 1917, and they said they would do it if the other fellow would.



Mr. WOLL. But I presume your committee has also considered this fact: That while it may be true that some publishers have been making more money this last year than in previous years, that the percentage of those making these large profits during the last year is very small in comparison with the great numbers of publishers—

The CHAIRMAN (interrupting). That is what they told us; they appeared here for their associations and each witness said, "Now, while my paper is making more than before, the other paper is not." And we asked them to bring in that other paper and magazine and let them testify before us and not let us have it second-hand; so when they came before us and we asked them about their business that was about to be broken down, they said they were making more.

Mr. WOLL. I presume some of them would have hard work getting here, but all of them thought they would be represented.

The CHAIRMAN. One of them we questioned said he was representing 500 or 600 papers and we asked him to name one of them that is about to go under by reason of this zone system, and to name one that isn't making more money than before the war, and he admitted that he couldn't.

Mr. WOLL. I can readily understand why a man would not answer that he is about to go out of business, because the last thing a man would want to admit is that he is going under.

The CHAIRMAN. According to Mr. Post a majority of them are going, according to the pamphlet he has issued, and according to the articles I see in the magazines; practically all of them. I haven't read a magazine that had articles protesting against this zone system that didn't say it was going out of business; so I don't see, if they admit they are going to be destroyed, I don't see why a man should refuse or think it was anything out of the way to say which magazines are going out.

Mr. WOLL. Well, I can readily understand why they do not. And whether your committee recommends this change or not, the results later will show whether it is right or not, and then the burden will fall where it rightly belongs.

The CHAIRMAN. Exactly. That is absolutely true. I think you will admit that the transportation cost has been figured out pretty accurately, and we will put it at 4 cents a pound—and it is more—or between 4 and 5; now, don't you think the overhead charges and the general post-office expenses with respect to second-class mail matter would be at least 1 cent? The post-office experts calculate it at 3.86—that is, \$3.86 a hundred pounds will represent the overhead charges and general post-office expenses, as it relates to the second-class mail matter. Would you be sure that it would be at least 1 cent a pound?

Mr. WOLL. I couldn't state positively that it was 1 cent a pound, but I do know that the Hughes Commission which investigated this matter, and upon which the Postmaster General laid great stress—

The CHAIRMAN (interrupting). I am going to further examine Mr. Post in regard to his testimony on the Hughes Commission. I have a great many quotations before me from the Hughes Commission. I think a great many pages from the Hughes Commission report have not been read.

Mr. WOLL. Nevertheless, the recommendations are very brief, summing up on the findings. I take it if this committee lays great stress on the Hughes Commission it ought to follow some of the recommendations in that report.

The CHAIRMAN. By the way, since the Hughes Commission reported, the annual loss to the Government on account of hauling and delivering second-class postal matter has increased \$20,000,000 annually; so we can take that into consideration, too.

Mr. WOLL. Well, our position has been that that matter ought to be thoroughly investigated. The Hughes Commission was 10 years ago.

The CHAIRMAN. Yes; but they have been investigating and keeping up with it; they have experts whose only business is to do that, and they are paid well, and they have no financial interest in not having it correct; they are working for the Government, and wouldn't you rather prefer to take their disinterested conclusions, than an interested conclusion?

Mr. WOLL. I haven't yet found that the department has been disinterested entirely in the subject matter. It has been my observation and viewpoint that the post-office authorities have been trying to place the Post Office Department on a self-sustaining basis; that is, to have those who use this department pay for it. We do not agree with them in that.

The CHAIRMAN. You don't think it ought to be self-sustaining?

Mr. WOLL. No; because the public profits by it.

The CHAIRMAN. Do you think the letter postage ought to pay its own way through the mails, ought to pay for the cost of handling itself?

Mr. WOLL. I presume if this committee's logic is correct, then, as applying the zone rate to the advertising pages, then everything ought to be on a zone basis.

The CHAIRMAN. You really think that a letter, where there is no special privilege at all; where everybody, whether he is in the newspaper business, or the manufacturing business, or the legal or medical profession, or any kind of business or occupation that can use the first-class mail privileges on exact terms of equality, you think in logic that is just like the third-class mail business, or the second-class business, or the fourth-class business, that there ought not to be any zones in either one? That there ought not to be zones for second-class matter, although that is a business for the handling of the mail of the publishers and where they make money out of it; that is, the publisher that publishes the New York Times, or the Literary Digest, or the Saturday Evening Post, and they are publishing them for the money they can make out of them, that it is not like the fellow who makes hats and shoes? They use the second-class mail for the purpose of transporting their goods from one part of the country to the other for private profits, and you say there is no difference between that kind of mail and the mailing of letters that applies to very kind of business and no favoritism at all in that!

Mr. WOLL. I can't agree with you that a second-class mail service is entirely for the benefit of the publishers. It is my viewpoint that the second-class mail and its cheap delivery is for the benefit of the public, in the dissemination of news and knowledge.

The CHAIRMAN. You spoke of the dissemination of news a while ago. I think it was in your resolution. You spoke about its being necessary for a mother to know about her son who is in the war.

Mr. WOLL. Yes, sir.

The CHAIRMAN. Does it take any zone system or absence of a zone system to find out about that? If she lives in Texas does she have to take a paper from Philadelphia to find out about that? Isn't there a home paper that tells her the news every day?

Mr. WOLL. Yes; I suppose through the news distributing agencies she can get that news in her home papers every day.

The CHAIRMAN. Yes; in North Carolina I don't have to take a paper in New York to find out the news from the front. I live about 50 miles from a city where there is a large daily, and I get it every morning it is published, about 9 o'clock. I don't have to get a paper from New York or New Orleans to tell me the news; that is telegraphed to my home paper, and I get it as soon as the fellows get it in New York or San Francisco.

Mr. WOLL. Yes, sir.

The CHAIRMAN. So you don't need to abolish the zone system to have a flat rate to get the news to the people, do you?

Mr. WOLL. I agree with you that so far as that character of news is concerned that is true. The local papers may get that because of the news character of the dispatch that gives it.

The CHAIRMAN. You represent the laboring man, you say?

Mr. WOLL. Yes, sir.

The CHAIRMAN. Don't you think it will do them as much good to get butter and eggs and cheese and meat through the mails at cost or below cost as it will to get the Literary Digest or the Ladies Home Journal? Now, if we are going to let the Ladies Home Journal—

Mr. WOLL (interrupting). Why single out the Ladies Home Journal?

The CHAIRMAN. Don't you think it will do them fully and equally as much good to let the Government take the transportation of their butter and eggs at cost or below cost, and yet you do not protest against that, and we charge from 5 cents to 12 cents a pound, according to the zone it goes to, to transport that butter and eggs and cheese, and hats and clothes and shoes. Now, is that right? And I ask you would it do him more good to have the Government transport and deliver these things at cost or below cost than to deliver and transport the Ladies Home Journal?

Mr. WOLL. Well, you are asking me—

The CHAIRMAN. I am asking you a pretty hard question.

Mr. WOLL. Yes; but we are not dealing with that subject, are we?

The CHAIRMAN. No; but you asserted that it did the people good, and the laboring people, to have these papers get to their homes free of cost.

Mr. WOLL. I might draw the same parallel with the public-school system. We are asking them to assume—

The CHAIRMAN (interrupting). The public-school system is for everybody.

Mr. STERLING. Nobody is making any money out of it.

Mr. WOLL. I differ with you.

The CHAIRMAN. Nobody is making any money out of the public-school system. The second-class mail matter is for the purpose of giving rates to the publishers who make profits on business—

Mr. WOLL. I don't see the difference.

The CHAIRMAN. You don't see the difference. Let us see if you can see this: Suppose the Government would transport free automobiles anywhere in the United States, and made every other vehicle and every other article pay the full cost of transportation; wouldn't you call that a subsidy to the automobile dealers?

Mr. WOLL. Yes; I would.

The CHAIRMAN. Yes; you would.

Mr. WOLL. But I wouldn't call the question of literature the same thing, though.

The CHAIRMAN. Let us see if you wouldn't. The Bible is pretty good literature; don't you think it is pretty good?

Mr. WOLL. Well—

The CHAIRMAN. Well, don't you believe in the Bible?

Mr. WOLL. Do I believe in the Bible?

The CHAIRMAN. Yes.

Mr. WOLL. I don't know that that is pertinent to this issue.

The CHAIRMAN. All right. Do you think it is good literature?

Mr. WOLL. It is good literature.

The CHAIRMAN. Why haven't you in your association protested against the postal rate on Bibles, which is under the zone system? The present postal provision puts on the Bible a charge of from 5 to .12 cents a pound, dependent upon the zone. Now, if you gentlemen really wish this in the interest of literature—and I am going to mention some other books—if you really want this in the interest of literature and the spread of intelligence and Christianity, why haven't you opposed the zone system for the Bible?

Mr. WOLL. Perhaps we will, since you have called our attention to it.

The CHAIRMAN. Why haven't you done it?

Mr. WOLL. Let me understand my position clearly here.

The CHAIRMAN. All right.

Mr. WOLL. It is my understanding that this hearing here is for the purpose of laying these viewpoints before the committee and for the committee to hear it. I take it from your remarks that it is the purpose of the committee to substantiate your arguments and view of the law as it is.

The CHAIRMAN. No. You said that the law was not sound. I am asking you if it is not to the interest of the laboring man and his family to have the newspapers and news and literature go to the people at 1 cent a pound. Now, if that is true, why haven't these publishers worked to have the Bible go to the people on the same rate as the Saturday Evening Post?

Mr. WOLL. Because we have failed to do so are we to be condemned?

The CHAIRMAN. The laboring people you represent have families of little children going to school?

Mr. WOLL. Yes, sir.

The CHAIRMAN. And if they want to get a spelling book or an arithmetic, and you must admit that has a tendency to make the children more intelligent; and yet when that goes to the child, the publisher or the child or someone must pay from 5 cents to 12 cents so send it

through the mail, dependent upon the zone, and no laboring men's association, or publishers association or newspaper men's association has ever asked or appeared before Congress demanding that Congress should abolish the zone system for the textbooks for the children of the United States, nor have they asked Congress to abolish the zone system for the transportation of the Bible throughout the country, and yet you men say you want a flat rate for the Saturday Evening Post and the Ladies' Home Journal.

Mr. WOLL. Well, it may be true that we have not urged objections to the zone system as applied to textbooks, but it is true that organized labor has exercised in every State an effort to procure in every State the free textbook for the child.

The CHAIRMAN. Yes; for the State to buy it. But when the State has to haul it through the mails it has to pay the zone system of postage from 5 to 12 cents a pound. Why don't you oppose the zone system on the Bible and textbooks? Take the history of our country, which has much to do with the intelligence of the people; the law charges for the transportation of such literature from 5 to 12 cents per pound, according to the zone to which they are transported, and yet send these magazines at 1 cent from Philadelphia to San Francisco, at a cost to the Government of about 18 or 19 cents. I am calling that to your attention and want you to think about it, and at night, when you are sitting down by yourself, think whether you are really consistent, and is the spreading of intelligence among the people the real reason you want the flat rate, or is it the interest of the publishers that causes you to demand the flat rate?

Mr. WOLL. The last question I can answer you immediately. I want to answer the last question immediately.

The CHAIRMAN. All right.

Mr. WOLL. That our position is not in the interests of the publishers.

The CHAIRMAN. You said in the interest of the general public?

Mr. WOLL. Yes, sir. In the interests of the general public, and the spread of intelligence. And I will also give this matter consideration—that since you claim it is for the interests of the spreading of intelligence that the zone system should be removed from the Bible and textbooks, that you, as chairman of this committee, have failed to remove it.

The CHAIRMAN. Did you understand me to say that I favored the removing of it? I am in favor of it as it is. I asked you why you didn't protest and ask to have it removed? I am in favor of it as it is to-day. So far as I know the newspapers are in favor of it; so far as I know you and your association are in favor of it. Let me call another thing to your attention: Were you in favor of—I know your organizations did go on record in favor of the parcel post system?

Mr. WOLL. Yes, sir.

The CHAIRMAN. Why should you charge a man for transporting his meat and bread from 5 to 12 cents a pound, to send them through the mail; and why are you in favor of that if you are not in favor of the zone system?

Mr. WOLL. I think it would be well to first understand that the second class postal matter, the industry has been developed upon that particular rating, as we understand that rating to-day.

The CHAIRMAN. And that is the reason the committee three or four years ago thought it ought to be changed.

Mr. WOLL. And yet you have not followed the recommendations of the Hughes Commission. We believe this introduction of the zone system to-day to be very detrimental; we believe if the policy of the Government is to be changed, and if the delivery of second-class mail is to be placed on an actual cost basis, that it ought to be done then on a flat basis, and not on the zone basis.

The CHAIRMAN. In other words, you think that the Saturday Evening Post, that would cost the Government from 15 to 18 cents to haul it and deliver it to its subscriber in San Francisco, to transport it from Philadelphia and deliver it to its subscriber in San Francisco, should pay only 1 cent, or 2 cents, and have a flat rate, like the Hughes Commission recommended, and that the man who is living within 50 miles, or 25 miles, from Philadelphia should pay the same, when it costs the Government eight times more to transport it to San Francisco?

Mr. WOLL. I think in the interests of the general public it is well worth it; yes, sir.

The CHAIRMAN. Now, do you think it would be right instead of, say, 2 cents, to charge newspapers whose average haul is under 300 miles, and only charge magazines such as the Ladies Home Journal and the Saturday Evening Post, whose average haul is 1,200 miles, 2 cents?

Mr. WOLL. Do I believe it fair?

The CHAIRMAN. Yes; to charge the newspapers 2 cents, and charge the Ladies Home Journal and the Saturday Evening Post and Collier's Weekly, and these other magazines only 2 cents, when the average haul of the newspapers is only about 300 miles, when the average haul of the magazines is 1,200 miles?

Mr. WOLL. Yes; I think it would be right, in the interests of the general public.

The CHAIRMAN. In the interests of the general public?

Mr. WOLL. Yes, sir.

The CHAIRMAN. Has your organization ever asked for the flat rate on meat and bread and eatables generally, and on the things you drink and wear?

Mr. WOLL. Not to my knowledge.

The CHAIRMAN. Do the express companies give a flat rate anywhere in the United States?

Mr. WOLL. They do not.

The CHAIRMAN. Is there any transportation company in the United States that gives a flat rate?

Mr. WOLL. I don't understand they do.

The CHAIRMAN. Does the telephone company give a flat rate?

Mr. WOLL. No, sir.

The CHAIRMAN. They have a zone rate?

Mr. WOLL. Yes, sir.

The CHAIRMAN. Doesn't the telegraph company have a zone rate, a distance rate?

Mr. WOLL. Yes, sir.

The CHAIRMAN. Don't the railroad companies have a zone rate for everything?

Mr. WOLL. Yes, sir.

The CHAIRMAN. You think the post office should have a flat rate for newspapers and magazines; you are willing we have a zone rate

for parcel post and for the Bible and textbooks, and for all these things; you have not objected to the zone rate; and yet you claim that for the business of publishers of magazines and newspapers there should be one flat rate?

Mr. WOLL. I do not claim that in the interest of the publishers.

The CHAIRMAN. I know; but you believe the publishers ought to have it in the interests of the public?

Mr. WOLL. Yes sir; but I want you to have the matter right, because I am not appearing for the publishers; and if your attitude is correct as to the zone system, it applies to the first-class mail as well.

The CHAIRMAN. I wanted to convert you to the right idea. That is the reason I am asking you these questions.

Mr. WOLL. I am afraid you are not going to be able to do it.

The CHAIRMAN. Does any other gentleman want to ask any questions?

Mr. WOLL. I would like to be allowed to finish my statement.

The CHAIRMAN. I thought you were through when I began to ask questions.

Mr. WOLL. No; I was not quite through.

Mr. STERLING. Do you say the publishers ought to, when this zone rate goes into effect, charge more of the subscribers living at a far distance than they do of those living near by?

Mr. WOLL. I didn't get your question.

Mr. STERLING. Do you think a publisher ought to charge a subscriber more living in San Francisco than he does one living here for a magazine published here?

Mr. WOLL. If I was adopting the logic of the chairman of your committee I would say they should charge more.

Mr. STERLING. But you don't adopt it?

Mr. WOLL. No, sir.

Mr. STERLING. The publishers can equalize it by charging more of the subscribers living farther distant than they do of those closer by?

Mr. WOLL. Yes, sir. But if the logic of equity is to prevail there should be equal charges to all subscribers and to all publishers.

Mr. STERLING. Aren't you throwing the burden on somebody else when you want a flat rate?

Mr. WOLL. Throwing it generally on the people of the country.

Mr. STERLING. Those who live nearer the place where the magazines are published do not get any benefit of it?

Mr. WOLL. I take it, the general public should pay it.

Mr. STERLING. If these publishers want a flat rate to their subscribers, nobody will prevent them from making it.

The CHAIRMAN. The law makes it for reading matter.

Mr. STERLING. Yes; the law makes a flat rate for reading matter now. But the Government for hauling this manufactured product, this advertising matter, why shouldn't it charge more for a long haul than for a short haul, as is done in every other business?

Mr. WOLL. Then, if that be true, the publisher, by the same logic, should be permitted to charge the subscriber more.

Mr. STERLING. He can do so, if he wants to; I don't see why he couldn't. He pays more for everything else if he lives far distant from the place of its manufacture.

Mr. WOLL. I suppose if the industry had been developed along those lines the publisher would not object, but the public, having received that consideration, certainly are now entitled to maintain it.

Mr. STERLING. Are you one of those that think that the zone rate system will denationalize the country?

Mr. WOLL. I think it will, to a certain extent; yes, sir.

Mr. STERLING. Don't you know that the people in the far West and in the Central West get the news just as quick as the people do in the East?

Mr. WOLL. Yes; they do some things.

Mr. STERLING. I mean matters of national importance; matters that tend to shape and frame sentiment on national questions. Don't you think they get it out there just as soon as they do in New York?

Mr. WOLL. Some of it they do. But when you speak of important events, if you speak of the news carried over the Associated Press wires, yes.

Mr. STERLING. Don't you know that everything that happens in the White House, everything the President says and does of importance; everything that happens in Congress, and every speech that is made by a public man on questions of importance; don't you know that those things, and everything that happens in the European war is read in my State as quick as it is here, except the difference of an hour's time?

Mr. WOLL. I suppose they are; but it is the importance that is placed on events by writers of eminence that are not transported as they should be.

Mr. STERLING. If a great speech is made by a man in public life, in which the public generally is interested, it is published there at the same time it is here.

Mr. WOLL. Of course, that is true; but it is not the speeches of the public men only that dominate public opinion.

Mr. STERLING. It isn't only that, but I think you gentlemen who represent the magazines——

Mr. WOLL (interrupting). I beg your pardon, but I am not representing the magazines.

Mr. STERLING. Well, I will not include you. But I think some of these gentlemen give more weight to the importance of the articles written by magazine writers than they are entitled to. I think there are some good ones, but I know there is more bunk in these magazine articles——

Mr. WOLL (interrupting). Let me say that I have read some of the Congressional Record, and I think there is a good deal of bunk in that.

Mr. STERLING. I will accept the Congressional Record.

Mr. SLOAN. I will not accept the Congressional Record. The Congressional Record is the most widely read publication in the United States, and it does not deserve such criticism.

Mr. WOLL. I say it contains a great deal of bunk.

Mr. SLOAN. You know it does not, under the rules of the House.

Mr. WOLL. It may be introduced in a parliamentary fashion, but everything introduced in a parliamentary fashion is not——

Mr. SLOAN (interrupting). You termed it "bunk."

Mr. WOLL. When "bunk" is used by one of the members of your committee I think I have a right to use it.

Mr. SLOAN. You are addressing Members of the House in this committee. There are a great many slurs thrown at the Congressional Record, sometimes by respectable people, but I resent it.



Mr. WOLL. Then I think the same respect should be shown to the men who appear here.

Mr. STERLING. I did not say that in respect to you. Answer my question, if you will.

Mr. WOLL. I don't remember what your question was.

Mr. STERLING. Don't you think there is a vast amount of bunk published in the magazines?

Mr. WOLL. I shall not answer that, and use the term "bunk," because objection has been taken to it. I will say in my opinion there is matter published that I do not read; that is not of sufficient interest to me for me to read; whether it is of importance I do not care to say; I do not care to put myself in the position of a censor; that is as far as I care to say. I say there is a lot published in the magazines that I do not care to read.

Mr. STERLING. Which magazines will be affected most by the zone system? The meritorious magazines, or the light, chaffy ones, by this increased rate?

Mr. WOLL. Now you are again asking me to classify those that are meritorious and those that are without merit, and I am not going to place myself in the position of censoring the press. I do know that some of the cheapest magazines are entertaining, and some good thoughts can be extracted from the cheapest literature.

Mr. STERLING. You will agree that some are good and some are not much good?

Mr. WOLL. Yes, sir.

Mr. STERLING. Now, I am asking you which will be affected most by this increased rate?

Mr. WOLL. My opinion is that those that have good financial backing will survive, and those that have not good financial backing will not survive; and some of those that have not good financial backing and are of the cheaper class are very good.

Mr. STERLING. Do you think it would be a good thing if the magazines were discontinued, some of them?

Mr. WOLL. No; I don't think so, at all.

Mr. STERLING. Do you think the more the better?

Mr. WOLL. I don't think you could have too much literature.

Mr. STERLING. Regardless of the character?

Mr. WOLL. I think the public will discriminate in its reading matter, and will buy those they desire.

Mr. STERLING. If the public discriminates in its reading matter, why is it that the poor magazine is likely to survive and the good one likely to be discontinued?

Mr. WOLL. You state that as a fact?

Mr. STERLING. You stated that.

Mr. WOLL. No; I didn't say that.

Mr. STERLING. You say that large ones with the money behind them will survive.

Mr. WOLL. I said those with money behind them will be likely to survive.

Mr. STERLING. Regardless of merits?

Mr. WOLL. Regardless of merits; yes, sir.

Mr. STERLING. Now, why is it, if the public discriminates in its reading matter that the good ones will not survive?

Mr. WOLL. I don't see the relation between your last question and this one.

Mr. STERLING. Can you answer it?

Mr. WOLL. No; I can't; not the way you have stated it.

The CHAIRMAN. Does any other gentleman want to ask a question?

Mr. WOLL. I would like to finish my statement.

The CHAIRMAN. All right; I thought you had finished. You may proceed.

Mr. WOLL. We say this that the publishing industry—that the great mass of people receive their main education to-day from publications, and through reading the publications; it takes in all characters of literature; the business has been built up on the basis of the present rates. Your committee proposes now to alter the same, which places in jeopardy many of these publications which have been developed and built up on the existing conditions. We think that is all wrong. We think the general public, by general taxation, ought to help pay for the general second-class mail delivery.

Mr. LONGWORTH. You didn't state that proposition exactly right.

Mr. WOLL. If you will state it better for me I will be very much obliged.

Mr. LONGWORTH. You say, "Your committee proposes to do so and so."

Mr. WOLL. It has done it.

Mr. LONGWORTH. It has established the rate; as a matter of fact, Congress has established this, has enacted the law, and the President has signed the law, and it is in force.

Mr. WOLL. No; but I recall very distinctly this morning, in the session this morning, when Mr. Kitchin was investigating Mr. Post, when the question came up of Mr. Kitchin and Mr. Rainey having forced through this bill, then Mr. Kitchin said, "These conferees met, and your committee wanted to extend the zone rate matter to extend to the reading as well as to the advertising pages, and there was difficulty for us to reach a compromise, but by doing away with the zone idea on the reading pages as well as the magazine pages"—

The CHAIRMAN. The chairman didn't say that.

Mr. WOLL. If I am mistaken on that; that is my impression.

The CHAIRMAN. You put it a little strong.

Mr. LONGWORTH. Whether that be true or not—

The CHAIRMAN (interrupting). I said we insisted on no separation so far as the zone system was concerned, as between the reading and the advertising.

Mr. WOLL. And only as a compromise—

The CHAIRMAN (interrupting). As a compromise we accepted this proposition that is now in the law, as the Senate would not accept ours.

Mr. WOLL. So it was upon the insistence of this committee that the compromise was agreed upon.

The CHAIRMAN. It was agreed upon by the conferees.

Mr. LONGWORTH. The point is, when you say this committee is proposing to do something, you state the situation inaccurately. The fact is that Congress has enacted this law.

Mr. WOLL. Yes; that is true.

Mr. LONGWORTH. And the President has signed it, and it is now a law!

Mr. WOLL. Yes, sir.

Mr. LONGWORTH. So your proposition is not to combat something we are proposing to do, but it is something we have done, and you are trying to have it undone.

Mr. WOLL. Yes, sir; but the law is not yet operative. It will become operative July 1.

Mr. LONGWORTH. You hardly think Congress will change it now, in time not to have it become operative?

Mr. WOLL. Not by July 1, which is Monday; but we hope it will by the end of July.

Mr. STERLING. How many labor publications are there in this country?

Mr. WOLL. Approximately 275. Of course, that includes in the neighborhood of 75 trade journals and international trade journals which are not affected by this law, because they are not published for profit.

Mr. STERLING. How many will be affected? You say there are about 75 that will be affected?

Mr. WOLL. No; about 200 will be affected, and about 75 that will not be affected.

Mr. STERLING. That 275 includes trade journals?

Mr. WOLL. Yes, sir; they are labor journals, trade journals that are not published for profit, and that will not be affected; 200 of these will be affected by this law. They have no financial backing at all, and the danger is greater to them than to any others.

Mr. FORDNEY. Pardon me. If I understood you, when you read your resolution you make a demand of Congress that it repeal this law, and that it do so and so, and not a request.

Mr. WOLL. I don't remember the form of the resolution; it may be it was a demand.

Mr. FORDNEY. Don't you think it would have been much more gracious to have made a request?

Mr. WOLL. It might have been more courteous.

Mr. FORDNEY. And isn't it a little unusual for one man to make a demand that another man shall agree with his views?

Mr. WOLL. Well, if you feel that that is of essential importance in the phraseology of the resolution—

Mr. FORDNEY. I think it is very important indeed.

Mr. WOLL. You think it might have changed your frame of mind?

Mr. FORDNEY. No; but you should not demand that I change my viewpoint.

Mr. WOLL. I take it, as a citizen, and you as members of this committee, Congressmen, being the representatives of the people, I, being a citizen, have a right to ask of the representatives of the people and the people have a right to demand, certain action.

Mr. FORDNEY. They certainly have a right to ask it, but instead of making a demand shouldn't it generally come in the form of a request?

Mr. WOLL. Conceding that it might have been more courteous to make it in the form of a request, in substance I can't see any difference.

Mr. FORDNEY. Well, I do.

The CHAIRMAN. Have you finished your statement?

Mr. WOLL. No; I haven't. I stated that we believe that the industry, having been built on the basis that the general public ought to contribute to the distribution of second-class matter, the distribu-

tion of literature to the public generally, we believe it ought to be maintained. If, however, Congress is going to change its attitude—and it evidently is from the attitude of the committee here—then it ought to be on the cost of the service given. If Congress is going to follow that course, then it ought also to follow the Hughes Commission recommendations and do away with the zone system, because we believe that is dangerous and is not for the benefit of the public generally. I have here the final recommendations of the Hughes Commission, and it may be interesting to read them, especially so far as they relate to the zone system.

The CHAIRMAN. We have all read them. Suppose you just put them in the record.

Mr. WOLL. I will do that; I will put them in the record.

The CHAIRMAN. I read them last year in my speech on the zone system. You may put them in the record, and in that way more people will get to see them.

(The recommendations referred to are as follows:)

#### FINDINGS AS TO COST.

Summarizing our conclusions and responding to that portion of the joint resolution of March 4, 1911, which directed the commission "to make a finding of what the cost of transporting and handling different classes of such second-class mail matter is to the Government," we report—

That the evidence submitted does not justify a finding of the total cost of transporting and handling the different classes of second-class mail matter.

That there is no evidence upon which a finding can be made as to the cost for the services above mentioned of other subdivisions of second-class mail—that is, of the different sorts of newspapers and periodicals.

The policy of zone rates was pursued in the earlier history of our post office and has been given up in favor of a uniform rate in view of the larger interest of the Nation as a whole. It would seem to the commission to be entirely impracticable to attempt to establish a system of zone rates for second-class matter.

Any attempt, therefore, to establish differential rates for newspapers and periodicals mailed by publishers, proportional to the service rendered, would fall so far short of its purpose as to leave unjustified the complications of an elaborate schedule, with its attendant inconveniences. Progress in the post office, with respect both to economy in administration and to public convenience, leads away from a variety of differential charges to uniform rates and broad classifications.

In short, our conclusion is that if a rate were established commensurate with the present estimate of cost it would dislocate this part of the service and produce such entirely new conditions that a new computation of cost would be necessary, in the light of which alone could it be determined whether the rate furnished the desired correspondence between income and outlay as to this sort of mail. And it follows that, if for the reasons stated a rate equivalent to the cost estimated under present conditions can not be regarded as satisfying the requirement, the suggestion of another rate which would fairly meet and not exceed the outlays of the Government must necessarily rest on conjecture.

We are therefore of opinion that as the Government has no monopoly of second-class matter, and in view of the changes which inevitably would follow if rates were greatly increased, it is impossible to report with any satisfactory approach to accuracy what charge for the different classes of second-class mail would "meet and reimburse the Government for the expense" which it incurs in their transportation and handling.

#### DIFFERENT KINDS OF SECOND-CLASS MAIL.

The first question that arises in regard to the rate is whether any discrimination should be made between different kinds of second-class matter. The plan proposed of charging a special rate for the portions of magazines devoted to advertisements seems open to grave practical objections. The amount of space given to advertising is no criterion of the educational value of a magazine.

The commission is further of the opinion that it would be a mistake to discriminate between newspapers and magazines or other periodicals. So far as educational value

is concerned, no satisfactory distinction can be made. And we have no basis for the conclusion that the comparative cost of transporting and handling would justify a difference in rate.

We conclude, therefore, that whatever increase be made should apply alike to newspapers and periodicals admitted to the second class, and that it is impracticable in the case of newspapers to charge a higher rate for space given to advertisements. It has been suggested that the proportion of this space should be limited for all second-class matter, but the true definition of such matter is that which is devoted primarily to the dissemination of news and of current literature and instruction, and we are not convinced that this can be measured by an arbitrary standard of the proportion of space given to advertisement.

#### CONCLUSIONS AS TO RATES.

Accordingly, we recommend the following rates for second-class mail:

1. The rate of 2 cents a pound on copies mailed by publishers to subscribers, to news agents, and as sample copies, and by news agents to their subscribers or to other news agents.

2. The rate of 1 cent for each 4 ounces for copies mailed by other than publishers and news agents; that is, the present transient rate.

3. The present free-in-county privilege retained, but not extended.

Further, as we have said, the department should maintain an adequate cost system, so that the effect of the new rates may be closely observed and a proper basis may be secured for the consideration of any future proposals.

Mr. WOLL. That is our attitude on this subject matter. We believe that the second-class matter through the Post Office Department ought to be predicated on the idea of giving service to the people. That does not follow the viewpoint of your chairman that second-class postage is a privilege to the publishers. If there is a subsidy involved, it is a subsidy to the publishers generally. This morning you said, "Why can't you put it on the advertiser"? We know what the result would be. It will not be placed on the advertiser. It will be on the publisher; but if it is the intent to have the advertiser pay it, why not make a flat rate, and then it will be passed on to the advertiser under the system now in vogue.

Mr. SLOAN. In your publications isn't it true that your percentage of reading matter is much greater than your percentage of advertising matter—in your publications generally?

Mr. WOLL. In the official journals of trade unions large numbers of pages are devoted entirely to reading matter. In our daily papers they run about the same as the daily press.

Mr. SLOAN. Then, as a matter of fact, if your reading matter were carried at a flat rate of one and one-half, you would not suffer relatively as much as some of the other magazines.

Mr. WOLL. I have mentioned the fact that so far as the trade union journals are concerned they will not be affected at all, because they come under the classification "not for profit."

Mr. SLOAN. How many of those are there?

Mr. WOLL. I should judge 75 or 80 trade-union journals. But the others will. It is true their suffering will not be as great, because they are not financially supported like the other papers are.

Mr. TREADWAY. You recognize the fact that when the zone system goes into operation it will mean large revenue to the Government?

Mr. WOLL. I don't know just what the revenue will be, judging from the adverse conditions now confronting the publishing industry, many publications having gone out of the business. We know, with wages increasing, the cost of everything going into the business rising, with this new added burden on July 1, this additional cost, it

will affect many more; what percentage it will affect I do not know, but we are fearful of the result; we are deeply concerned.

Mr. TREADWAY. Admitting that it will increase the revenue, that is our object, and if it will increase the revenue, if you agree with me in the assumption that in placing this zone system on the second-class matter to increase the receipts, what would you suggest if the zone system were taken away? What do you suggest to take the place of the zone system, to produce the revenue to meet the President's demand?

Mr. WOLL. Our proposition is, that revenue should be derived principally from incomes and profits, as a general proposition. Now, if your committee feels there must be an additional revenue from industry, and from the second-class postage, then I believe it would be much better to place a rate, not upon the zone system, the geographical proposition, but on a flat-rate system, because that will give the subscriber to the publication some chance, in the far away zones. I think it will work out much better in that way. I may be mistaken about that. I know very little about the bookkeeping end of the publishing business. But I do know that if it is made on a flat rate, it will make very little opportunity for the publisher to bring up the prices as he would in the different zones.

Mr. TREADWAY. Now, do I understand you that it is demonstrated that the Government has been losing money on second-class postage? I believe your colleague yesterday did not admit that. But if it is a fact that the Government has been losing money, and wants to get even—that is, if it wants the receipts even with the expenses—you would suggest adding as much for a short haul as the zone system adds for a long haul?

Mr. WOLL. Yes, sir.

Mr. TREADWAY. So, if it is costing to send one of those publications from Philadelphia to San Francisco 15 cents, you would say to add that same price to send it from Philadelphia to New York?

Mr. WOLL. I certainly would, because if your committee says that we shall go on the zone system, then they can readily say to the subscriber, "the Government says I must pay so much to send out this magazine, therefore, I must increase it to you."

The CHAIRMAN. If you increase it 5 cents they will say the same thing.

Mr. WOLL. Yes; I presume they would do the same thing. I presume they will make the subscriber pay; no question about that.

The CHAIRMAN. All right, if that is all.

Mr. WOLL. Just one other point. You will readily appreciate the effect that will have on the workers in the printing industry, if the results follow as we believe they will follow.

The CHAIRMAN. Let me make this suggestion, if I may: Allay your fears about the laboring man. We wrote a bill, the Senate and the House, taxing hundreds of different articles, and every manufacturer protested that it would ruin, not only him, but if the tax were put on, it would be ruinous to the country and throw labor out of employment, and they had a great many laboring people writing to us, insisting that the manufacturing business would be broken up and they be thrown out of employment.

Mr. WOLL. Yes.

The CHAIRMAN. Now, they had fighting it a great many honest representatives of the laboring men. Now we proceeded to levy that tax; we had to do it to get the money to help win this war, and there isn't one of those industries that has closed up, but they are employing more labor to-day, and paying higher wages than ever before, and that is the way it will be with these magazines.

Mr. WOLL. Let me say, then, that it is not a question of fear for the future. I know what it is now. I represent the photoengravers; that is, I am employed in that particular branch. Let me say that we have practically 10 per cent of unemployment now, despite the fact that 12 per cent have entered the service.

The CHAIRMAN. Representing what?

Mr. WOLL. The photoengravers.

The CHAIRMAN. Do you attribute that to this law?

Mr. WOLL. Oh, no; because the law is not operative yet. I attribute it to the general conditions prevailing, and it is our viewpoint that to add this additional burden to them is a great danger.

The CHAIRMAN. Do you know a time in the history of your life since you have been able to read and recollect, that that condition did not exist in some industries? Take the most prosperous years, you will find in some industries a part of labor unemployed, some industry having a hard time; you will find that condition every year in some industries in this history of this country.

Mr. WOLL. Yes; but we are dealing with legislation affecting an industry, and it is our opinion—

The CHAIRMAN (interrupting). We put no tax on the things you represent.

Mr. WOLL. I couldn't say that.

The CHAIRMAN. But on the gentlemen who employ you.

Mr. WOLL. But we are a part of the printing industry.

The CHAIRMAN. We have not put any tax on you, or thrown you out of employment, have we?

Mr. WOLL. Oh, no; this comes from the general adverse conditions in the printing industry; now, to add this additional burden is the thing we fear.

The CHAIRMAN. Have you talked with these publishers? You have been here a day or two; has any one of these men told you that they have been printing less pages for their magazines this last year than they did the year before, or that they are publishing less pages of magazines now, since February, up to now, than they did last year?

Mr. WOLL. I can honestly answer you that question, and that is, I have not asked them, and they have not told me.

The CHAIRMAN. You have not asked them and they have not told you?

Mr. WOLL. I heard the statements they made here.

The CHAIRMAN. And no representative of the magazines has said to you that they have published less?

Mr. WOLL. They have not. I heard them when they were here.

Mr. FORDNEY. I just want to say to you, my friend, if you are speaking of the employment of labor in the city of Chicago, in the lumber camps and saw mills on the Pacific Coast, the Government has detailed 10,000 soldiers, and has distributed them among the lumber camps and the saw mills in order to get a full supply of labor, and they are asking for 10,000 more men; in the South it is exactly the same

way. On the Pacific coast I was familiar with wages prior to the war, and I am now, and in the lumber camps and saw mills before the war \$2, \$3 per day was the customary wages on an average; to-day wages range from \$5 to \$8 per day in the lumber camps and saw mills, not skilled labor, ordinary labor. In the South wages have doubled, and still there is a scarcity of men.

Mr. WOLL. Yes.

Mr. FORDNEY. In the saw mill they are unable to get the number of men required.

Mr. WOLL. Yes.

Mr. FORDNEY. In the foundries of the country, and in every industry I know anything about, there is a great scarcity of men; how does it happen that in the city of Chicago alone there is a surplus of unemployed labor?

Mr. WOLL. Perhaps the labor department can advise you about that. There is not a shortage that you speak of in that fashion at all. Let us also advise you, then, that there is at present being considered in Chicago by the trade union leaders the advisability of calling an unemployed convention in that city because of the large number of the unemployed. If the conditions are in the West and South as you have described, and if they are in Chicago as I have described, then there is something fundamentally and radically wrong.

Mr. FORDNEY. I know what I say is true.

Mr. WOLL. I know what I say of Chicago is true.

Mr. FORDNEY. I know that we are unable to get men to ship the lumber in the South, although now we can get the cars; this time of year ago there were no cars, and now we can get the cars and there is a scarcity of labor. A man testified before the committee the other day that the reason we have not sent fighting planes abroad was because we have not had the spruce suitable to build airplanes. I know in Michigan we are unable to get labor enough; in Michigan, where I live, labor never was so scarce; on the farms, farm labor is getting \$2.50 to \$4 a day right in Michigan; the like was never heard of before. Now, it is very strange to me that there should happen to be in Chicago the condition you speak of. I am not disrupting your understanding of it. Either you or I may be wrong, and both be honest in our opinion. I do not understand why there is such a scarcity of labor when mechanics are earning in my home town \$9 and \$10 a day for running a machine; the like of it was never heard of before, and only about half of the employees to be obtained that are required. And that is true wherever I have heard from, and I have made many inquiries.

Mr. WOLL. Of course, I can't answer as to the condition you describe as existing in the Northwest and South, but I want to reaffirm what I stated about Chicago, that some of the trade-union leaders and officers have in the last week been considering bringing about an unemployed convention, because of the great number of unemployed there. Now, if there is so much scarcity of labor in the regions you describe, and so much unemployment as I say there is in Chicago, there is something radically wrong.

Mr. FORDNEY. If the printers are out of employment—it may be true that in the printing line business has fallen off to that extent that there is a surplus of labor there; but they can find employment in another channel.



Mr. WOLL. The unfortunate feature of that is, that the younger men are retained in employment, and the older men are laid off.

Mr. FORDNEY. The younger men are now employed in France.

Mr. WOLL. I am not speaking of the younger men who are of age to be in the service. I am speaking of men as around 35 as being young men. But the man of 50 and over is hardly able to turn his labor into the various channels you speak of.

#### STATEMENT OF MR. CHARLES JOHNSON POST—Resumed.

Mr. POST. I am ready to resume, Mr. Chairman, and in resuming I would just like to say that I have received a very important communication that I would like to read to the committee.

The CHAIRMAN. Very well, sir.

Mr. POST. This is dated:

WASHINGTON, D. C., June 27, 1918.

Mr. ALLEN H. RICHARDSON,  
Publishers' Advisory Board,  
200 Fifth Avenue, New York, N. Y.

DEAR SIR: In answer to your letter, I beg to say I prefer not to accept a retainer to appear before legislative committees upon matters of public policy, as in such matters, if I have anything to say, I desire to speak only as a citizen.

I have no hesitation in saying that I regard the zone system of postal rates for newspapers and periodicals coming under the definition of second-class mail matter as ill-advised. The Commission on Second-Class Mail Matter, appointed in 1911, of which I was a member, considered this question, and reported unanimously against the zone system. We said in that report:

"The policy of zone rates was pursued in the earlier history of our post office and has been given up in favor of a uniform rate, in view of the larger interests of the Nation as a whole. It would seem to the commission to be entirely impracticable to attempt to establish a system of zone rates for second-class matter. Progress in the post office, with respect both to economy in administration and to public convenience, leads away from a variety of differential charges to uniform rates and broad classifications."

In my judgment the zone system for second-class mail matter is unjust to the publishers and unjust to the public. It not only imposes upon the publisher the additional rates upon a sectional basis, but it makes necessary the added expense for the necessary zone classifications at a time when every economy in production and distribution is most important. It introduces a complicated postal system, to the very great inconvenience of the publisher and the public when there should be a constant effort toward greater simplicity. There is no more reason for a zone system of rates for newspapers and magazines than for letters. Newspapers and magazines are admitted to the second-class postal rates on the well-established policy of encouraging the dissemination of intelligence, but a zone system is a barrier to this dissemination. If it is important that newspapers and magazines should be circulated, it is equally important that there should not be sectional divisions to impede their general circulation throughout the entire country.

We are proud at this moment of our united purpose, but if we are to continue as a people to cherish united purposes and to maintain our essential unity as a Nation we must foster the influences that promote unity. The greatest of these influences, perhaps, is the spread of intelligence diffused by newspapers and periodical literature. Abuses in connection with second-class mail matter will not be cured by a zone system of rates. That will hurt the good no less than the bad, and perhaps some of the best sort of periodical literature will be hit the hardest.

We do not want to promote sectionalism, and one country means that in our correspondence and in the diffusion of necessary intelligence we should have a uniform postal rate for the entire country. The widest and freest interchange is the soundest public policy.

I hope that Congress will repeal the provision for the zone system, which is decidedly a looking-backward and walking-backward measure.

Very sincerely, yours,

CHARLES E. HUGHES.

That is the chairman of the Hughes Postal Commission which made its report, which has been so widely quoted by this committee and by the chairman in the examination of the gentleman just preceding.

The CHAIRMAN. Now I would say to you that we would much prefer to have Mr. Hughes down here, so that we can ask him about his views, and we can show him some facts and situations that have transpired since the Hughes Commission made its report instead of simply having his hasty telegraphic views. So we would be glad to hear him if you can induce him to come.

Mr. POST. We did our best, Mr. Chairman, to get Mr. Hughes to come, and that was covered in the first paragraph of his letter, that he speaks as a citizen, and his experience and investigation in postal matters that have been so widely quoted by this committee would seem to give his words, I should think, weight on this occasion.

The CHAIRMAN. You are the first one that quoted it, and every other man has quoted it who was against the zone system. The report declared that the zone system was impracticable. We have demonstrated that the zone system is practicable since they reported. We had no parcel post zone system, and the men that fought the parcel post zone system—and they had men down here in Washington and they had men all over the United States fighting it—used the same arguments that Mr. Hughes used—or made the same assertions that he made, and the same assertions that his commission made. They said it was impracticable; it could not be worked, and it would be wrong and unjust to this section or that; and would destroy the merchant in the country or small town; that it would only serve the interests of the big catalogue houses; that it would especially destroy the hardware merchants in the country and smaller towns and cities. It hasn't hurt any of them so far as we have understood. We have had years of demonstration of the practicability of the workings and operations of a zone system, and we have it also as to books, as to bibles, literary books, histories, textbooks for schools and professions, etc. No one is now complaining about its operation. When the Hughes Commission made its report in 1911—seven years ago—we would have thought that it was impracticable to have a zone system for transporting through the mails textbooks or books of history or literature, or any other kinds of books, or other articles of commerce. Mr. Hughes hasn't had time since the Hughes' Commission Report to keep up with the progress of postal developments, especially the zone system. He hasn't had time to give it full thought and consideration. He has been too busy a man to do that. When he gave consideration to the costs of transporting the second-class mail he had nothing else to do. He was acting for the Government in the capacity of an investigating committee.

Mr. POST. The figures, Mr. Chairman, may have changed in the interim.

Mr. GREEN. Right there, in connection with the chairman's remark, was it from that letter you were reading a statement that there was no reason to apply the zone system to second-class matter that would not also apply to letters?

Mr. POST. Yes, sir.

Mr. GREEN. Well, now, that statement alone shows that when Mr. Hughes wrote that letter he surely was not giving hardly any thought to the subject at all. That statement is simply absolutely ridiculous.

Mr. POST. I hope the record will show that it is the committee which regards Mr. Hughes's views on postal matters as ridiculous, and not myself.

Mr. GREEN. I have the greatest respect for Mr. Hughes' judgment, but certainly he would not adhere to that for a moment if he were here before this committee, when we call his attention to the fact distance has very little to do with the cost of running a letter or postal card through the mails, but it has a great deal to do with the cost of putting heavier articles through the mail. I wish to answer the questions raised by the chairman and yourself in that connection, in regard to the Hughes's letter.

You will note that Mr. Hughes in that letter is not discussing the details of figures. It is perfectly possible and freely admitted on my part that figures change from year to year, possibly even from month to month. It is of no consequence, but the principles of postal functioning, postal administration in relation to the matters under discussion have not changed, and Mr. Hughes has written that letter on the basis of the fundamental principles of postal function and service to the people and not on the bills of cost.

The CHAIRMAN. Now let us go back to your pamphlet here.

Mr. POST. Mr. Chairman, might I for one moment—just for the purpose of clearing the record—there were certain questions that were asked of Mr. Woll which involved publishers, and Mr. Woll, as a representative of labor, was not in a position to answer, and I should like very much to reply to those.

Mr. Chairman, you asked Mr. Woll something to the effect why had the publishers not appeared and asked that Bibles, as good literature, be made accessible to the public? I wish to state as a representative of the publishers that I do believe that Bibles and any other good literature should be made widely and easily accessible to the public and that the Bible is a matter of public information, public communication of high importance to this country, and should be entitled to second-class rates when it goes to the readers. When it is shipped in bulk to a bookseller as merchandise it is merchandise pure and simple and not a means of communication.

The CHAIRMAN. None of you ever before this minute even expressed approval of sending Bibles through the mails at a cost lower than parcel-post rates. When you send papers and communications to the paper sellers and the magazine sellers, don't you send them at the low 1-cent rate?

Mr. POST. Oh, those go by express.

The CHAIRMAN. They go by express when you can send them cheaper than 1-cent a pound, and when the express rate is more than 1 cent a pound you send them at the Government rate at a loss to the Government and a gain to the publishers or news dealers?

Mr. POST. Oh, no.

The CHAIRMAN. Of course you do.

Mr. POST. It is a means of communication. We maintain that the post office is a means of public information.

The CHAIRMAN. I never heard of your claiming that a Bible should go at 1 cent flat rate until to-day, and that was after I called your attention to it and you saw that you couldn't be consistent otherwise.

Now, let us return to your booklet here. Turn to the fifth page.  
Mr. POST. There were other questions that were raised that only publishers could answer.

The CHAIRMAN. I would like to get a line on this now. You can refer to that later.

Now turn to page 5. On page 4 is a map. We had finished page 3. On page 3 you say this:

Therefore this 50 to 900 per cent periodical postage increase law discriminates most viciously and unfairly against the Western States from Ohio to the Pacific coast.

I think you are willing to concede that there is no 50 to 900 per cent in that to be shown.

Mr. POST. The law for the increases on magazines is in those proportions.

The CHAIRMAN. Now, we have shown that you absolutely misstated that; in spite of the plain letter of the law and illustration here before you, you still misstate it.

Mr. POST. If we were speaking of the advertising, say 100 to 900 per cent, but we are speaking of both reading matter and advertising.

The CHAIRMAN. And there is no such increase on both. Well, on page 5 you make this statement, at the bottom of the page:

Express companies pay dividends and carry cheaper through same zones than post offices.

Did you think that was true when you put that in that book?

Mr. POST. Yes, sir; the express companies pay dividends and they carry through the same zones and their own rates show that they carry cheaper than the Post Office Department rates under this law.

The CHAIRMAN. Let us see. I think I will show you that that was a very clear and it would appear deliberate misstatement of the facts.

You have here on top of page 5, the left-hand side, above the rates given, these words: "Low express rates per pound on perishable foods." Opposite that and above an alleged postal-zone rate you have: "High U. S. Government rate per pound on clean, neat periodicals." You didn't say "clean, neat advertising portions of periodicals," did you, but the periodical itself?

Mr. POST. You can not separate the advertising from the reading matter. They are a unit.

The CHAIRMAN. You have said that a dozen times, but the law has separated them.

Mr. POST. The law has separated them for the purpose of discriminatory postal rates.

The CHAIRMAN. Everybody knows that you can count the number of pages which are given to advertisements and you can count the number of pages that are given to reading matter, and that is the division.

Now, let us see if you have stated the facts about it in here. In this table of comparisons of rates you say that from Wisconsin to New York City the Wells, Fargo Co. will carry a pound of butter or chickens or honey for 3.9 cents a pound, while the Government is going to charge in this postal-zone rate for "clean, neat periodicals" 6 cents per pound. Didn't you know that that was not true?

Mr. POST. That simply quotes the rate from the law that is provided there.

The CHAIRMAN. Will you name one periodical that will have to pay as much as 6 cents per pound from Wisconsin to New York?

Now, this morning you evaded everything I asked, and I had to screw out every question from you as though I had a gimlet in your back and tongue.

Mr. POST. Mr. Chairman, I answered every question the moment I had an opportunity, and continued my answer as long as you would permit me. [Laughter.]

The CHAIRMAN. I say, name one periodical in New York City that will have to pay 6 cents when this zone rate goes into effect, going from New York to Milwaukee, Wis., for instance.

Mr. POST. The trade magazines, which are almost entirely advertising, are those that are affected by that.

The CHAIRMAN. Name one.

Mr. POST. Every pound of advertising pays that rate in every magazine that is carried.

The CHAIRMAN. You decline to name because you can't name a magazine or even a trade journal on which the postage will be 6 cents for that distance under the zone-system rate; there is not one. Take the Ladies' Home Journal—

Mr. POST (interposing). We are comparing rates.

The CHAIRMAN. I am comparing exactly what you have compared here, by the pound, and that is what you have in your booklet.

Mr. POST. Yes, sir; rates.

The CHAIRMAN. Now, take the Ladies' Home Journal, that is your illustration, with 50-50 per cent advertising and reading portions.

Mr. POST (interposing). I didn't make illustration of the Ladies' Home Journal.

The CHAIRMAN. Isn't that a clean, neat periodical, or is it a dirty, filthy, obscene periodical?

Mr. POST. Mr. Chairman, I wish to point out—

The CHAIRMAN (interposing). You can answer my question very easily.

Mr. POST. I will answer your question, Mr. Chairman, if you will let me finish my answer. I shall be very glad to.

The CHAIRMAN. Is the Ladies' Home Journal a neat, clean periodical?

Mr. POST. Yes, sir; but it is not, of course—you have raised the illustration of the Ladies' Home Journal.

The CHAIRMAN. You gave to-day the Ladies' Home Journal as an illustration. You admit, then, that you meant by these rates only trade journals?

Mr. POST. Oh, no.

The CHAIRMAN. Then why didn't you tell the public in the booklet what you did mean and why don't you tell us?

Mr. POST. I have specifically stated the kind of magazines and exactly what was meant. I wish to state that you have taken these two headings entirely and absolutely out of their connection, for if you will read the paragraph down at the bottom of the page—

The CHAIRMAN (interposing). I read that. I am going to show you the deception in it.

Mr. POST. Mr. Chairman, if I may finish my answer, that is the only request I make, and I make that perfectly respectfully.

The CHAIRMAN. All right.

Mr. POST. At the bottom of page 4 is the paragraph:

Advertising page postage cost only is quoted—for the advertising pages make possible the periodicals. Reading pages have been increased 50 per cent flat.

The CHAIRMAN. Yes; and that has absolutely no meaning in connection with page 5 and the table of comparison. Did you give your readers anything in this table, any notice that you simply meant trade journals and advertising rates in them? And didn't you know, too, that when you put that table in that the Government did not transport the advertisements separate from the reading matter? It all went in together as one periodical.

Mr. Post. I have described that statement accurately, in that I have said at the bottom of page 4: "Advertising page postage cost only is quoted." So that every figure in that table applies only to advertising pages and nothing more.

The CHAIRMAN. You didn't say that on that page, did you?

Mr. Post. I have said that, sir, as close as it is possible to set the composition in the preceding paragraph.

The CHAIRMAN. Did you put that in thinking that anybody, with your explanation there, would believe from the way you put these figures in, and from the headlines you put to the table, that you just simply meant that advertising portions would pay six cents and 10 cents and 9 cents, the figures you give?

Mr. Post. Let me explain how a magazine is made up.

The CHAIRMAN. I understand that.

Mr. Post. No; you don't understand, or that question would not occur. May I give you the information?

The CHAIRMAN. The way a magazine is made up has nothing to do with the subject we are discussing. I will make you admit, then, if you will admit the truth—and I think you will when you see it—that you have not given the rates correctly and that you have deceived the readers of this book by your Wells-Fargo and Government rates. Didn't you intend for your readers to understand that you could get—that the Wells, Fargo Express Co. would send 1 pound, 1 single pound, of honey from Wisconsin to New York City and deliver it to the purchaser at 3.9 cents?

Mr. Post. I meant exactly what was stated there, sir. It speaks for itself.

The CHAIRMAN. And it speaks just as I have said. And did you not—

Mr. Post (interposing). Mr. Chairman, will you permit me to answer the question in full, and I will be very glad to proceed to the next one?

The CHAIRMAN. Didn't you mean to have the readers to understand that the Wells, Fargo Co. would take 1 single pound of butter like the Government would take 1 single magazine, or 1 single pound of chicken, and send that to New York from Ohio for 2½ cents just as this table shows? Isn't that what you intended the readers of this to believe?

Mr. Post. I have not been able to answer the preceding question yet.

The CHAIRMAN. Answer these pertinent questions and then you can answer any other as you please. I asked you if that was not what you intended the readers to believe, that the express companies would do that?

Mr. Post. I wish to answer the preceding question in regard to where you stated, did I put this at the bottom of the page—or in substance that—in order that these column headings would appear

at the top? I wish to state that the way in which manuscripts are set in type, paged in pamphlets, books, magazines, or otherwise, is on this basis, that the matter is sent to the compositor, who sets it up and returns you what is known as a galley proof, with the thing all in a long slip, which you are probably familiar with; that you then give an order on it, an O. K., and he pages them up, and this is his paging.

The CHAIRMAN. The bottom of the fourth page does not explain the headlines to the table or the table itself. I will say this: In my judgment—I may be wrong—but any man that would send that out in that shape with the headings up there, "High United States Government rate per pound on clean, neat periodicals," sent it out either in ignorance or to deceive somebody.

Mr. Post. I differ with you absolutely. There is absolutely nothing to indicate that.

The CHAIRMAN. You don't answer me about the Wells, Fargo Co.

Mr. Post. I am very willing to take up the next phase.

The CHAIRMAN. Do you mean to say that the Wells, Fargo Co. will send—and did you intend for the readers to believe that it will send—one single pound of butter from Ohio to New York City for 2½ cents and deliver it?

Mr. Post. No, sir.

The CHAIRMAN. Well, you said so in the booklet, page 5.

Mr. Post. And the post office will not.

The CHAIRMAN. I said the express company that you said will do it. The post office will send one pound of butter and deliver at parcel post rates.

Mr. Post. Mr. Chairman, I can not answer your question in your words. I can only answer your questions in my words and from the information I have at hand.

The CHAIRMAN. Let me tell you right now, Mr. Post, in my judgment and in the judgment of the committee—and I think the committee will bear me out—you have evaded every direct question I have asked you to-day. Now, you need not evade this. I propose to get the truth about these matters from you, if possible, if it takes all summer to do it, and the truth is you misstated facts from beginning to the end of your booklet, and no misstatements are more glaring than those contained in your table of comparison and your comments thereon.

Mr. Post. I am endeavoring to answer you.

The CHAIRMAN. You have before you your booklet. I ask you, did you intend for the readers of this document to understand by the figures you have given here and the headings you have made that the Wells, Fargo Co. would take one single pound of butter or chicken and send it from Ohio to New York City and deliver it to the consignee for the small sum of 2½ cents?

Mr. Post. I meant them to understand that that was the rate per pound, exactly as quoted.

The CHAIRMAN. You don't quote it that way. And do you think that the Wells, Fargo Co. would do that?

Mr. Post. I have their rates.

The CHAIRMAN. Will they do that?

Mr. Post. I have their rates, sir. It was compiled from their rates.

The CHAIRMAN. You say you have got their rates. Will the Wells, Fargo Co. take one single pound of butter and take it from Ohio to New York City and deliver it to the purchaser at his home in New York City for 2½ cents?

Mr. POST. It will carry it in certain units.

The CHAIRMAN. You put that table in and your comments on it for the purpose of deception, and you can't make anybody who has heard your testimony to-day believe otherwise.

Mr. SLOAN. Mr. Chairman, can not you get an answer to that question? The committee is entitled to it.

Mr. GREEN. It is as simple as can be.

The CHAIRMAN. We absolutely refuse to do it. Don't you know that the Government will take 1 pound through the mail, 1 pound of the Ladies' Home Journal—if it weighs a pound—or if it weighs more or less than a pound, it will do it—at the rate of per pound provided in the zone system provision and deliver it at the home of the subscriber?

Mr. POST. I am comparing rates per pound. If the answer you wish is that the express company deals in larger units, that is perfectly true.

The CHAIRMAN. I am not referring to units or larger units; but I ask you again, do you know or do you believe that the Wells Fargo Express Co. will take one single pound of butter and carry it from Ohio and deliver it to a purchaser of that one pound of butter in the city of New York for 2½ cents? Now, you can answer that.

Mr. POST. It will do that at that rate. I think the unit they take it in is higher than that.

The CHAIRMAN. Now, you do not want to tell the truth about it. That is the fact, isn't it?

Mr. POST. I am answering the question. I am saying that the unit—I don't know what the unit is, but I think it is 15 pounds of butter that they will take on that and deliver it.

The CHAIRMAN. If there was a judge trying a case and you were a witness—a judge of the most splendid temperament, of the greatest patience—he would either make you answer these questions direct or fine or jail you for contempt if you did not answer.

Mr. POST. I am endeavoring—as they are matters of great importance and great exactness—I am endeavoring to answer them with absolute exactness. I have stated that the unit for butter—

The CHAIRMAN. I didn't ask you for units of butter. You said nothing in your tables to comments about higher units of weight and in that was a pure deception.

Mr. POST. That is the important part of it.

The CHAIRMAN. You didn't say units in your booklet, and I am calling your attention to that fact and trying to show to this committee and to others here, and to the readers of these hearings, the deception that is contained in this document which you sent out to the public.

Mr. POST. I know that you believe that there is nothing good on our side and that it is all deception.

The CHAIRMAN. I can not make you answer it, and I will answer for you. You do know that the Wells Fargo Express Co. will not take one pound of butter from any place or city in Ohio, say, from Cincinnati, and carry it to the city of New York and deliver it to the



home of the purchaser of that pound of butter for 2½ cents. You know that is not true, and yet you put in your document which you sent out to the public that it would. You know another thing—

Mr. Post (interposing). "Per pound" is the phrase I used.

The CHAIRMAN. And you know that the express company will not take a single pound, or in bulk and deliver it in single pounds to the several purchasers at their homes, for a price as low as twice as high as the Government will magazines under the zone rate. And you know another thing, that from Seattle, Wash., to New York City the Wells Fargo Express Co. will not take one pound of fresh fish and carry it to New York City and deliver it to the fellow who purchases it for 7 cents, either, as you say it would in this pamphlet.

Mr. Post. The figure I have given there is from a fish that I had sent to me.

The CHAIRMAN. One pound of fish?

Mr. Post. No, the weight is given, the gross weight of 15 pounds, the fish packed in ice and all. It was sent at the rate of 7 cents a pound. That was the only point. There was no evasion in that.

The CHAIRMAN. Why I called your attention to the fish is, to show you the deception in the other rates. You put as to fish, now, from Seattle to Washington—because 7 cents would sound too unreasonable for one single pound of fish—nobody would believe that—as to fish from Seattle to New York City you put "15 pounds gross weight," and the very fact that you put 15 pounds for the fish from Seattle to New York and did not put a larger number of pounds than one pound for the other articles shows (that the man that got up that and sent it out intended to deceive the public and make them believe that it was transportation and delivery of one single pound.

Mr. Post. If I said "fish," fish varies so much in pounds that pounds mean nothing at all, so that when you say you can send fish for 7 cents it depends upon the size of the fish.

The CHAIRMAN. Anybody who would read that would understand that it costs 10 cents postage on the pound to send from New York City to Seattle a magazine, when the Saturday Evening Post, the Ladies' Home Journal, the Forum, the North American, the Metropolitan, McClures, Munsey's, and all that class of magazines could not possibly cost as much as 6 cents under the zone rates.

And you have got here from Arkansas to New York City 7 cents for "clean, neat periodicals." Well, it could not possibly be—not one of the periodicals or magazines you represent could possibly cost as much as 5 cents, but you wanted the readers in Arkansas to believe that they would be charged at least 7 cents.

Mr. Post. You are assuming that I represent every periodical.

The CHAIRMAN. Now here is another statement you made. You said:

This comparison of prices between the Wells, Fargo Express Co. and the proof that it charges from 20 to 35 per cent less for handling butter, cheese, eggs, fish, and farm products generally, than the post office charges for handling neat, easily handled newspapers and periodicals, points plainly to the guesswork character of this 50 to 900 per cent newspaper and periodical postage increase legislation.

Well now, you knew when you wrote that that there was not a word of truth in it. And let me show it so you can see it. Do you believe that the Wells, Fargo Express Co. would take 100 pounds of butter, each pound in a separate package, and put it all in one bulk like you

do your magazines, of 100 pounds, and send that 100 pounds from Ohio to New York City, and then take out each one of those one-pound packages and deliver it to the homes of Tom, Dick, and Harry, who purchased that one pound, one-fourth as cheap as the Government would do it under the zone system? Don't you know it would not do it one-fourth as cheap as will be done under this zone rate? Yet you tell the people in the pamphlet that the Wells, Fargo Co. would do that very thing for some 20 to 30 per cent cheaper.

Mr. Post. Yes, sir.

The CHAIRMAN. Now, Mr. Post, don't you know that that was put in there to deceive somebody; there is not a scintilla of truth in it.

Mr. Post. No, sir; it is a comparison of units and weights per pound.

The CHAIRMAN. You didn't say that, and you don't say that at all, and when you compare it with units and pounds it doesn't do what you say either. Suppose you take now 100 pounds of magazines, say the Ladies Home Journal, each weighing about a pound, addressed, say, to Atlanta, to 100 different people in Atlanta. The Government would take that to Atlanta. The bulk package will be carried to the post office and the post-office clerks will open it, take out each journal, assort them to the carriers and each one will be delivered from house to house to the several subscribers, under your zone rate, for less than 4 cents—for less than  $3\frac{1}{2}$  cents a pound package.

Do you mean to tell this committee, as you intended for the readers of your pamphlet to believe, that any express company in this country would take that hundred pounds at the rate of  $2\frac{1}{2}$  cents a pound and take it to Atlanta and go into the package and deliver each one of those separate pounds of butter to a hundred different people in the city for  $2\frac{1}{2}$  cents a pound? Now you can answer that question.

Mr. Post. If you will allow me——

The CHAIRMAN (interposing). Any man can answer that question yes or no, and a man that wants to tell the truth and be candid with this committee will answer it one way or the other. What do you say about that?

Mr. Post. Allow the express companies to compete with the post office in these fields as they most certainly will. It was only a few years ago that a company or corporation or group of responsible citizens of Chicago, I think it was, offered, if they were given the facilities, to give better service than the United States Post Office Department does, and at cheaper rates, and make a profit for the sockholders besides.

The CHAIRMAN. Well, I tell you, Mr. Post, it certainly does reflect upon your candor or sense of truth or intelligence to give that kind of an answer to a direct question which I asked you.

Mr. Post. I know, Mr. Chairman, that I have no reputation for intelligence in your mind.

The CHAIRMAN. I think I am taking too much time exposing the deceptions in this book.

Now I want the committee to listen to this bold audacious misstatement and deception. I am not going to say now who did it and whether it was intentional. I am going to let the public judge. Now this is another page. This is page 6 now. He says here that

the Wells Fargo Express Co. will collect this stuff and deliver at the homes, when he knows—and if you don't know it now you correct me—when he knows that no express company in the United States will take 100 pounds in bulk, containing 100 separate pound packages, and send it to a city, and then go into and take out each package and deliver it to the hundred several purchasers. They don't do that. They couldn't do it for 25 cents a pound. Yet he tells the readers of this that that is what the express company does do—will do.

Now one other thing—

Mr. POST (interposing). I thought you wished me to reply to that.

The CHAIRMAN. No; because you won't answer that or any other question like a candid man.

Mr. POST. Then do I understand that you refuse me the opportunity to answer these statements of facts?

The CHAIRMAN. No; I have given you every opportunity in the world. Didn't you do this?

Mr. POST. If you order 15 pounds of butter or 15 pounds of periodicals, the Post Office Department will charge you more under this law for the delivery of the 15 pounds of periodicals than for the 15 pounds of butter.

The CHAIRMAN. From where?

Mr. POST. From any point that you have in mind.

The CHAIRMAN. From any of these points?

Mr. POST. From any of these points.

The CHAIRMAN. That is not true. But that is not the way the Post Office delivers, and you know that the Post Office delivers two or three or four times cheaper, if you put 15 pounds of magazines in a bag, each magazine directed and addressed to 15 different individuals in the city, or wherever you send it to, than the express company, and you know the express company would not transport and deliver for 25 cents a pound in that way.

Mr. POST. No; there is a comparison of rates—

The CHAIRMAN (interposing). And you would have the public believe that this express company would take 15 pounds of Ladies Home Journals, 15 magazines, addressed to 15 different persons in my town, and deliver to each one at their homes a good deal cheaper than the Government would do it under the zone system? Do you believe that?

Mr. POST. Yes; I do. I have said right here what my belief is.

The CHAIRMAN. Well, I just want that in the record. No company has ever done that yet.

Mr. POST. It is the slack and the overhead of the Post Office that takes care of the second-class mail. That, I stated yesterday, is the theory of second-class mail.

The CHAIRMAN. Now take the Ladies Home Journal, that delivers this 15 magazines at Scotland Neck in one package but addressed to 15 different parties. Suppose they are addressed to 15 different parties on a rural route 10 miles from the town of Scotland Neck. Will the Wells, Fargo Express Co., or any other express company in this country, deliver those 15 magazines addressed to people on these rural routes, out in the country, to 15 different parties on those routes, for 2½ cents a pound? Will they do it for any price? And can they do it for any price? The Government will deliver them on the rural routes.

Mr. Post. When we are making a comparison of express-company rates with postal rates we are comparing express company rates where express service exists and where postal service exists. We are comparing like quantities.

Mr. GREEN. Mr. Post, is there any question you can answer directly?

Mr. Post. I am afraid that the only satisfactory answers I could make to the questions would be those that would concur with the views of the committee.

The CHAIRMAN. Did you let your readers understand that the Government in giving this great service to your magazines—and charging a little higher rate under this zone system—would carry these magazines 10 or 20 miles out into the country from the post office and deliver to the subscribers along the route, deliver to the homes of individuals in the town, and that no express company in the United States does that or can do that?

Mr. Post. What I stated was plainly set forth there, Mr. Chairman. I don't believe I could make any answer that would be satisfactory to the chairman or the committee on that, and it is fully set forth in the book.

The CHAIRMAN. Now this is the fourth paragraph from the bottom, page 6:

This is not the case. Publishers deliver periodicals to the post office, already sacked and routed for shipment, and in very many cases routed, sorted, and packed to the car; and the first act of the post office is merely to seal the car. Furthermore, the Wells Fargo ships by express in express; periodicals are shipped in freight cars by the Post Office.

Now you would have your readers believe that here is an express company shipping articles by fast trains at a good deal lower rate than the Government proposes, according to your misleading figures, to charge publishers under the zone system, and that the Government is going to ship periodicals by freight. Why didn't you tell them that it was only the magazines, as I suggested this morning, only the magazines and periodicals that were published not more frequently than twice a month which could be carried by freight; that they only composed 10 per cent of the total carriage of newspapers—the total haul of magazines and newspapers, and then only short distances? But you would have your readers believe that all of these periodicals are carried by freight.

Mr. Post. I don't know what question is involved in that. I would be willing to answer it if there was one.

The CHAIRMAN. Do you believe you stated facts?

Mr. Post. It seems to me, with all due respect to the chairman, that the witness is listening to characterizations rather than questions. The document speaks for itself.

The CHAIRMAN. No; I asked you if that was a fact.

Mr. Post. That is drawn from the Postmaster General's statement, to which I referred this morning.

The CHAIRMAN. I want to say for the Postmaster General right now that the Postmaster General never in his life made such a statement. It is not in print anywhere, and as I showed you in connection with the letter you sent to a lady in Texas, you misquoted the Postmaster General, and you had before you the Postmaster General's report and you read it yourself, and knew you were misquoting him when you wrote it.

Mr. Post. No, sir; I was quoting periodicals on that, and you are comparing periodicals with the bulk of mail, and I was speaking solely of periodicals.

The CHAIRMAN. Ninety per cent of papers and periodicals go by mail, 10 per cent by freight, yet you would have it appear here that it is all carried by freight.

Mr. Post. The great bulk of the magazines are monthly magazines, general periodicals, or monthly periodicals, comparatively few weeklies, and I was—

The CHAIRMAN (interposing). Gentlemen, I haven't time this afternoon to go through all of this booklet and show that upon every page, as I first made the statement this morning, there is a gross misstatement of the facts and a plain deception, whether intentional or not. In view of the answers and demeanor of the witness, I need not say. All who heard him know.

Before adjourning I want to ask you one other question about something which you state in the booklet which is not true. I want to turn to page 12. Then I want to refer to that map which you had this morning. Now listen, gentlemen. This is on page 12:

What President Wilson thought of the vicious zone system.

These are the words of Woodrow Wilson, President of the United States, when he was governor of New Jersey. Woodrow Wilson denounced the postal "zone" system for newspapers and periodicals when a former effort was made in Congress to enact a similar and equally vicious and destructive law.

I challenge you to find one word in that speech, extracts of which you quote here, that mentioned the zone system or denounced it. Don't you know that Woodrow Wilson never referred to the zone system; never denounced the zone system in that speech, and no zone system was in issue or in question at that time?

Mr. Post. I am speaking upon information furnished me, and that I understood was in regard to a law that was contemplated for the establishment of postal zones.

The CHAIRMAN. There was no zone system in issue. That was the Hughes Commission recommendation to which he refers, the increase to two cents flat rate, and yet you would have your readers believe—because the President is very popular throughout the country—that Woodrow Wilson had "denounced this vicious zone system," as you made your readers believe that George Washington and Abraham Lincoln denounced it, although upon challenge by me this morning you couldn't show where they ever said a word about it.

Mr. Post. The document speaks for itself, Mr. Chairman.

The CHAIRMAN. I haven't time to go through it now. I wish I had. If you can come next week I will go through every page of it.

Now, if you will turn to your map which you had this morning—is this it, pretending to show that immediately after the decrease of the rate of second-class postage matter in 1885 there was an increase in the receipts of the Post Office Department? [Exhibiting chart]. You said from such rate.

Now, Mr. Post, somebody else has imposed on you, or you are trying to impose on us and Congress. I am going to show you that this map as you have it and what you said in connection with it is about the biggest piece of deception that has been presented to the committee, and while you may be perfectly sincere in your statements yesterday, what you said as to the increase in postal receipts

immediately after and on account of the decrease in the postage rate on second-class mail matter in 1885 was absolutely unfounded, and you opinion that the decrease in postage rates on second-class mail matter in 1885 caused large increases which did not exist, is very unfounded.

Mr. POST. I wish to be very exact. I said these charts established a plain relationship.

The CHAIRMAN. Now let us turn to the Hughes Commission report, to page 62. Take the figures before 1885, the year in which this second-class postal rate was reduced from 2 cents to 1 cent on second-class matter.

Mr. POST. From 1879.

The CHAIRMAN. Yes, and you will find instead of the facts being as you said yesterday, that there was a larger increase of percentage of the poundage of second-class mail matter from 1879 to 1885 under the 2-cent rates than there was for the six years after 1885 under the 1-cent rate.

Mr. POST. Are we looking at the same charts, Mr. Chairman?

The CHAIRMAN. I am looking at page 62 of the Hughes Commission report, to show you that instead of the percentage of increase being larger after the decrease in rate was put into effect in 1885, it was a good deal smaller.

Mr. POST. Is that the map you have? [Indicating.]

The CHAIRMAN. I mean the map you had yesterday showing the increases.

Mr. POST. I am trying to identify the map, because that map was compiled from figures in the latest report of the Postmaster General. I am wondering if this is the map. We wish to be accurate.

The CHAIRMAN. I don't know. Didn't you introduce a map yesterday to show that after this second-class mail rate was reduced from 2 cents to 1 cent in 1885, there was a gradual increase in the receipts and returns from second-class mail to the Post Office Department?

Mr. POST. I think that is another map than the one you have taken here.

The CHAIRMAN. Well, that is what you had your map for.

Mr. POST. If we can both establish the map, we can speak on the same subject, because this map is taken from the Postmaster General's report of 1917, which dealt with the per capita revenues of the post office.

The CHAIRMAN. I have shown you by the Hughes report here, the figures they gave, that there was a less percentage of increase in the poundage of second-class mail matter for the six years after this reduced rate went into effect than for the six years before and therefore less receipts.

Mr. POST. Well, as the map is my guide and I am responsible for the n——

The CHAIRMAN (interposing). Now, then, here is the statistical abstract —

Mr. POST (interposing). Here is the one, I think. I think this one will probably give us a better comparison. It compares the amounts of postal receipts and deficits from 1885 to 1917.

The CHAIRMAN. Now, I will show you that the deficits began to increase in the Post Office Department the very year after this decreased rate went into effect.

Mr. Post. Then, if you will turn to this chart here [indicating] this is a comparison of postal revenues.

The CHAIRMAN. Here is the statistical abstract, showing the increase or decrease in deficits in the Post Office Department, of domestic mail—of course, foreign mail is left out—for the six years before and after reduction of the rate. Now, listen, Mr. Post. Instead of being what you said, for the six years preceding this reduction of the postal rate on second-class matter in 1885 the deficit in the Post Office Department on domestic mail averaged yearly \$14,600,000.

Mr. LONGWORTH. You mean the average per year?

The CHAIRMAN. Yes, for those six years preceding the reduction of the second-class postal rate it was \$14,600,000. For the six years immediately succeeding or following 1885 the reduction of the second-class postal rate, it averaged \$23,000,000, more than 70 per cent increase in deficit. So what you said, and your map, is really wrong and misleading.

Mr. Post. No, sir, Mr. Chairman. Will you please put the map in front of you so we can follow it together?

The CHAIRMAN. I don't care about the map. I know you put the map in to show an increase in revenue from second-class postage, and a decrease in postal deficits. You said there was an increase in revenue and decrease in deficits, and you said the map would show it.

Mr. Post. These figures are drawn from the Postmaster General's report of 1917, and are expressed in percentages compared with the expenditures.

The CHAIRMAN. Well, then, you have made your map wrong.

Mr. Post. There is an admitted deficit, sir. That is clearly shown, just exactly as you have stated it.

The CHAIRMAN. I have it right here before me in the statistical abstract, and I am going to give it to you.

In 1879 the amount of money collected was \$30,000,000. That had increased in 1885 to \$42,500,000.

Mr. Post. A deficit?

The CHAIRMAN. No; I am talking about the revenue now.

Mr. Post. The deficit was 14.95 for that year.

The CHAIRMAN. Now, from 1885 to 1890 it had increased from \$42,000,000 to \$60,000,000. That is the total revenue. This increase was from first-class mail, letters, cards, etc. There was an actual decrease in receipts from second-class mail matter—from papers and periodicals.

Mr. Post. The deficit was 8.15.

The CHAIRMAN. Wait a minute now. The deficit in 1885 was \$15,500,000. The next year it rose to \$16,500,000. The next year, 1887, to \$21,000,000; the next year, 1888, \$24,000,000; the next year, 1889, \$24,000,000; 1890, \$26,000,000; 1891, \$28,000,000; 1892, \$31,000,000; 1893, \$34,000,000 and 1895, \$38,000,000.

Now, then, your deficits instead of increasing, decreased after you cut down this rate. Now, on your second class—let me go back to the Hughes Commission report, page 62—

Mr. Post (interposing). But we are not comparing the same figures.

The CHAIRMAN. I am comparing like figures.

Mr. Post. I am quoting the same volumes expressed in terms of percentages.

The CHAIRMAN. I don't know about your volume and your percentages. I am just showing what the actual facts are, contrary to your map, and to what you said.

Mr. Post. Then the part of comparison has no bearing on the map, sir.

The CHAIRMAN. No; because your map is wrong, based on wrong figures and what you said was wrong.

Mr. Post. The map is drawn from exactly the same sources that you have before you, and is put into percentages for convenience.

The CHAIRMAN. Let's see what we have got for second-class mail matter, now. In 1885, when the rate was 2 cents, the Government collected \$2,021,000 from papers, periodicals, and magazines. The next year they collected only half that, because it fell off just exactly half. We had reduced it to 1 cent—from 2 cents to 1 cent. We collected only \$1,099,000.

In 1887 they collected only \$1,202,000; the next year, \$1,430,000; and it was six or seven years before it ever got—with business increasing all over the country—before it got back to the amount that we received under the old rate in 1885.

There are the facts, and yet in your statement you gave the facts as exactly contrary to that. Now, somebody has willfully misled you, and in return you have misled or tried to mislead many other people, no doubt.

Mr. Post. You have read those figures from the report, and they are in volumes.

The CHAIRMAN. I have read those last figures from the report of the Hughes commission, which is corroborated by the statistical abstract right before me.

Mr. Post. Quite correct. I should like to read the deficits in 1885.

The CHAIRMAN. Let me tell you another thing that you didn't know. You attributed whatever increase you could find to the second class, the reduction of second-class matter. Did you know that in that same year we reduced the letter postage from 3 cents to 2 cents for the same year, and that letter postage increased throughout the United States, and while the revenue from letter postage in two or three years began to increase, your revenue from second-class matter decreased?

Mr. Post. You will find those historical facts entered on this chart, sir [indicating].

The CHAIRMAN. I know they are historical facts, and you did not attribute that in your talk yesterday at all to the reduction in letter postage.

Mr. Post. The record will show what I said, that there was so close and so vital a relation between these curves of diminishing deficits and increasing poundage that it could not be ignored in postal legislation.

The CHAIRMAN. Now, Mr. Post, the fact is that the increase in the postage was only on account of the reduction of the letter postage after two or three years, while for those same years there was a decrease in the second-class postage.



I have a great many other matters touching the postal question to discuss with you or examine you on, but we have got to adjourn now. Could you come back at any time if I give you 24 hours' notice—any time next week or the week after?

Mr. POST. Barring physical accident, I can.

The CHAIRMAN. We will call you some time next week or week after next.

Mr. POST. There are others here who are prepared to speak Monday and Tuesday.

Mr. NEAL. It will be very difficult, indeed, for me to get back here after next Tuesday.

The CHAIRMAN. Can you come back the week after next, if you wish to be heard, or the latter part of next week?

Mr. NEAL. Well, I would be out of town and probably some distance from New York.

The CHAIRMAN. Well, we will let you give your testimony any time in the next two weeks you wish.

Mr. STERLING. Will your statement be lengthy?

Mr. NEAL. It will probably take about an hour and a half or two hours, and I do not think there would be much of any questioning, because you have covered practically all the points; but I believe the statement should be in the record.

Mr. FORDNEY. If the gentleman could not be here between now and Tuesday next, and it would be inconvenient for him to come thereafter, will you file a brief?

The CHAIRMAN. I would like to examine him myself.

Mr. NEAL. I am perfectly willing to file a brief, but I think it might be possibly of advantage to be here personally.

The CHAIRMAN. I think it would. I think you ought to be here. We are going to give the publishers all the time they want. We are going to hear them before we write this tax bill, and you can select any day except the 4th of July within the next two weeks and we will hear you, Mr. Neal. I will notify you, Mr. Post, or you can come any time in next two weeks you wish.

We are very much obliged to you, gentlemen, and we will adjourn now until 10 o'clock Monday morning.

(Whereupon, at 5.55 o'clock p. m., the committee adjourned until 10 o'clock Monday, July 1, 1918.)

# REVENUE BILL

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No. 20

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## HEARINGS

BEFORE THE

## COMMITTEE ON WAYS AND MEANS

HOUSE OF REPRESENTATIVES

WITH REFERENCE TO

## THE NEW REVENUE BILL

[THIS PRINT OF THE HEARINGS IS SUBJECT TO REVISION  
BEFORE THE FINAL PRINT]

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JULY 1, 1918



WASHINGTON  
GOVERNMENT PRINTING OFFICE  
1918

COMMITTEE ON WAYS AND MEANS.

HOUSE OF REPRESENTATIVES.

SIXTY-FIFTH CONGRESS, SECOND SESSION.

CLAUDE KITCHIN, North Carolina, *Chairman.*

HENRY T. RAINEY, Illinois.

LINCOLN DIXON, Indiana.

CORDELL HULL, Tennessee.

JOHN N. GARNER, Texas.

JAMES W. COLLIER, Mississippi.

CLEMENT C. DICKINSON, Missouri.

WILLIAM A. OLDFIELD, Arkansas.

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GUY T. HELVERING, Kansas.

GEORGE F. O'SHAUNESSY, Rhode Island.

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J. HAMPTON MOORE, Pennsylvania.

WILLIAM R. GREEN, Iowa.

CHARLES H. SLOAN, Nebraska.

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GEORGE W. FAIRCHILD, New York.

JOHN A. STERLING, Illinois.

WHITMELL P. MARTIN, Louisiana.

WILLIS C. HAWLEY, Oregon.

ALLEN T. TREADWAY, Massachusetts.

JOHN E. WALKER, *Clerk.*

# REVENUE BILL.

COMMITTEE ON WAYS AND MEANS,  
HOUSE OF REPRESENTATIVES,  
MONDAY, JULY 1, 1918.

The committee met at 10 o'clock a. m., Hon. Claude Kitchin (chairman) presiding.

There were also present Representatives Rainey, Dixon, Hull, Garner, Collier, Oldfield, Crisp, Helvering, Fordney, Moore, Green, Sloan, Longworth, Fairchild, Sterling, Martin, Hawley, and Treadway.

The CHAIRMAN. I will have to be at the Capitol this morning, and Mr. Rainey will take charge of the hearing.

## STATEMENT OF MR. A. C. DUSTIN, ATTORNEY, REPRESENTING MANUFACTURING COMPANIES, CLEVELAND, OHIO.

Mr. RAINEY. State your name and address, and whom you represent.

Mr. DUSTIN. A. C. Dustin, Guardian Building, Cleveland, Ohio. While I am set down in the assignment here as appearing for manufacturing companies, I also appear for mining companies, particularly lessees.

I want to speak to a subdivision of section 207 of the war profits-tax law of 1917. Of course none of us know what form the bill will take, but on the assumption that in the bill somewhere, or in the new revenue bill, there will be a definition of invested capital, I want to call the committee's attention to the language of the bill as it now stands. The Supreme Court of the United States in several revenue cases recently handed down—that is, in three or four cases handed down, on May 20, of this year, and two cases on June 3, of this year—has had occasion to consider the line of demarkation between income and capital, and in all of those cases they hold that the tax laws of 1909 and 1913 found that point of demarkation to be the date when the law took effect; that is to say, in the case of law of 1909, it would be as of January 1, 1909, and in the case of the law of 1913 it would be as of March 1, 1913, so that the taxpayer who had acquired property prior to the effective date of the law was entitled to whatever value attached to his property on the day when the law became effective. In other words, there was no distinction between the value of his property which accrued by way of appreciation and the value which came from gains, profits, or anything similar to that. Now, the law of 1917 reads as follows:

As used in this title "invested capital" does not include stocks, bonds (other than obligations of the United States), or other assets, the income from which it is not subject to the tax imposed by this title nor money or other property borrowed, and means, subject to the above limitations:

(a) In the case of a corporation or partnership: (1) Actual cash paid in; (2) the actual cash value of tangible property paid in other than cash for stock or shares in

such corporation or partnership at the time of such payment (but in case such tangible property was paid in prior to January first, nineteen hundred and fourteen, the actual cash value of such property as of January first, nineteen hundred and fourteen, but in no case to exceed the par value of the original stock or shares specifically issued therefor).

It seems to me to be fair toward those concerns that were in this business prior to the effective date of the law—and I am not particular whether January 1, 1914, or March 1, 1913, is selected—that it should make a line of demarcation between the accumulations which have become capital and those subsequent accumulations which are gained in income, and I suggest that that paragraph might be amended so as to read:

(a) In the case of a corporation or partnership: (1) Actual cash paid in; (2) the actual cash value of tangible property, including mines and rights and interests therein, acquired for cash or for stock or shares in such corporation or partnership at the time of such acquisition (but in case such tangible property was acquired prior to January first, nineteen hundred and fourteen, the actual cash value of such property as of January first, nineteen hundred and fourteen); and (3) paid in or earned surplus, etc.

That is the only change I would make.

Mr. STERLING. I do not believe I understand your idea clearly.

Mr. DUSTIN. Suppose a partnership or a corporation acquired property, say, in the year 1900, and that they paid \$100,000 for that property and that that property was worth \$500,000 on March 1, 1913, or on January 1, 1914. Now, to my mind, that property should be valued as of January 1, 1914, at what it is worth.

Mr. STERLING. You think that the appreciation should be added?

Mr. DUSTIN. Whatever appreciation took place before the income tax law became effective belongs to the man just the same—

Mr. STERLING (interposing). No matter what the appreciation is due to?

Mr. DUSTIN. Yes, sir.

Mr. STERLING. Suppose it was due to the fact that the corporation had had a series of successful years; that it had not any additional capital invested; that there were no betterments or improvements made and no further investments in the enterprise, but that it was added simply by the development of good will. Suppose the earning power of the concern had developed so that you could, in basing values on the earning power, say that it was worth the amount represented by this appreciated value. Now, would you say in that case that the value ought to be taken as of March 1, 1914?

Mr. DUSTIN. My amendment does not go that far. I am dealing with tangible property. The good will, patent rights, etc., are taken care of in a subsequent paragraph of the bill, as it passed in 1917, and I have not suggested any change in that. That is all taken care of. That is a very long section, if you will remember.

Mr. STERLING. Then, under your idea, the increase due to appreciation—

Mr. DUSTIN (interposing). Is only in tangible property. I have this very case, which is an actual instance—

Mr. STERLING (interposing). Then it would have to be an addition of new capital?

Mr. DUSTIN. No, sir; not necessarily. It would be an addition to the property. For instance, I have this case of a mining company up in Michigan which acquired some wild lands 30 years ago at a cost of \$6 per acre. Ten or 15 years ago they discovered minerals

upon it and developed two large mines, and I understand that the income from those mines was something like \$1,000,000 last year, and they are paying taxes on it. The company has been a very close company, and they started that way, and they have never changed it on their books. That property has been entered on their books at \$6 per acre, although it was worth considerably more.

The value created by this new discovery prior to January 1, 1914, and whatever value attached to it, I think is just as much the company's property as though created in any other way. That is just what the Supreme Court said in a case recently decided. One of those cases was this: The Big Four Railroad Co. had some 10 years before the law of 1909 bought some stock in another railroad company; they held it until February, 1909, one month after the law took effect, and then sold it at a very considerable advance over the price paid. The question was how much of the price obtained for that property was income and how much was a mere realization of capital stock. The Government contended, on the one hand, that all they received for that property over and above the price paid some 10 years before the law took effect was income.

Mr. STERLING. That would not be a just claim?

Mr. DUSTIN. No, sir.

Mr. STERLING. What did the court say?

Mr. DUSTIN. The court said that the actual value of that property as of the date the law took effect, January 1, 1909, was capital, and that all subsequent increase to that was income. All the increase prior to that date was a part of the capital. That is what I contend for under this amendment. It may not be expressed as accurately as it should be, and it may be that some other language would express it better. If you take the actual value that the taxpayer had in his property—and I do not know what date you ought to take, whether March 1, 1913, or January 1, 1914, in applying this law—but whatever value fairly attaches to the property of the taxpayer on the date the law took effect should be his capital, and the net income he makes on that should be taxed.

Mr. GARNER. I will just put you on the stand and ask you how you would administer that law: How much would you value the Union Pacific Railroad Co. at as of that date?

Mr. DUSTIN. That, of course, would be a problem involving some serious investigation.

Mr. GARNER. I want to get at the value of the property in the United States upon which we are going to base excess-profits taxes as of January 1, 1914. You can readily see what kind of a job you would have.

Mr. DUSTIN. It is a considerable job.

Mr. GARNER. Get for me the value of the coal mines, of the Steel Corporation, and give me the value of municipal works, and of all kinds of property that was in existence at that time as the basis for levying an excess-profits tax. Now, you are going to take that as of a certain date. You are going to take the value of the property, and not the invested capital, and I want you, for the benefit of the country and for the benefit of the committee, to tell us how that should be done. Is it physically possible?

Mr. FORDNEY. That is an easy matter, and when you get through I want to show you how easy it is.

Mr. DUSTIN. I know that you have to do that now in a good many ways. They are doing it right over there in the Treasury Department to-day. Take, for instance, the case of the mines for depletion purposes, where they are held in fee: In those cases the Treasury Department holds that they take their value as of March 1, 1913. The mining companies' properties have been valued for taxation purposes by the States of Minnesota and Michigan—

Mr. FORDNEY (interposing). If the gentleman will permit me to interrupt him, I would like to explain to Mr. Garner just how that can be done now: Every corporation values its property and takes an inventory; every merchant, and everybody else in business, takes an inventory of their property every year. The valuation that Mr. Garner speaks about, that the Government would make, is a valuation on the part of the Government and not of the corporation or individual. Now, each corporation that you represent, each individual in business, and each merchant takes an account of his stock on hand and the amount of money made and the amount of business done. That is done at the end of each year. Whether it is their fiscal year or the calendar year, they put upon their books at that time the value of their property, and each man, each individual, each corporation, and each merchant this year will pay taxes upon that kind of valuation and not upon a valuation fixed by the Government.

Mr. GARNER. May I interrupt you right there?

Mr. FORDNEY. In a moment. It may be that the Government may dispute that valuation when they come to check up the reports, but they are accepting them now and on that basis each corporation is being taxed.

Mr. GARNER. Now, I will make one suggestion in regard to that: The Woolworth Co. has \$30,000,000 of invested capital; they carry on their books \$80,000,000, with \$50,000,000 representing good will—

Mr. FORDNEY (interposing). I am not speaking of good will.

Mr. GARNER. You are speaking of the invoiced values on their books, but there will be \$80,000,000 upon which they want an exemption, because they claim to have only \$30,000,000 of invested capital.

Mr. FORDNEY. I never contended that that should be carried on their books. That would not be just or equitable; but let me say for the benefit of the gentleman from Texas, that the Mitchell Bros.' case recently decided by the Supreme Court—and that is one of the cases you have referred to—

Mr. DUSTIN (interposing). Yes, sir; that is one of the cases.

Mr. FORDNEY. I have a copy of that decision on my desk. I was interested because a company in which I have some interest had the same matter up with the Commissioner of Internal Revenue, and our case was identical with the case of Mitchell Bros. I made an arrangement with Mr. Osborne, the then Commissioner of Internal Revenue, to settle our taxes upon the basis of the Mitchell Bros.' case, because it was identical in every respect. If the Government won out in that suit, we would pay the Government's claim, but if the Government did not win that suit, then the Government must accept that as a settlement, because our case was exactly like that of Mitchell Bros. Their case was this: The Mitchell Bros. had purchased some timberland at \$20 per acre, and when they put it in as part of their capital, they put it in at \$20 per acre, because that was the money

value of the property at that time. The lower court sustained them. The district court at Grand Rapids, Mich., sustained them, the court of appeals at Cincinnati sustained them, and the Supreme Court of the United States sustained the position of Mitchell Bros., and said that \$40 per acre was the actual capital.

Mr. GARNER. But if you had a law based upon capital and not value—

Mr. FORDNEY (interposing). The Supreme Court based the value of that land upon its value then, and not upon what they paid for it.

Mr. GARNER. The law had written into it "invested capital"—

Mr. FORDNEY (interposing). In the law of 1909 there was—

Mr. GARNER (interposing). That was under the law of 1909?

Mr. DUSTIN. Yes, sir; the statement of the Mitchell Bros.' case is exactly right.

Mr. STERLING. What law was that based on?

Mr. DUSTIN. The law of 1909. The same rule was followed in the Turrish case, which involved the law of 1913.

Mr. FORDNEY. of 1916?

Mr. DUSTIN. 1913.

Mr. FORDNEY. It dated back to January 1, 1913, which was the time the Supreme Court held that the income-tax law was constitutional, but it was under the act of 1916.

Mr. DUSTIN. No, sir; I was in one of those cases, and I am quite clear that the Turrish case was under the law of 1913. I am interested in the inequality of the thing, and that is all I care about. My clients can stand all the taxes that other people can stand. It is up to the committee, in view of business and business conditions, to levy a tax as big as they want to levy. All I am interested in is that it shall be levied with due regard to equality as nearly as you can.

I have a concrete case; I can not give the names of the parties but it is an actual case of one corporation that was incorporated a great many years ago on Wall Street. The stock was scattered throughout the country and very much inflated. It became prosperous through the years to come and earned out, so that it had property that fairly represented its stock. Right alongside that company is another company that was organized in a most conservative way and it has been very prosperous, and it has a very limited capital stock. The two companies, operating side by side, had practically the same kind of business, the same volume of business, and selling to people in the trade. One pays \$6,000,000 more taxes than the other; the conservative company pays on \$6,000,000 more capital than the other, based on your definition of invested capital. That is not right; it penalizes the man who has been conservative and rewards the man who has spread stock and sold it all over the country. The definition can just as well be made so that both will be treated with perfect equality; that is to say, if you start with a date, we can not have an income tax, probably, that goes back of March 1, 1913, when the sixteenth amendment was adopted, although it was adopted a few days before that, but it would encounter such constitutional objections that it would be unwise to have it apply before March 1, 1913.

It seems to me that any accumulation that I have as a result of my previous efforts and as a result of my skill is mine. If I bought property 10 years before that is worth ten times as much as I paid for it I am entitled to that appreciation. If, on the other hand, I



was foolish enough to make an investment and it has gone down, so that it is only worth one-tenth of what I paid for it, the Government should not allow me to make income on that foolish investment, yet that is exactly what the law does as it stands at present, but that is not right. The Government should not take the risk of my bad venture before March 1, 1913, nor should it take away the bargain, if I have succeeded, shown good judgment, and made some money from my previous investment.

Mr. FAIRCHILD. What suggestion have you to make as to invested capital?

Mr. DUSTIN. I will read that again. I think section 207 should read as follows:

That as used in this title the term "invested capital" for any year means the average invested capital for the year as defined and limited in this title, averaged monthly.

There is no change in that.

As used in this title "invested capital" does not include stocks, bonds (other than obligations of the United States), or other assets, the income from which is not subject to the tax imposed by this title nor money or other property borrowed, and means subject to the above limitations."

There is no change.

(a) In the case of a corporation or partnership: (1) Actual cash paid in.

There is no change down to there.

(2) The actual cash value of tangible property, including mines and rights and interests therein, acquired for cash or for stock or shares in such corporation or partnership at the time of such acquisition.

There is no particular change in that, except that I have put in the words "mines and rights" and I have used the words "acquired for cash" instead of "paid in." There is no particular change in that. The change is in the following:

But in case such tangible property was acquired prior to January 1, 1914, the actual cash value of such property as of January 1, 1914.

The original bill contained this:

In no case to exceed the par value of the original stock or shares specifically issued therefor.

Mr. FAIRCHILD. What about the question of copyrights and patents?

Mr. DUSTIN. That is taken care of by the latter part of the original paragraph as contained in the old law, and I would not suggest any departure from that.

Mr. FAIRCHILD. That you would not question?

Mr. DUSTIN. No; that was thrashed out, and, I assume, the reasons for drawing it in this particular form were sufficient for the committee that drafted the original bill, and I am not suggesting any change in it. I have one further suggestion to make.

Mr. STERLING. Before you go on with that suggestion let me ask you about the case stated by Mr. Fordney and the case you speak of. They were based on the laws—

Mr. DUSTIN (interposing). Of 1909 and 1913.

Mr. STERLING. How do they differ from the law of 1917?

Mr. DUSTIN. There were no excess profits and there was no occasion for defining invested capital at all.

Mr. STERLING. Did the taxpayer in those cases insist that—

Mr. DUSTIN (interposing). He insisted that a different value attached to his property as of the date the law took effect.

Mr. STERLING. He did not insist that it was what he paid for it?

Mr. DUSTIN. No; the Government insisted that, I know that Justice McReynolds asked Solicitor Davis, when he was arguing the case:

Do I understand the position of the Government to be this: That if I bought a farm 10 years before the law was passed and paid \$100 for it and it was worth on the date the law took effect \$1,000, and I sold it six months later for \$1,000, that the \$900 over the price I paid for it originally is income?

And Solicitor Davis said that was the Government's position, but the Supreme Court held against them, holding that whatever value attached to a man's property on the date the law took effect was his capital.

Mr. FAIRCHILD. As a corporation attorney you have had a great deal of trouble in determining what invested capital really means, have you not?

Mr. DUSTIN. No; not trouble, because the law is quite definite and clear, but great inequalities have resulted. We are not fighting the law. Nobody is going to bring a lawsuit on these things; these are not times when we want to bring a lawsuit attacking the Government's revenue, because it would not be very patriotic and we do not intend to do it, but we do feel that you gentlemen who are drafting a new bill ought to iron out these wrinkles as far as you can.

Mr. LONGWORTH. The real change is in the omission of the words "but in no case to exceed the par value of the original stock or shares specifically issued therefor"?

Mr. DUSTIN. Yes; and I have also included in "(2)" the words "including mines and rights and interests therein."

Mr. LONGWORTH. You have added those words?

Mr. DUSTIN. Yes; and also the words "acquired for cash or for stock or shares."

Mr. LONGWORTH. Does that mean anything different from the language contained in that section?

Mr. DUSTIN. I do not know that it does, except that this language will more accurately express it. The strange part of it is that when you get down to subdivision (b) we have pretty nearly what we ask for in the case of individuals:

In the case of an individual, (1) actual cash paid into the trade or business, and (2) the actual cash value of tangible property paid into the trade or business, other than cash, at the time of such payment (but in case such tangible property was paid in prior to January first, nineteen hundred and fourteen, the actual cash value of such property as of January first, nineteen hundred and fourteen).

They give it in the case of an individual.

Mr. LONGWORTH. And there they do not provide for the par value.

Mr. DUSTIN. But why should they do that? If a conservative man—and you must remember that corporations are organized—I suppose that more than half of the corporations in the United States are small family affairs or the combination of a few friends; they are small companies. The price at which they take in property has not anything to do with their business; they are not getting ready to float a lot of stock out on the market, and therefore they take it in frequently at a mere nominal amount.

I have one further suggestion and that is the question of whether borrowed money should be excluded from invested capital.

Mr. LONGWORTH. What are your views on that?

Mr. DUSTIN. I have drawn a paragraph regarding that:

*Provided, however, That money—*

Mr. LONGWORTH (interposing). Where would that come in?

Mr. DUSTIN. That would come in at some place in the middle of the paragraph, Mr. Longworth. I will submit a printed memorandum and put this all in. The paragraph as I would suggest it is:

*Provided, however, That money borrowed to the extent that the same is used and employed in the business may be computed as invested capital, in which event the interest paid thereon shall not be deducted from the gross amount of the income.*

Of course, we are all familiar with the large number of small companies, of limited capital, where every director and stockholder, in order to get borrowed money, goes to the bank and guarantees the company's note. To say that that man, just because he is not rich enough to do business on paid-in capital, shall take all that risk and have no benefit—

Mr. FORDNEY (interposing). Instead of allowing a corporation, as a part of its cost of production, the interest paid on the borrowed capital, you would permit it to use the borrowed money as capital?

Mr. DUSTIN. Yes; and not let them deduct their interest from the other. In other words, I can not see the difference between going out and borrowing money, putting it in the business, and making income upon which the Government imposes a tax, and properly so—I can not see the difference between that and paid-in capital. It is simply the difference between the poor man and the rich man.

Mr. LONGWORTH. You have evidently given a good deal of thought to this law. Have you any suggestion to make with regard to our provision for the distribution of accumulated surplus? I will call your attention to paragraph B of section 1211. Of course, that is, to some extent, affected by the decision of the Supreme Court in the Town case?

Mr. DUSTIN. I think, gentlemen, in view of these later decisions of June 3 and June 10, that the Town decision cuts no figure. I had occasion to advise a good many of my clients as to whether such a thing as a stock dividend could be declared to-day which would not be taxable as income, and I have said no, unless they declared it against accumulations existing prior to March 1, 1914, and that before they could do that they would have to distribute all subsequent surplus. While some people object very strongly to subdivision B, I do not think it is wrong.

The idea of subdivision B, and the other provisions, is to leave all the capital in the company that the company needs for its business, and when it gets to the point where it wants to divide out to its stockholders it has got to distribute the last earnings first.

Mr. LONGWORTH. Why could not a corporation legitimately distribute in 1917 a surplus earned in 1916?

Mr. DUSTIN. It could if the law permitted.

Mr. LONGWORTH. Do you see any reason why a corporation should not do that?

Mr. DUSTIN. I see no reason except that Uncle Sam wants the income from the individual stockholder. We are up against a pretty

hard proposition and we want all the revenue we can get. Personally it would be very much of an advantage to me if I could get from the companies in which I hold stock the old dividends before I got the latter ones, but I believe it is all right to make them pay the last dividends first.

Mr. LONGWORTH. Is it your personal opinion that a stock dividend ought to be considered as income?

Mr. DUSTIN. Yes. If a man gets something that represents earnings I do not know of any reason why he should not pay taxes on them. Of course, there is this to be said, that a stock dividend does cut down the value of the rest of the stock that a man holds. If the definition could be broadened so as to recognize that it would be no more than fair.

Mr. LONGWORTH. You mean that a provision should be put in that a stock dividend should not be regarded as income if thereby the value of that stock was depreciated?

Mr. DUSTIN. I do not think that would be inequitable, except to the extent that it actually operates as an overvaluation at the beginning of the year. I can illustrate my meaning best by an instance of this kind: Suppose a company on the 1st of January has \$100,000 of assets and of stock; during the year it makes \$100,000 in income, after paying its tax and everything. Now, at the end of the year the company will have \$200,000 worth of property and, presumably, the stock will be worth \$200,000. I can not see very much difference between giving a man a stock dividend of \$100,000 and giving him a cash dividend of \$100,000.

Mr. GREEN. Both depleting the assets?

Mr. DUSTIN. Yes.

Mr. FORDNEY. Suppose that is a return of capital.

Mr. DUSTIN. Well, they held in the Hornby case—are you referring to a stock dividend.

Mr. FORDNEY. That or a dividend of any kind, either in cash or in stock?

Mr. DUSTIN. They held in the Hornby case, decided on June 3, this year, at the same time the Turrish case was decided, that if a corporation even made a distribution of the proceeds of capital it was income to the stockholders and that they were taxable. That was a lumber case argued and decided with the Mitchell Bros. case.

Mr. FORDNEY. That is, the profit distributed was income?

Mr. DUSTIN. No; the capital itself.

Mr. FORDNEY. In the Hornby case there was \$3,000,000 distributed, was there not?

Mr. DUSTIN. I have forgotten the amount.

Mr. FORDNEY. The property sold for \$3,000,000, but on an investment of \$1,500,000?

Mr. DUSTIN. You are thinking of the Turrish case.

Mr. FORDNEY. I may be.

Mr. DUSTIN. In the Turrish case there was a liquidation of the corporation and it distributed its capital as a liquidating dividend in cancellation of the stock certificates. They held that was not a dividend to the extent that it had value on March 1, 1913, but that it was a mere return of capital. But in the Hornby case they had paid a very large dividend, perhaps 100 per cent, and a part of that dividend was the proceeds of timber they had sold and represented the value

of the timber as of March 1, 1913; it was a dividend distributed in due course of business and the Supreme Court held that a stockholder who got that received income and he had to pay a tax on it.

Mr. FORDNEY. In the first place, however, the stockholder is entitled to a return of capital without being taxed?

Mr. DUSTIN. Yes, sir. My idea about this invested capital theory of the law is that the law should recognize the value of a man's capital as of the date the law takes effect.

Mr. FORDNEY. Let me give you an illustration. I agree with you, but some of the gentlemen do not agree with me. Suppose that you and I, 20 years ago—20 years before this income-tax law was enacted—became the owners of a property and, for easy figuring, say, we put in \$100,000 apiece. It was a lumber operation, we will say, and all the money we took out of the business was what we must have to live on, a reasonable amount of salary, and that when we converted our timber into money we purchased more timber, because a sawmill is not worth anything without timber back of it. Last year, we will say, our property was worth \$1,000,000, although we only originally put in \$200,000 in capital, \$100,000 each. Some man comes along and offers us \$1,000,000 for our property; I decide to sell my half interest in that property, but you do not sell. The man who purchases my half interest pays \$500,000 for it and you originally invested \$100,000. How are you going to harmonize those two capitals in a taxing proposition or deductions under existing law? Your capital, which you did not sell at all, is \$100,000, but the capital of the man who purchased my half interest is \$500,000, and he, before paying a tax on income, gets a deduction of \$500,000 capital and you only get \$100,000, although your interests are identical and in the same property. That can not be justified under existing law, although that is the law.

Mr. DUSTIN. That is the law as it stands; yes.

Mr. LONGWORTH. Except one has made a larger profit than the other.

Mr. FORDNEY. Because he could have sold for a half million dollars and would not sell, but I decided to sell.

Mr. LONGWORTH. You made it, but the other fellow did not.

Mr. FORDNEY. He has it in property and that is what the man has who bought me out.

Mr. LONGWORTH. He has it in his books.

Mr. FORDNEY. This man comes and purchases my interest and pays a half million dollars, for which he got property, and he has identically the same property the other man has. What do you say about that?

Mr. DUSTIN. To my mind the best that can be done is to take the case of the man who did not sell and say that he should have his property fairly valued as of March 1, 1913, January 1, 1914, or some other date, and you, by selling your property for a half million dollars, have got to return as your income the difference between the price you got for your property and its value on March 1, 1913. That is the present law.

Mr. FORDNEY. That is the law of September 8, 1916?

Mr. DUSTIN. Yes, sir.

Mr. FORDNEY. But the act of October 3, 1917, does not define capital in that way?

Mr. DUSTIN. But you would have to pay your income tax.

Mr. FORDNEY. Oh, yes; I know that; on whatever my property earned on March 1, 1913.

Mr. DUSTIN. Yes; and whatever appreciation in value occurred.

Mr. FORDNEY. Should not the act of September 8, 1916, apply to all property the same as this act?

Mr. DUSTIN. I do not quite get your point.

Mr. FORDNEY. For instance, the act of September 8, 1916, permits you to put a value on your property as of March 1, 1913, and that is your capital invested?

Mr. DUSTIN. Yes, sir.

Mr. FORDNEY. The act of October 3, 1917, does not define property value in that way, as capital invested:

Mr. DUSTIN. No; it does not, and it should.

Mr. FORDNEY. But it ought to?

Mr. DUSTIN. Yes; and that is what my definition does.

Mr. FORDNEY. Permit me to go a little further for the benefit of my good friend from Ohio. I was not present when one gentleman made a statement on this point as you are making it, and Mr. Longworth took issue with him. I read it very carefully but I have forgotten the man's name. It was in No. 6 of the committee print and I think his name was Holmes. At any rate, Mr. Holmes contended exactly what we are contending. Suppose you purchased a piece of property 20 years ago and you sell it to-day and convert it into money at a certain sum. Whatever you get above the amount it cost you is profit; the Government permits you to prorate that profit from the time you purchased it to the time you sold it, and whatever it earned after March 1, 1913, is taxable income?

Mr. DUSTIN. Yes.

Mr. FORDNEY. Those are the two ways of handling it under the existing law, and I think that is a good law, fair, equitable, and just.

Mr. DUSTIN. Yes; that is correct, and in my amendment I design to carry into the war-profits provision of the law the same thing; that is to say, that invested capital should be adopted as of the status of things on March 1, 1913, or January 1, 1914. There is not enough difference between those two dates to cut any figure.

Mr. LONGWORTH. The gentleman referred to by Mr. Fordney argued that the value of the capital should be the value as of the date of the beginning of the tax.

Mr. DUSTIN. I do not see that.

Mr. LONGWORTH. Of course, under a system like that we would have no excess-profits tax at all!

Mr. DUSTIN. None whatever. I am interested in a company now—

Mr. LONGWORTH (interposing). We would not raise a cent by our present law under that definition!

Mr. DUSTIN. No. I am interested in a company whose property in normal times would probably be worth about twelve or fourteen million dollars; it could sell its property to-day for \$30,000,000, just because of these tremendous prices it is making; if you permitted us to value the property at \$30,000,000 and deduct 6 per cent on it the Government would not get anything, but that would not be right, I should say. You have got to select a date, but whether the date is a proper date is a matter of opinion.

Mr. LONGWORTH. Your proposition is a compromise between that extreme provision of the law which only allows you to deduct the amount paid in at the time?

Mr. DUSTIN. That, to my mind, is absolutely unjust.

Mr. LONGWORTH. You go half way?

Mr. DUSTIN. I say that in sales of property they shall account for all they receive above its value on March 1, 1913. Having adopted that in one case—and there is logic for it, because the sixteenth amendment took effect as of that date—why not adopt it as to all cases?

Mr. FORDNEY. I was not contending that you ought to take the value of the property as of before that date and not pay on what they earned from March 1, 1913, down to date, and I did not understand that Mr. Holmes took that position.

Mr. LONGWORTH. Yes; he took that position.

Mr. FORDNEY. I do not agree with him, because whatever the property earned after March 1, 1913, is taxable income.

Mr. DUSTIN. Yes; and the rate of taxation is a matter for you gentlemen; I am not going to discuss that. If you make it 60 per cent, 80 per cent, or any other per cent my clients will try to live under it.

Mr. LONGWORTH. I understand you to say that you think stock dividends should properly be considered as income?

Mr. DUSTIN. I should hate to see them taken out.

Mr. LONGWORTH. I have heard a great many lawyers disagree as to the exact effect of the Town case. As I understand the decision in the Town case, it was that Congress had not at that time said that stock dividends were income?

Mr. DUSTIN. Well, they said dividends, but they did not mention stock dividends.

Mr. LONGWORTH. Since then Congress has declared that stock dividends are income?

Mr. DUSTIN. Yes.

Mr. LONGWORTH. But the Supreme Court has decided that they can not be—

Mr. DUSTIN (interposing). I will set you right on that. When the Town case was decided we were very much interested in it because we had a company that was very desirous of declaring a stock dividend, but it could not do it because there was one man in the company that if they gave him a stock dividend he would have had to pay a tax amounting to a large sum of money simply for the privilege of holding two pieces of paper instead of one. We disagreed in the office as to the effect of the Town case, and we went so far as to take the opinion of former Justice Hughes, and he suggested that there was doubt about it and that we had better wait until these later decisions came out—these decisions of May 20 and June 3. Since those decisions have come out former Attorney General Wickersham has written an opinion, and some of us of lesser light have written opinions, to the effect that the question is now settled—at least, that the holding of the Supreme Court in these other cases is so clear that there is no doubt about the constitutionality of the law of 1916 and 1917.

Mr. LONGWORTH. You mean, in so far as it declares that a stock dividend is income?

Mr. DUSTIN. Yes. I have not heard a lawyer suggest since these late decisions that there is any doubt about the right of Congress to make those stock dividends income.

Mr. LONGWORTH. I did not know—because I have not followed those cases closely—that it was considered they had gone as far as that?

Mr. DUSTIN. Yes. There were eight or nine cases involved, and I happened to be in one of them. Those that involved the law of 1909 were decided on May 20 and those that involved the law of 1913 were decided June 3. Of course, the only question about the law of 1916 is whether it is constitutional, because it is perfectly clear in its terms, and in the light of the reasoning adopted by the Supreme Court in those cases there is no doubt about what the Supreme Court would say if that case goes up.

Mr. FAIRCHILD. Mr. Dustin, we will suppose that two men get stock dividends. One man sells his stock and gets cash for it, while the other man holds his stock; would there be any difference in the application of the tax law?

Mr. DUSTIN. I do not understand that there is any; there is none to-day.

Mr. FAIRCHILD. Under the case that Mr. Fordney recited a little while ago I should judge that there was a difference—that is, a difference as to whether the stock dividend that a man gets is taxable or not.

Mr. FORDNEY. Suppose a stock dividend is issued to them in place of a cash dividend. A cash dividend goes into the hands of the individual and pays an income tax; but if stock dividends have been issued and that stock were permitted to be used as capital in the corporation's deductions for excess-profits taxes there would be a difference between giving a stock dividend and a cash dividend, so far as a corporation is concerned.

Mr. DUSTIN. I do not quite get that.

Mr. FORDNEY. Suppose you and I are stockholders in a company, and a dividend is paid by our company, and I take mine in cash and you take yours as a stock dividend. Now, the stock of the company has been increased, and if the stock is considered as capital at its par value that would make a difference in the amount of deduction that the corporation would get.

Mr. DUSTIN. Not under the present law, and it should not be. That is not true under the present law, and that is one of the problems that our clients have been putting up to us. You can not get any more invested capital by increasing your capital stock. You can not do that.

Mr. FORDNEY. I have taken mine in cash, but the Government would lose its taxes on your stock if you were permitted, or the company were permitted, to use it as a part of its capital.

Mr. HULL. I would like to ask you some questions in reference to the stock-dividend feature. The power of Congress in dealing with the stock-dividend transactions really rests on the contention that because of the stock-dividend transaction it has a right to tax the profits and to tax the stockholder with respect to the undistributed profits of the corporation.

Mr. DUSTIN. Yes, sir.



Mr. HULL. And Congress, instead of undertaking to tax the stockholders with respect to those profits on any other basis prior to the stock-dividend stage, simply limits its taxes against them to whatever amount may at any time be transferred to capital and the new stock issued for it?

Mr. DUSTIN. Yes, sir.

Mr. HULL. Of course, if the doctrine which the court seems to have approved and which is laid down in the Hubbard case, Twelfth Wallace, which held, broadly, that Congress did have the power to tax the stockholder with respect to any undistributed profits of the corporation, is applied, that would follow. They seem to have approved that, and I take it that that is what you base your present view on with respect to the stock dividend situation?

Mr. DUSTIN. Yes, sir.

Mr. HULL. There has never been any question, at least in my mind, and seemingly none with the Supreme Court, especially when it was following the doctrine in the Hubbard case, that you could feasibly and fairly tax a stockholder with respect to profits that might have accrued while he holds and owns the stock.

Mr. DUSTIN. You could do it constitutionally; yes, sir.

Mr. HULL. And you could do it equitably.

Mr. DUSTIN. Well, I would not say that, because, in view of the large turnover in every corporation whose stocks are listed, there would be great difficulty in collecting the tax by the Treasury Department. I should think it would present an insurmountable obstacle. In 1864 and 1867, when the Civil War income-tax bill was passed, corporations were comparatively few in number, and there was no such condition as there is to-day. A man to-day buys 100 shares of stock and holds it for five days, while another man holds it for six months. The difficulty of collecting it—

Mr. HULL (interposing). I was coming to that point. What I am coming to now is this: We can take that class of permanent investors who buy their stock and hold it as a permanent investment, and they are taxed, not periodically or regularly, but they are taxed whenever a stock dividend happens to be declared. Take this other class of cases, in which a person will buy stock and hold it until its value has appreciated, say, 50 per cent by reason of the undistributed profits. He sells it to another person, and that person pays him 150 and gets it when the stock dividend is declared. Now, either the seller or the original holder and seller of that stock ought to pay a tax on the increased value of his stock, or the new purchaser ought to pay a tax on an amount equivalent to the amount of his profits.

Mr. DUSTIN. I do not know, and that is the reason why I answered Mr. Longworth as I did, that I thought the present method of the taxation of dividends, whether cash or stock, was the proper one. I would not want to say as to that. It would be a mistake, I think, to allow the large earnings of corporations to escape taxation. Now, we do get taxes from them to-day. We get excess-profits taxes and we get income taxes, and then we force distribution to the stockholders by providing a 10 per cent penalty if they do not make the distribution, and then we tax the stockholder.

Now, the method that you suggest of taxing these profits before they are distributed would be impossible, in my opinion, in view of the large number of companies in which those stocks are constantly

changing. There is a turnover in some companies in a year that is more than their entire capital stock. How you would ever get the earnings of companies and tax them against the stockholder, as a practical proposition, is beyond me. But, on the other hand, if you tax, or, rather, if you require every man to make a return of dividends and require the corporation to distribute the dividends, you will get all of the earnings or all of the taxes that the Government can fairly ask for. Of course, the corporation can only keep those earnings which it needs in its business, or, under another application of the law, it may invest them in Government bonds.

Mr. HULL. Under the English law they lay down the doctrine, first, that the question of whether a stock dividend transaction is taxable or not depends upon the nature of the transaction. They do tax, however, without controversy those transactions when they represent profits that have accrued while the stockholder owns the stock. Then they have, of course, a more detailed and more stable situation than we have. For instance, as well as I remember, they provide that stocks may be sold with the dividends or without the dividends, and that the purchaser will pay whatever taxes accrue if he purchases with the dividend. That is to say, either the purchaser or seller would be liable according to the particular state of facts, whether he buys or sells with the dividends or without the dividends. That is the accrual out of which the dividend may or may not be declared, but it seems to me that we have such a complicated situation that we can not establish a system of that kind that would be very equitable.

Mr. DUSTIN. I do not think so.

Mr. HULL. What would you think about the idea—and I am not expressing any views in what I am asking you from time to time—what would you think about a situation like this: If a normal tax of 8 per cent, for example, should be imposed on all individuals and a normal tax of 12 per cent on all corporations, and then insert a proviso that all amounts of profits distributed in cash to stockholders by corporations should only be subject to 8 per cent, while on the gains of the corporation, or, in other words, on whatever amount they saw fit to retain in the business, they should pay 4 per cent more than the amount of the normal tax paid by the individual on account of the profits distributed, as well as on any other individual increase?

Mr. DUSTIN. I do not think that would be at all unjust or unfair. In fact, I think we are prepared to go a long ways in this war to get money. The thing that we ought to do, and the thing that we must struggle to do, is to iron out the inequalities. I have no objection to the law as it stands to-day or any increase of it.

Mr. HULL. Right there, the matter that I think we are struggling with more than any other one thing is this: There have been a great many people coming in here to tell us, and there are a great many people in Congress who are constantly telling us, that we will have to raise \$4,000,000,000, \$5,000,000,000, or \$6,000,000,000 in taxes more than we have, and they say, "You can levy a 60 per cent flat rate, or a 70 per cent flat rate, or an 80 per cent flat rate." That kind of information is not worth much to us, because we have got the amounts

of profits that have been returned under the income-tax and excess profits tax law; but the main things we need to know—and that is where we need all the cooperation we can get—are technical suggestions that will enable us to work out and establish a basis for taxation to which we can apply the proper and fair amount of rate in levying taxes upon the different industries of the country in fair and equitable proportions, so far as the burden is concerned. An 80 per cent rate under the English law does not mean anything when you apply it to our law, so far as any exact comparison is concerned, because you must look at the basis.

Mr. DUSTIN. Yes, sir.

Mr. HULL. The great trouble we have—and it is what some of the public, and possibly some Members of Congress, but not members of this committee, overlook—is the great problem of working out a basis which will take care of exceptional capitalization conditions in computing the capital invested, and which will take care of the different income-producing factors in computing the taxable income and we do not get so many suggestions on that proposition as we do on the question of how much we can take and what rate we should levy, which suggestions are really of least value to us.

Mr. DUSTIN. Well, of course, I have no ideas with respect to rates. My clients who have sent me are very patriotic, and they are giving freely of their time and money. They do not make any suggestions as to rates. We will try to do business as well as we can and pay whatever rates are assessed; but of course there is a limit beyond which you can not go. That is to say, you can not discourage initiative and energy by making the taxes too large. The great difficulty is in reaching only those profits growing out of the war. If there was some way of getting hold of those profits—

Mr. LONGWORTH (interposing). Do you see any objection to having both systems?

Mr. DUSTIN. No, sir.

Mr. LONGWORTH. Both excess-profits taxes based on the invested capital and the prewar system of taxes?

Mr. DUSTIN. I do not know how you could get at a proper war-profits tax. I happen to be interested in a company that did not make 1 per cent in 1911, a little over 1 per cent in 1912, 25 per cent in 1913, about 35 per cent in 1914, about the same per cent in 1915, practically the same in 1916, and last year it dropped down and did not make one-half of its average in the previous four years.

Mr. LONGWORTH. That is a rather unusual case. As a rule, they jumped up from 1913. In that sense, that would not be war profits—

Mr. DUSTIN (interposing). It was hurt by the war. In 1917 the income fell over one-half. For the first six months of this year we have not made one cent, but are \$18,000 in the hole.

Mr. LONGWORTH. Such a corporation should not pay war-profits taxes, but it would come under this provision with regard to invested capital. There are other classes of corporations whose profits are due to nothing else but the war. That is the theory of the English system.

Mr. DUSTIN. Yes, sir; but the English system is pretty complicated when you attempt to apply it to the situation in this country. I do not know, I am sure—

Mr. LONGWORTH (interposing). We found it impossible to have the English system only, simply because of the fact that such a very

large number of rich and prosperous corporations would pay no taxes under it at all. They would pay no taxes under it, because they made as much before the war as after the war, and we could not justify that before the country. For instance, take the three leading examples—the Standard Oil Co., the American Tobacco Co., and the Ford Motor Co.—and they would not be reached under that system of taxation.

Mr. DUSTIN. I am not so sure about that, if you will analyze that one step farther, and when you remember that probably Mr. Rockefeller owns 51 per cent of the Standard Oil Co. and that his taxes readily go into the 60 per cent section. You would get a part of it, even if you did not get it from the company.

Mr. LONGWORTH. Yes, perhaps.

Mr. DUSTIN. And the same principle would apply to the Ford Motor Co.

Mr. LONGWORTH. That would not be convincing to the public at large. The little corporations that had been making very little before the war would have to pay the whole tax, while the Standard Oil Co. would not pay.

Mr. GREEN. We had a young man before us the other day who said that, notwithstanding the provisions of the present law, it would be very easy for corporations moderately capitalized to reorganize and go ahead upon the same basis, but in such a way as to decrease their taxes.

Mr. DUSTIN. I do not see how.

Mr. GREEN. We did not either. However, if there is a way, we want to find out about it.

Mr. DUSTIN. I think you have covered that in the present law which provides that a reorganized company, which is practically a reorganization of the old company, shall be treated for the purpose of being taxed on its business as the prior company.

Mr. FAIRCHILD. A company of \$200,000 capital has issued only \$100,000 in stock; it has been doing business for years, and has never paid any dividends, but it has gradually accumulated strength for itself, and is making 50 per cent on its stock: Now, if a man receives a 50 per cent stock dividend from that company and pays the tax, is he richer than before he got his dividend?

Mr. DUSTIN. He is not any richer. Under the present law he would have to pay taxes on whatever earnings were represented by his dividends to the extent of 1917, 1916, 1914, and back to March 1, 1913.

Mr. FAIRCHILD. As one who is interested, and as a man who has studied these matters, what is your judgment as to the justice of that?

Mr. DUSTIN. I do not see how you will practically deal with all of those situations. I have in mind a case of this kind, where a company has not a large capital, considering its property, and its stock is selling at nearly \$400 a share. It is very anxious to reduce the market value of its stock to \$100 per share for two reasons: The first is that it wants the people in the community where its plant is located to be interested in the company, so that it will get the benefit of the local color, and it also wants to get its employees to become stockholders. Of course you can not get many of the citizens or of the employees to buy stock at \$400 per share. There is something in

human nature that makes you want to see \$100 on the paper that you pay \$100 for. They tried to find some way by which they could increase their capital stock and provide for these things, but they have not been able to find it. If everybody was so disposed, or had as good reasons for this stock dividend as these people, there would not be any harm done, but you must apply the law to the general situation, and I am of the opinion that stock dividends and cash dividends should be equally taxed. That is my opinion.

Mr. FAIRCHILD. Could not a properly constituted board of equalization take some of the labors off the Ways and Means Committee?

Mr. DUSTIN. Yes, sir; and I have heard that discussed a good deal. If a paragraph could be drawn over there enlarging section 210, making the discretion of the Treasury Department broader than that which it now possesses to deal with special situations, I think it would be well. I have not studied it enough to make any suggestions along that line, but, undoubtedly, such a thing would be very helpful.

Mr. FAIRCHILD. There are bound to be a great many inequalities.

Mr. DUSTIN. Yes, sir; in any law that you can draw. As an instance of it, here was one man buying property at \$500,000 as against another man whose property on March 1, 1913, was worth only \$300,000. They are operating side by side under the same conditions, with one man getting the benefit of an invested capital larger than the other. I do not know of any way of eradicating inequalities of that kind. You can not revalue all of the property in the United States every year, and you must simply say to this man, "You paid \$500,000 for your property and we will treat it as actual cash invested, but as for property acquired prior to March 1, 1913, we will stop right short of that, and value your property as of that date, and that is all you can have for capital purposes, and anything you put in afterwards, of course, is new capital."

Mr. FAIRCHILD. Do you not think that with a board of equalizers, a great many of these inequalities might possibly be ironed out?

Mr. DUSTIN. Yes, sir. If you got men of the type or character of the men who are serving now on the Advisory Board, such a board would render valuable service. If you got men of the type who are now serving the Government at \$1 a year—men whose time is worth a great many thousand dollars a year—to serve the Government in this way, I think it would be a splendid thing, but I am afraid that when the war is over those people who have been here doing this work from a sense of patriotic duty will want to go back to their private affairs. A board like that could accomplish great good. Undoubtedly such a board could iron out a great many of the inequalities. I could stand here all day and tell you of inequalities that have been presented to me in one shape or another. Some of them could be cured or partially cured, but some could not be helped at all.

Mr. FORDNEY. Yes; if such men could be obtained, and there are plenty of them. I do not mean to discredit anybody, but if we had such a committee or board as that suggested, with power to discriminate between people and possibly to favor one as against another in saying how much the capital should be increased without taxation, you might run up against a proposition like this: On Friday, last, there was a case brought to my notice by a firm doing business in the State in which I live; they are in the shoe business,

and the board down there recommended that the tops of ladies' shoes should be changed; that they should be no longer than 6 inches; that the tops should be made of leather, etc., and that the button shoe should be eliminated. That is to say, no more buttons were to be put on shoes. That thing was run down, and it was found that a man on that board represented a company engaged in making eyelets for such shoes. The recommendation was made simply in the interest of his own company, which manufactured the machine for making eyelets. The company was not making the eyelets, but manufacturing the machines for making the eyelets. Now, they have done that, unless they have changed it—and they are certainly going to be drawn over the coals if they do not change it—as I say, that has been done, and that decision by that committee is absolutely in the interest of a concern that is manufacturing the machines that make the eyelets. For that reason they want to put the button-shoe men out of business.

Now, as I have said, I do not want to discredit anybody, because I do not know any of those people at all, but by putting power into the hands of individuals, or sets of individuals, instead of putting it into the law, you are likely to have difficulties of that kind.

Mr. DUSTIN. Yes, sir.

Mr. FORDNEY. Now, whether the relief would be of greater benefit to the general public than such discrimination would offset is a question, but those are things to be considered in writing this law, and I believe the safest way is to put the power into the law instead of into the hands of individuals.

Mr. HULL. Right on that point, the Treasury now is given unlimited discretion to make allowances for depreciation, for instance, in a reasonable amount. That is a discretion which might be abused, is it not, or it could be abused if they should depart from the right procedure?

Mr. DUSTIN. It could be abused.

Mr. HULL. In other words—

Mr. DUSTIN (interposing). I would not change that, though.

Mr. HULL. Yes, I agree with you. In other words, they are like any other responsible body of men, and they are not any more so than a court exercising judicial discretion. This board would be dealing with facts and establishing rules to govern certain sets of facts that might arise in these exceptional cases that you spoke of. They would not be any more likely to abuse that discretion while acting in that way than a court would be, if they get the right kind of men.

Mr. DUSTIN. No, sir. In the circumstance just mentioned the man seems to have been found out, and the harm that might have been done will undoubtedly be remedied. Of course you do not make a man any bigger or better by putting him in a Government office, and there are, undoubtedly, men going into office that ought not to be there. My experience with that board has been very good. I have found them very broad minded and disposed to do what is right.

Mr. HULL. Going back just a little, if we should take our provision for excess profits and apply the English rate of 80 per cent to that provision for 1919, it would give up toward \$4,000,000,000 in taxes instead of the one and a half billion dollars that we are getting under

our present schedule of rates. That illustrates very clearly the difference in the operation of our basis of taxation and the English basis, with the two sets of rates. If you have any suggestions to make along that line further than those you have offered, I should be very much interested in hearing them.

Mr. DUSTIN. I do not think I have any.

Mr. HULL. I find a large number of individual cases under the operation of the English law, and the cases of several industries, as well as of individuals, that must be dealt with by some discretionary authority in administering the law, unless you intend to administer it in a very grossly inequitable way, because the law can not lay down an arbitrary rule that will fit into all of the varying complicated and exceptional business conditions that arise, when you undertake to compute capital invested on the one hand and taxable profits on the other.

And I think it is the same way in this country, no matter which basis you take, whether the capital invested basis alone or the prewar standard of profit basis, because you will find a great many exceptional cases and individual cases in these different industries, and you will find quite a number of industries which will present factors other than those recognized by the law. Unless you aim to put much heavier burdens on many individuals and many industries than you do on others I can not see how you can avoid giving the broadest latitude to the administrative authorities the statute can give, of course depending on the selection of men who will exercise that discretion in a judicial and sound way rather than in an arbitrary and capricious way.

Mr. DUSTIN. I am surprised to hear the statement, Mr. Hull, that this tax is going to produce so little revenue as the amount you mentioned. I had supposed that the present law, in all its phases, would produce a revenue of at least \$3,000,000,000.

Mr. HULL. The excess-profits tax, I think, will run around \$1,500,000,000, or a little more. You see, our law is framed from 20 to 60 per cent, which would not average much more than 30 per cent.

Mr. DUSTIN. There is a tremendous amount coming in now from railroad fares, theaters, and everything of that kind, which will add tremendously to it.

Mr. LONGWORTH. The estimate runs a little short of \$4,000,000,000 from all taxes.

Mr. DUSTIN. I see.

Mr. HULL. I was only referring to the excess-profits tax, you understand?

Mr. DUSTIN. I see. With the consent of the committee I will have printed a very short memorandum that I have here and send it to the clerk, if I may. I thank you very much.

Mr. FORDNEY. If Congress should write into this law a definition of capital, the same as in the law of September 8, 1916, you think that would be a just and equitable provision as to the definition of capital?

Mr. DUSTIN. There is no definition of capital in the 1916 law; that is in the 1917 law, where it is invested capital.

Mr. FORDNEY. The act of September 8, 1916—

Mr. DUSTIN (interposing). Fixed the date for computation as March 1, 1913.

Mr. FORDNEY. The definition is now as you say, but if it were fixed as in the 1916 law you think that would be equitable and just, at least, where that can be applied, because it does not apply to all businesses. Of course, that law affects more the corporation whose raw materials are made up of minerals?

Mr. DUSTIN. It affects all. It affects the real estate man.

Mr. FORDNEY. Yes; I should have said that it affects more the miner, the lumberman, and the real estate dealer than other corporations, who buy their raw material to-day and convert it into the finished product.

Mr. DUSTIN. Yes. Of course, it affects those who were in business prior to March 1, 1913—those who started in business since—

Mr. FORDNEY (interposing). You think it would be well to write that provision into this law?

Mr. DUSTIN. It is in the present law. I do not believe I would change it.

Mr. HULL. That provision, of course, only relates to the computation of profits and has nothing to do with the computation of capital invested under the excess-profits law?

Mr. DUSTIN. No. I think that the date March 1, 1913—of course, it is purely a matter of opinion as to what date ought to be selected, but in view of the fact that everybody has been writing their books with reference to that date, I would not change it.

Mr. FORDNEY. Pardon me, Mr. Dustin, my friend from Tennessee, Mr. Hull, says that does not apply to excess profits.

Mr. HULL. To the capital invested computation.

Mr. DUSTIN. No; and that is why it ought to be in there.

Mr. FORDNEY. Suppose you were in the mining business. You have coal, iron, or some other mineral in the ground, and by a thorough test you know how many tons of ore you have in the ground. Thus the value of that property—the ore in the ground—can be fixed as the value on March 1, 1913, and you can use that in your cost of production?

Mr. DUSTIN. You can use it in depletion. As you mine the ore you ought to be permitted to take the value attaching to the ore, as it was there March 1, 1913.

Mr. FORDNEY. Both as to depletion and as to the cost of your production?

Mr. DUSTIN. Yes, sir.

Mr. FORDNEY. The difference between what your cost is to market it and what you get is the profit. If it is permitted to be used in your cost of production why is it not capital?

Mr. DUSTIN. It should be as of March 1, 1913, and that is what my amendment proposes to do.

Mr. FORDNEY. In computing your excess profits, and if it is permitted to be used as your cost of production, why is not all of the ore you own the capital on March 1, 1913?

Mr. DUSTIN. It should be, without reference to the amount of capital stock, if you happen to be a corporation, issued against it. I instanced that awhile ago by telling of a company that had bought land 20 years ago, longer ago than that, for \$6 an acre; they found two large mines and developed them, and I understand they produced a revenue of a large amount, hundreds of thousands of dollars, if not millions of dollars last year, and they paid taxes on it, and yet they



only had that property on their books at \$6 an acre. Of course, that is unfair; it is taking away from them what they had on March 1, 1913, a large part of their capital as of that date.

Mr. FORDNEY. Another illustration, if you please. Maybe I misunderstood Mr. Hull, but we will take lumbermen who have a sawmill and a large amount of timber back of their mill, which they purchased years ago. Now, you can take any sum per thousand feet for stumpage, and in the South it is generally \$5, that being fixed as the fair market price. Now, we will say that on the 1st of March, 1913, they had a certain amount of stumpage, which can easily be determined by competent men, for the purpose of figuring their excess profits, and that being so, why is not that stumpage capital at \$5 per thousand?

Mr. DUSTIN. It should be whatever it was worth on March 1, 1913.

Mr. FORDNEY. Is it not capital under the existing law?

Mr. DUSTIN. No; not necessarily.

Mr. FORDNEY. And would they not be permitted to use that as a part of their capital in their deductions?

Mr. DUSTIN. Oh, no; under section 207 there is no provision to over that.

Mr. FORDNEY. That is under the act of October 3, 1917?

Mr. DUSTIN. Yes.

Mr. FORDNEY. This other says real, personal, and mixed property, the law of September 8, 1916.

Mr. DUSTIN. Yes; that is dealing with income taxes only, where the law does not concern itself with the amount of capital you have but only the amount of your income.

Mr. LONGWORTH. That is an error that so many of our witnesses fall into, in not distinguishing between the excess profits and income tax.

Mr. DUSTIN. Whether March 1, 1913, is the best date or not is a matter of opinion. However, there is logic for taking that date, because you made lawful the assessment of an income tax at that time, and I am not quarreling with the selection of that date.

Mr. CRISP. That is why the committee took that date.

Mr. DUSTIN. Undoubtedly; I appreciate that. When they came to the invested capital, however, they departed entirely from the idea of assessing the value as of March 1, 1913, and said that you might have the cost, but, of course, that is ridiculous. Take the case of the lumberman you mentioned. Suppose the timber has been in his family for 30 years and he organizes a company and turns it over to the company. Now, it only cost his family \$1 per thousand, and on a strict interpretation of the law of 1917 \$1 is all he would be able to deduct, while it was really worth \$5 on March 1, 1913, so that you are simply taking \$4 per thousand of his capital. That is all there is about it.

Mr. FORDNEY. It is not fair, is it?

Mr. DUSTIN. No.

Mr. FORDNEY. That is not good law.

Mr. DUSTIN. It may be constitutional, but it is not the kind of a law you ought to write, because, to my mind, that is palpably inequitable, and it ought to be amended in the new law.

Mr. GREEN. Without regarding these extreme cases that have just been discussed, you realize, do you not, that it is impossible for us to write a law that would be perfectly fair to all of the numerous individual cases that arise?

Mr. DUSTIN. Undoubtedly.

Mr. GREEN. I saw a statement in a Supreme Court opinion the other day, when they were discussing the applicability of the law and whether it could be held to be constitutional, that a perfect tax law does not exist, never has and never will, but, of course, it is our duty, as you state, to try and iron out these inequalities as far as we can. You think, owing to the difficulty of establishing any general rule, or, rather, the impossibility of establishing any general rule, which would fit each individual case, whatever it might be, that it would be well to have some board with power to adjust exceptional cases?

Mr. DUSTIN. I do not see any other way of properly adjusting them. As I said before, I think that section 210 might be broadened so as to include the power to deal with exceptional cases, but if you intended by your previous observation that the present definition of invested capital should be allowed to stand, I think that an injustice exists in that definition itself. You are going back in some cases and taking the cost, and one man may have had an article for 50 years, but you have got to take some date, and injustices will follow from any date, but if we take January 1, 1914, as you did in section 207—I have no objection to that date, because that does not differ from March 1, 1913, enough to amount to anything, and I have not even suggested a change from that date, because I do not think there is very much difference.

Mr. GREEN. I did not intend to refer to that, Mr. Dustin. That is something that it is within our power to correct if it is wrong, because we can establish one date as easily as another. However, we ought to adopt the one which would be most fair and do the least inequity, and that the committee will endeavor to do.

With reference to this matter of boards and commissions, in my study of the English law I have found that they have two boards which endeavor to work out the inequalities which necessarily arise under that system.

Mr. FORDNEY. It would be easy for this committee as it seems to me—I do not know how it appears to the other gentlemen—to define by law a case of this kind, and this is a parallel case with all others: That if your father obtained valuable property a half century ago and 10 years ago gave it to you, your capital invested is nothing; consequently you have no capital, although you have a very valuable property. That is the inequality of the existing law.

Mr. DUSTIN. Yes, sir.

Mr. FORDNEY. It ought to be easy for this committee to correct that law.

Mr. DUSTIN. Yes; you ought to select a date before the unnatural valuations were given to property growing out of the war. Whether that date ought to be March 1, 1913, or January 1, 1914, does not make any difference, but it would not be proper to take January 1, 1917, because everything is up on a very high plane on account of the enormous earnings. Any date you take prior to the starting of the war is merely a matter of opinion. For that reason I did not suggest any change to January 1, 1914, because I did not think it cuts any figure. The war had not been started and there had not been any changes in value due to the war.

Mr. FORDNEY. Because of the fact that the courts have held that this law was constitutional from that date, or at that date, March 1, 1913, and all the incomes accumulated since that time have been subject to a corporation, or a corporation and income tax both, or an excess-profits tax, would it not seem that would be the most fair date that we could select in order to be just to the Government?

Mr. DUSTIN. Except this, that January 1, 1914, has been in operation partially during the past year and a lot of people have got their books written up and their inventories made on that basis, and I can not see any advantage in changing it from January 1, 1914, back to March 1, 1913.

Mr. FORDNEY. There is no very great or material difference between real values on March 1, 1913, and January 1, 1914.

Mr. DUSTIN. No; neither were influenced by the war, because nobody thought of the war at that time.

Mr. FORDNEY. Therefore any date after that time would be fair.

Mr. DUSTIN. Any date before the values had assumed an abnormal condition because of the war would be fair to everybody.

I thank you, gentlemen, very much.

Mr. SLOAN. A good deal of difficulty arises from the varying character of these corporations and business concerns not only in their organization but in the way they work out. Therefore do you not believe we can follow the same system and by a system of classification, worked out and stated in provisos, exceptions, and so on, based upon a careful investigation and classification of the tens of thousands of cases that are and have been before the Treasury Department—that a classification of these business concerns could be effected and written into the law which would give a great deal of flexibility and elasticity to the law in applying it to the very widely diversified character of corporations and businesses of the country called upon to respond to this demand for taxes.

Mr. DUSTIN. Do you mean that because the Treasury Department has been struggling very hard to iron out some of these inequalities that we might incorporate some of the regulations which have that purpose in mind?

Mr. SLOAN. Yes; and while these exceptional cases will differ, perhaps, one from another, it will be natural, as you know, for them to fall into general classes. It is like studying case law and evolving a principle from a very large number of cases instead of trying to apply cases to principles. Do you not think that could be done?

Mr. DUSTIN. It is possible, but it would be a pretty big job, if you undertook to classify business in that way.

Mr. SLOAN. That has been done in all of the States, and it has been worked out in that way.

Mr. DUSTIN. It is possible.

Mr. SLOAN. Do you not think that the experience of the last year would dictate that we keep as close to the present basic law as we can and rather work out modifications and classifications of it rather than to change the basic statements that you find there?

Mr. DUSTIN. My preference would be that the present law should be broadened, and if you need more money change the rate of taxation rather than to attempt to get an entirely new system of law. But I have not given the subject enough study to volunteer an opinion, and certainly would not, because you gentlemen have studied

it a great deal more than I have. I have looked at it from a lawyer's standpoint to find out what it meant, rather than to suggest new forms of raising revenue.

Mr. SLOAN. But the minute you see an objection, as a lawyer you immediately think about a remedy.

Mr. DUSTIN. Yes.

Mr. SLOAN. And thinking about that, and the experience you have apparently had would probably suggest——

Mr. DUSTIN (interposing). I have not studied it with reference to any further suggestions than the two I have mentioned here, or three, because I filed a suggestion the other day on the subject of the depletion of mineral properties, and then invested capital and the possibilities of allowing borrowed money to be treated as working in the business. It seemed to me that was something that ought to have been allowed.

Mr. SLOAN. Would you not suggest that the mining business, the oil business and so on, where small capital is invested, and where there is great hazard in the business, should fall into a class by themselves, and be treated somewhat differently from a business which might be called a stable business and conservative in its character.

Mr. DUSTIN. There are great difficulties in that. You might delegate that to a committee, but there would be great difficulties in putting that into law. For instance, I have clients who have iron mines where they will practically exhaust their mines in the next two or three years. Now, it is pretty hard on them, because there is a potential profit, under normal conditions, of a large sum, yet to-day they are handing over 50 per cent of it to Uncle Sam. Then you will find in every department of the iron business companies that will have enough ore to run from one year up to one hundred years. Now, if you begin to care for them and say that the fellow who has three years of ore is to be treated in one way while the fellow who has 50 years of ore is to be treated in another way, because he will outlast the war, you are going to get a law which will be pretty hard to administer, unless you delegate a very general power to some committee. I do not believe you can legislate on that.

Mr. SLOAN. They are selling their capital just as a farmer is selling his capital, unless he replenishes the fertility of his soil in every way, and in some cases it is more marked than in others, but where they are selling and rapidly disposing of the capital, as in the first instance, it seems to me they could be thrown into a class by themselves.

Mr. DUSTIN. That is possible.

Mr. SLOAN. The Government would also get what is coming to it, and that is why it occurs to me that a classification ought to be wrought out.

Mr. DUSTIN. I understand that there are certain mining industries, like zinc in Missouri and Oklahoma, where the operation runs only a very short period of time, and I should be afraid that if the Government presented legislation of that kind there might be very little inducement for new people to go in and take the risk. In the iron-mining business we are different. As a rule, our deposits are large enough to last 10 or 15 years. A man with only two or three years of war ahead of him—and, of course, there is nobody who would suggest that this tax should last very much longer than the war, but

with 7 or 10 years of life before him any man will keep right on mining notwithstanding the war and the fact that the chances of actual profits are not large, because while he is permitted his depletion, we do not give him back anything; that simply hands him back the money or value he had on March 1, 1913; he gets a portion of his profit, but his profit is not large as compared with what he would get under normal conditions, yet he is willing to stay because he is going to have eight or nine years life after the war is over.

Mr. SLOAN. As to some of the things you have been referring to, the Government, you must recognize, is losing a certain amount of income, because men will not sell at the present time on account of the tax that the Government immediately draws from them, and it would be so large in proportion to their profits that they are attempting to hold rather than sell.

Mr. DUSTIN. That is true of real estate to-day, and no man to-day with a big piece of real estate would sell it under existing law.

Mr. SLOAN. Do you not think that a classification there would be wise for the Government, not specially tempering it to the owner, but wise for the Government so as to induce and encourage free transfers.

Mr. DUSTIN. I presented a memorandum to the Senate committee, when this war profits law was before them and before it was passed, suggesting that an exception should be made in the case of real estate and that it should have a value fixed as of, say, January 1, 1917, pointing out that a man would not be so stupid as to sell a piece of real estate to-day and pay an income tax on the value over its value on March 1, 1913; he would not do it; he would find some other way to handle the thing; he would lease the real estate to somebody, or something of that kind, and give an option to purchase at some future date; in other words, the Government would not get any tax out of it, and that it was very foolish to pass the law in that way, but what I said did not sink in.

Mr. SLOAN. I think there is a great deal in your suggestion, but this is a matter of obtaining money and not a profit for any taxpayer, or anything of that kind; it is a question of having something that will encourage the payment of taxes.

Mr. DUSTIN. A dealer told me a few years ago that when the tariff on diamonds was, I think, 10 per cent, how much revenue Uncle Sam got, but that when the rate was put up to 40 or 50 per cent Uncle Sam did not get anything, because the diamonds were then smuggled.

Mr. SLOAN. In other words, the traffic would not bear any more than 10 per cent?

Mr. DUSTIN. No; the profit on smuggling was too great. It seems to me that is a thing we have got to look at in framing this legislation; it is money we are after, and if you make it too high you do not get the money and you defeat the very purpose you have in mind.

Mr. SLOAN. Your suggestion, then, would be not to make the valuation of real estate as far back as March 1, 1913, but some reasonable date that would encourage the free transfer of land?

Mr. DUSTIN. Yes. You take these operations in large cities where farms have been divided up into lots, as far back as 1914, and I know of several cases where they are absolutely making no sales at all.

STATEMENT OF MR. ROGER W. BABSON, OF WELLESLEY,  
MASS.

Mr. FORDNEY. Mr. Babson, what is your business or profession?

Mr. BABSON. I am a statistician and public accountant.

Mr. FORDNEY. Do you represent any particular industry?

Mr. BABSON. I represent my clients in general, manufacturers.

Mr. FORDNEY. You are an attorney?

Mr. BABSON. No; I am a statistician and accountant.

Mr. FORDNEY. What line of industry do you represent?

Mr. BABSON. We do work for all kinds of manufacturers, manufacturers in general; no definite line.

Mr. STERLING. What is your connection with the Department of Labor?

Mr. BABSON. I have been engaged since the first of the year in tabulating the surplus in shortage of labor for them. That is purely a voluntary affair, and I am not here representing the Department of Labor.

Mr. SLOAN. You are the Mr. Babson whose table Mr. Schwarzmann presented at some length here about 10 days ago?

Mr. BABSON. Yes, sir; I presume so, although I do not know Mr. Schwarzmann.

Mr. HAWLEY. You ought to get acquainted with him, because he spoke very highly of you.

Mr. BABSON. Thank you. The message I have to bring this morning is to get you men, if possible, to give greater consideration to good will, especially good will secured through advertising. In the work which we do for our clients, that appears to us as the great injustice of the present law. For instance, I have in mind a man who owns some asbestos land. This land was worth little or nothing. The question came up as to whether he should get an engineering expert to develop that land and take his chances on selling the product or whether he should get an advertising expert to create a demand for that product and then prepare to develop the property.

In the first place, if he takes the money and uses it and gives it to the engineer and lets him hire day laborers to work up that proposition, he can charge those expenses to invested capital and they are recognized by you as invested capital. If, however, he gets a publicity man and uses that money to develop a market for the product, then that is handled and treated by you on an entirely different basis.

Now, another illustration, a building is worth a certain sum. Additions to the value of that building, or that hotel, for instance, are made by employing carpenters and decorators. You allow that as invested capital, but adding to the value of that hotel by employing publicity men, you do not recognize as adding to the invested capital. My asbestos mine, so far as actual property goes, contains no more asbestos after it has been developed than before. The building contains no more bricks and mortar, and we do not see where a distinction should be made in the development of good will whether it be done by a publicity man or by a day laborer.

My plan is that you gentlemen judge industries according to their values rather than according to their costs.

Mr. FORDNEY. Will you permit me to interrupt you, or would you prefer to conclude first?

Mr. BABSON. I would rather have you interrupt me.

Mr. FORDNEY. Do you not think there is a difference in the value of the asbestos mine where you employ a large number of men to open it up and develop it and prove the value of the product in the ground and where you advertise the product of that mine not knowing what is in the ground?

Mr. BABSON. No, sir; I do not. I think there is where the whole thing is being approached from the wrong viewpoint, because the demand comes first. We must have the demand before we have business.

Mr. FORDNEY. Yes; but you have got to show that you have something before you can sell it, and your product in the mine, not knowing what is there until it is developed, it seems to me would be on an entirely different status where you advertise through the newspapers that you have got something that you can not show to anybody.

Mr. BABSON. There would be an engineer's report in the first place and, of course, the man would want to be sure there was something there before he started his advertising campaign; but my point is that you should not make a distinction, as I see it, between the man who develops good will through advertising, a hotel, for instance, and a man who develops good will through interior decoration.

Mr. FORDNEY. For instance, take a manufacturing company that goes out into the market by sending men out and interviewing the trade and hunting up customers and selling them goods. In that way they prove to their customers what their goods are and the value of them. The customer purchases the goods and knows that the value of the goods is according to representation. It costs that company a great deal of money to send men around the country and obtain trade in that way, whereas you claim that if they advertise through the medium of papers, they can use it as good will but they can not use it as good will—

Mr. BABSON (interposing). I should consider both as good will if it increased the value of the business.

Mr. STERLING. How would you estimate the value of good will?

Mr. BABSON. I would estimate the value of good will by what it would bring in the market; what the business would bring in the market.

Mr. STERLING. You would estimate its value on its earning power?

Mr. BABSON. No; not on its earning power. There is a distinction there. I would estimate its value on what it would earn without additional advertising or selling, so to speak; that is, its momentum. I used this illustration the other day. We have a certain train. It is being hauled by an engine. If the coupling should be pulled out and the engine should pull away, that train is going to travel a certain distance on the track by itself. Now that distance the train would travel without that engine is what I call the good will.

Mr. STERLING. How would you fix the value of it? How are you going to tell how far it would travel?

Mr. BABSON. The market price of the proposition. I think that could be appraised like anything else.

Mr. STERLING. Is it not true that the only possible way to get anything like the definite value of good will is through earning power? What do you think is a fair return on an investment now?

Mr. BABSON. Oh, I think it depends entirely on the character of the business.

Mr. STERLING. I mean what is money worth?

Mr. BABSON. It depends entirely on the value of the business, whether it is a newspaper business that is very largely good will and yet very valuable, or whether it is a railroad business, where the good will is of no consequence at all, because it has a monopoly. I mean to say, I think it might be anywhere from 6 to 40 per cent.

Mr. STERLING. What do you think would be a fair return to a newspaper man?

Mr. BABSON. I should say not less than 25 per cent.

Mr. STERLING. Are there very many making that?

Mr. BABSON. No; I should say not, by any means. On the other hand, it comes right back again to the question of whether you figure on capital invested or figure on value.

Mr. STERLING. Of course. Suppose you compute the value of property upon its earning power. Suppose it earns \$100,000 a year and say money is worth 10 per cent, how much would you value the property at on that basis?

Mr. BABSON. It would depend on the character of the business, absolutely.

Mr. STERLING. \$1,000,000, assuming it is worth 10 per cent.

Mr. BABSON. No; it is the character of the business.

Mr. STERLING. I am assuming it is worth 10 per cent, regardless of the character of the business. You would put his capital in that instance at \$1,000,000, would you not? Say he is entitled to earn 10 per cent and he earns \$100,000 and has \$500,000 invested, then the rest of it would be good will.

Mr. BABSON. No; I should not figure it in that way at all. I should figure the good will on the basis of what the business earns without these abnormal efforts.

Mr. STERLING. You can not figure what the business earns unless you have some standard by which to measure the value of the good will.

Mr. BABSON. I should say——

Mr. LONGWORTH. Mr. Babson, pardon me, there was a specific recommendation made here by Mr. Garrett, representing the New York Chamber of Commerce. He made a specific recommendation with reference to the value of good will. I will read his suggestion:

Section 207, subdivision (a) should be amended in such manner as to allow a fair method of valuing good will, patent rights, copyrights, etc., in cases where there have been no transfers thereof.

That is what you refer to?

Mr. BABSON. Yes.

Mr. LONGWORTH (reading):

It is suggested that such amendments should take the form of permitting the corporation a return on the amount of these items which have been carried as the value thereof on its books, provided such good will and other intangible items have, together with the tangible assets, during a period of three years, earned a return to the corporation at least equal to 8 per cent.

What have you to say as to that suggestion?

Mr. BABSON. I think it would be a great improvement on the present law.



Mr. STERLING. Suppose that was adopted, do you not know that you would not get a cent of excess profits, giving 8 per cent on invested capital?

Mr. BABSON. I should not say that.

Mr. LONGWORTH. Mr. Babson, it does figure out in that way. For instance, using the illustration given by Mr. Kitchin at that time, suppose you invest \$100,000, which is the amount actually invested, and it brings a return for three years of 40 per cent. Capitalizing at 8 per cent would represent a capital of \$500,000?

Mr. BABSON. Yes.

Mr. LONGWORTH. Now, if you were allowed in that case to deduct \$500,000, you have no excess profits under capital at all, because it is just 8 per cent, and there would be no excess-profits tax arising from it.

Mr. BABSON. I had not heard this suggestion read before, and if it shows no excess profits, I do not believe in it, that is all. I believe the Government has got to have money, but what I am fighting for or interested in is the fundamental principle that good will secured through educational work, whether through salesmen or through advertising or through any other means, is just as much an economic factor and is just as much a commodity as bricks or mortar or anything else.

Mr. LONGWORTH. The trouble about that is, as Mr. Sterling suggested, how you would frame that into line, and I read you the only definite suggestion we have had.

Mr. BABSON. I would like time to think that over and figure it out.

Mr. LONGWORTH. When reduced to its ultimate analysis it means there would be no excess-profits tax at all.

Mr. BABSON. Then I think we ought to have a chance to go at it in some other way. I had not heard this read before, as I told you.

Mr. RAINEY. Here is a concrete illustration. The R. J. Reynolds Tobacco Co. has put out a brand of cigarettes which they call the Camel cigarettes. Their advertising consists of the picture of a camel on the packages. They hold that copyrighted picture to be worth \$10,000,000 and have been offered that much for it, and could sell it for that amount. There is nothing to go except the picture and you could put any kind of cigarette in that package and the valuable thing is the picture, which they have copyrighted. Do you think that ought to be estimated at \$10,000,000?

Mr. BABSON. Yes, sir; I do. That is just what I was coming to. That is the distinction I would make. You suggest that the good will be determined by the earning capacity of the business.

Mr. LONGWORTH. Capitalized for a certain series of years.

Mr. BABSON. Yes.

Mr. LONGWORTH. That is this suggestion.

Mr. BABSON. My idea would be to have the good will determined by the salable price of the brand.

Mr. FORDNEY. Now, Mr. Babson, take another illustration. The law does not permit you to use as invested capital the increased value of your property. Suppose you purchased it 30 years ago, in figuring your excess-profits tax, the law will not permit you to use as the value of your property the increase in that value.

Mr. BABSON. It will if I have increased that——

Mr. FORDNEY. But you would——

Mr. BABSON. No; it will if I increase that value by the use of carpenters and painters.

Mr. FORDNEY. You put your money in 30 years ago, and it has increased in value, and you could get a higher price for it to-day because it is worth more money, yet the law does not permit you to use it as invested capital. Now, you would permit good will, no matter how it came, by advertising or otherwise, for instance, \$10,000,000 for this homely camel picture on a package of cigarettes made in black ink and put on there cheaply, and it did not cost anything to put it there——

Mr. BABSON. Oh, yes; it cost millions to put it there.

Mr. FORDNEY. Oh, gracious, no. Where did they get it?

Mr. BABSON. In the advertising.

Mr. FORDNEY. No; it just took on the market, just like Bull Durham.

Mr. BABSON. No; it took millions to get it that way, and if we are ever going to develop our foreign trade after this war, it is absolutely essential that we encourage the development of trade-marks.

Mr. FORDNEY. You would use as invested capital good will, no matter how obtained, and you would not use the increased value of the property?

Mr. BABSON. No; I did not say the latter.

Mr. FORDNEY. The law does not permit that. Would you change the law and permit it to be used?

Mr. BABSON. I would, as the previous speaker suggested; yes.

Mr. SLOAN. Mr. Babson, in any State of this Union do they allow good will to be taxed or considered as a part of the capital for any State purpose? You are a statistician.

Mr. BABSON. But I am not a lawyer.

Mr. SLOAN. But you are a statistician, and this is a matter of legal construction. It is a matter of knowledge that a statistician would have and a lawyer probably would not. That is why a western lawyer asks you the question. Is it not a fact that good will is neither taxed nor considered in the make-up of valuation for taxation in any State of this Union?

Mr. BABSON. I did not know that was so.

Mr. SLOAN. I understand it to be true, and I sought to verify it from you.

Mr. BABSON. What I mean by good will is the value of brands.

Mr. SLOAN. Now, just one other question: Is not another reason why you could not take into consideration this good-will matter the fact that while you spend money and have the cost which you might start out with, yet the evidence of that expenditure is so flimsy and hard to get at ordinarily that it would be an unsafe proposition to use in business concerns? Now, you spoke about the carpenter and the decorator who are employed to come and beautify or repair the building. You not only have the evidence on the books of what is spent in that regard, as you would in buying the good will according to your theory, but you have the tangible material there to prove itself; and, as a matter of evidence, is it not a rather unstable proposition for the Government to say to its taxpayers, "I am going to

let you have this means of defending the payment of large taxes," because if your theory was carried out undoubtedly the Government would lose a great deal of taxes that it would get if it did not extend the privilege you are asking.

Mr. BABSON. I do not think in the long run the Government would lose those taxes, because these brands are absolutely essential in the development of foreign trade.

Mr. SLOAN. But we hope this is not going to be "a very long run."

Mr. BABSON. Germany's great success in her South American trade—and I was sent to South America by Secretary McAdoo; I have been there three times studying this same proposition—and the great success of the German development of foreign trade has been in the use of brands and in the encouragement by the German Government of brands and good will, and what little success we have had there has been by the few concerns who have thus far established brands.

Mr. FORDNEY. Do you think the German brand in America hereafter will advertise German goods?

Mr. BABSON. No, I do not; but I think it will in South America.

Mr. FORDNEY. Do you not think we ought to put it upon everything made there and have upon everything imported where it is made?

Mr. BABSON. I think that would be a splendid idea.

Mr. LONGWORTH. Mr. Babson, I am with you so far as the tax in time of peace is concerned; in fact, I made very much the same sort of argument you are making against the excess-profits tax when first proposed as a revenue measure before the war started. I made very much that same point that you are making, that it tends to be a tax upon efficiency of production rather than upon volume of production.

Mr. BABSON. Absolutely.

Mr. LONGWORTH. But we are face to face with the raising of war revenue, and to follow out your conclusion to its last analysis you would have no excess-profits tax on such a corporation as you mention, because if you are going to value the good will at its market value or the return that it would make for a specific period of years, as this gentleman suggests, you come right down to the exemption and therefore there would be no excess-profits tax. Now, if this excess-profits tax is to be levied under this system of basing it on invested capital, which is defined to be the amount of capital put in the business, in order to raise the large amount of taxes necessary we can not permit the valuation of that property to be made at what would be its actual sale price at the time the tax is levied.

Mr. BABSON. The discussion of the problem thus far has been on the basis of earning capacity, and on the basis of earning capacity as suggested by these gentlemen and as suggested by the statement you have read your interpretation is correct, but my suggestion is based on the valuation of brands as such, and that would not cut down the profit to any such extent as you imagine.

Mr. LONGWORTH. It might be the major part of the value of that corporation.

Mr. BABSON. Then, if it does cut that way, it ought to be allowed to cut, and everybody raised proportionately to make up the money.

Mr. LONGWORTH. The moment you do that you exempt him from an excess-profits tax under the present system. The trouble is that

we have two systems to resort to for the collection of an excess-profits tax—one of them, our present method, where you have to base it on the present capital. Then you have the British method, where you base it on the difference between the prewar profits and the war profits. Now, if we undertake to include trade-marks, good will, and all that sort of thing, up to the point of their actual value, we destroy to that extent the revenue-producing power.

Mr. BABSON. If that is the just thing to do, what if we do?

Mr. LONGWORTH. We have to raise the revenue.

Mr. BABSON. Not unjustly.

Mr. LONGWORTH. It is a question of the exact justice of it, but as a matter of fact, if you allow a corporation such as Mr. Rainey indicated, the Camel brand of the American Tobacco Co., the main value of whose product is that brand, to pay a tax on the actual investment only—

Mr. BABSON (interposing). The brand, not the company.

Mr. LONGWORTH (continuing). Then you destroy the revenue-producing power of such a tax as this. When you are basing the tax on the first value of the whole property and not the amount of capital actually invested, it works an injustice, as I say; and I argued against it in time of peace, and I offered an amendment on the floor to strike out the excess-profits tax substantially in principle the same as this; but that was in time of peace, now we are at war. We have only this method to-day in the law of raising an excess-profits tax, and your proposition argues in favor of a great reduction of that, decreasing the revenue rather than increasing it. I will admit the injustice in time of peace.

Mr. BABSON. I admit that it would be a great reduction by treating everybody justly, but it would only mean the raising of the tax on everybody of 1 per cent, perhaps.

Mr. LONGWORTH. I wish you would figure it out and give us some illustration later as to the working of your proposition.

Mr. BABSON. On the value of brands?

Mr. LONGWORTH. Of letting brands be put in at the market value.

Mr. BABSON. For instance, in a newspaper like the New York World the value is not all represented by the earnings.

Mr. LONGWORTH. We are talking about the earnings, the revenue, based on the invested capital and the consequent excess profits. I wish you would think that over and see how that figures.

Mr. BABSON. That is on the basis of earnings? My suggestion is on the value of the brands.

Mr. LONGWORTH. I know, but who is going to value it? It figures out the same proposition. If you value it, you value it at the marketable value—what somebody would pay for it.

Mr. BABSON. I think there is a distinction. Concretely, my business is known as Babson's Reports. Now, I have a certain income at the present time as Babson's Reports. Now, I believe that if you could buy that business and change that name to Longworth's Reports, I believe that the income would drop off a certain amount to start with, with due respect to you.

Mr. LONGWORTH. It would be nothing.

Mr. BABSON. It would not be nothing. You probably would not lose more than 10 to 20 per cent at the outside. That is the good will of my business. That is the value of my brand. It is not the earnings of the business.

Mr. LONGWORTH. If it is only about 10 or 20 per cent of your total capital it would not make very much difference, but I am speaking of concerns whose trade-marks are worth a large proportion of the business; they may be worth all of it, or the cash may be comparatively negligible. If you are going to allow the trade-mark to be valued at an amount which somebody would pay, after all that always gets down to a question of earnings. This is the definite concrete proposition. Capitalize your good will at 8 per cent, we may say, or 10 per cent, or 15 per cent, or 20 per cent in every case, and the logical result is going to be a greatly diminished return from the excess-profits tax under this present system. I wish you would work that out and make definite illustrations as to just how much that would bring in.

Mr. BABSON. You believe that there is an injustice under the present system?

Mr. LONGWORTH. I assume that there is injustice.

Mr. BABSON. My point is that I have a hotel, and I spend money on interior decorations to get me more business, and I can put that money under invested capital, but if I spend it on newspaper advertising you don't let me put that in under invested capital. I feel that that is not only an injustice but it is a very shortsighted business policy for the United States Government.

Mr. LONGWORTH. But it does raise the revenue. As I say, I see the logic of your position, to get revenue in time of peace, and I will be with you as soon as the war is over and we do not have to have this war revenue in order to give every kind of encouragement to the development of business.

Mr. BABSON. You are a man who was foremost in getting us to prepare for war in time of peace; isn't it just as important for us to prepare for peace in time of war?

Mr. SLOAN. The question of war preparation is involved now.

Mr. LONGWORTH. Yes; and peace preparation now, in which money is necessary.

Mr. RAINEY. Are you through now, or if not can you come back at 2.30?

Mr. BABSON. Just as you wish.

Mr. LONGWORTH. I was hoping that Mr. Babson would give some more concrete illustrations.

Mr. BABSON. It simply depends on whether you are interested in this general system. If you have closed your minds—

Mr. LONGWORTH. It is a most interesting matter. We admit the unfairness in some cases. If you can make some suggestions as to making it a little more fair without losing a very large amount of revenue we would be very glad to have the suggestions.

(Thereupon, at 12.35 p. m., the committee took a recess until 2.30 p. m.)

## AFTER RECESS.

The committee met at 2.30 p. m. pursuant to adjournment.  
Mr. RAINEY. We will hear Mr. Bruckner.

## STATEMENT OF HON. HENRY BRUCKNER, NEW YORK CITY.

Mr. RAINEY. Give your name and occupation.

Mr. BRUCKNER. Henry Bruckner, New York City; manufacturer of mineral and soda waters.

Mr. MOORE. And formerly a Member of Congress.

Mr. BRUCKNER. You won't hold that against me, will you?

Mr. MOORE. Not at all; that is rather to your credit.

Mr. FAIRCHILD. Is it?

Mr. MOORE. We will admit it; Mr. Bruckner does not deny it.

Mr. BRUCKNER. I can't.

Mr. MOORE. I didn't think you would, even if you are working in other fields now.

Mr. BRUCKNER. I am vitally interested in this new revenue bill, inasmuch as it is proposed to tax the soft-stuff industry. From what I can gain informally from the members and others you propose a tax that is almost prohibitive. It has been suggested, as I understand it, that the tax is to be placed on the consumer; in other words, that the consumer is to pay the tax, and that glass is going to be taxed. I fail to understand or comprehend, I might say, how you are going to arrive at this tax or how it is going to be uniformly distributed. It seems to me that the proper method would be as the tax is now on the liquid drums; every manufacturer of soda water must use the liquid drum. The few that do not use them are reputable concerns who will pay the tax as they do now, on their output, at the rate, I believe, of 1 cent a gallon.

As I understand it, the tax is to be, or it has been suggested that the tax would be 1 cent on a 5-cent or a small bottle. There are now only two styles of bottles that I know of, the half pint, which is used in the café, and the quart bottle, which is used by the family. They both sell at about the same price. Of the small stuff, the half pint bottle, there are 2 dozen bottles in a case, and in the larger case, there are 1 dozen quarts. Now, then, if it is proposed to put a tax of 1 penny a glass the small case would be taxed 24 cents, and the large quarts, four times as much, would be taxed double the tax, and what is to prevent the unscrupulous dispenser from using the stamp as you propose? It was argued here last year when this same matter was before the committee, that a stamp tax did not seem to be the proper thing. I am only willing and anxious to discuss the matter with the members of the committee here.

Mr. FAIRCHILD. What is the present tax?

Mr. BRUCKNER. Five cents a pound on liquid gas and on the manufactured product 1 cent a gallon.

Mr. FAIRCHILD. How do you understand that the charge is to be made? What is your basis of information?

Mr. RAINEY. We have no advices here.

Mr. BRUCKNER. I have only read, Mr. Chairman, the hearings.

Mr. MOORE. I will say to you, Mr. Bruckner, for your information, that it has been suggested here several times when acid men have

appeared, that inasmuch as we have to raise twice as much revenue for 1919 as was raised for 1918, and would necessarily have to get more out of the bottling business that it might relieve the whole situation if the tax were put upon the glass and passed on to the consumer. It has been a suggestion only.

Mr. BRUCKNER. Is it the intention of the committee to tax the acid water men twice as much under the new bill as under the old?

Mr. MOORE. I do not think anybody can speak for the committee.

Mr. BRUCKNER. If it is the intention to raise twice the revenue under the new bill as under the old, to double the old bill—

Mr. MOORE (interposing). Not necessarily. Here is the situation. We have raised about \$12,000,000,000 for the year 1918 by taxes and loans. The President came to Congress a short time ago and made an address stating our war necessities and said in substance that we would have to have \$24,000,000,000 for the year ending June 30, 1919. That would be just double the amount raised for the present year. That is how the impression has gone about. Now, then, the Secretary of the Treasury has indicated that of the \$24,000,000,000 to be raised next year \$8,000,000,000 of it should be raised by taxation. Now, that means if we are to raise \$8,000,000,000 by taxation in 1919, and we raised only \$4,000,000,000 in 1918, we must get \$2 in 1919 for every one raised in 1918. That is the reason for the impression going abroad that we would have to have double taxation. It means that we have got to get \$2 next year for every one that we got last year.

Mr. BRUCKNER. I do not want to go on record as being opposed to having our industry taxed. I must admit that our industry must be classed as a nonessential. It is the soft drink business, and if you want to tax our industry twice the amount, why not tax it the same way as now instead of reaching it some other way?

Mr. MOORE. Just double the tax on the drums?

Mr. BRUCKNER. Yes.

Mr. MOORE. That is a question to be determined.

Mr. LONGWORTH. What is the price?

Mr. BRUCKNER. Five cents.

Mr. LONGWORTH. A 5-cent tax would be 100 per cent. What is the price of gas per pound?

Mr. BRUCKNER. Six cents.

Mr. LONGWORTH. It is practically 100 per cent tax.

Mr. BRUCKNER. Yes, but that is a fair way to reach the bottlers. Acid water is dispensed two ways, at the soda fountain and by the bottlers, sold to families. I am myself most interested in the bottlers' business, not the soda fountain business, but the soda fountain must use liquid gas to dispense its soda, and there is where you get the soda fountain man with the tax; that is where you get everybody.

Mr. MOORE. Since you left the halls of Congress to take up administrative work, you may not have followed matters as closely as you did before. Therefore I am going to report the situation as reported by the Internal Revenue office. They submitted a statement to us recently by which it appeared that there was collected on beverages which includes yours, in the month of April, 1916, \$350,887. Under the new war tax law which we are supposed to revise, it was estimated that we would collect for the year ending June 30, 1918, out of beverages \$2,582,000, and that we would be able under the present

law to collect for the year ending June 30, 1919, a total of about \$5,000,000. Now, then, that is under the existing law. If \$5,000,000 is a fair statement of the estimated receipts from beverages for the year 1919, that is to say the year ending June 30, 1919, we might expect to raise twice that much for the succeeding year, and the question is this, so far as I have seen it, and so far as we have been able to get it from witnesses who have appeared before us, shall we increase the tax on drums which would mean a tax against the producer of the carbonic acid gas, to raise that additional revenue, or shall we so arrange the tax as to pass it on to the consumer who buys it at the soda water fountain, or who buys it in the grocery store, railroad train, or wherever he gets it, and if we are going to adopt the second plan, which would be to pass it on to the consumer, how will we make the law enforceable to reach not only the well organized soda water fountain men, but the man who sells to the boy who drinks it out of the neck of the bottle?

Mr. BRUCKNER. The only fair way is the drum tax. Any other way it is going to cost money to collect from the small dealer. I do not think it will cost the Government anything to collect this way.

You know that the main ingredient in soda water is sugar. For the next six months the soda water business is limited to 50 per cent of the sugar it used last year.

Mr. MOORE. We have heard from other gentlemen who have come here on the soda water business, and most of them had rather taken the view of putting the tax on the consumer.

Mr. BRUCKNER. It will be all right, Mr. Moore, if you could enforce that, but I am practical enough to know that it will not be so.

Mr. MOORE. Understand I am not advocating it, because we have not discussed this in the committee at all yet. We are really fishing for information, and some of those gentlemen said that it would be helpful to have the tax passed along this way.

Mr. BRUCKNER. If a tax must be raised, the best way and the fairest way is to treat everybody uniformly. That is my idea in taxing the liquid drum. As I stated before, a great many people imagine that the small bottle, sold to the man at the ball game and in the picture show is all there is to the business. But there is another side. The family who consumes soda water from the quart bottle. That quart bottle has four times the content of the half pint bottle, and sells for only the double price, the half-pint bottle 5 cents, and the full quart bottle 10 cents.

Mr. MOORE. It would be a simple process, wouldn't it, to go into a Washington drug store and buy a drink of soda water, and get a check for 5 cents or 10 cents, whatever the price might be, just the normal price, and find that when the check is handed out to me it is marked 1 cent or 2 cents war tax, just like at the moving picture show.

Mr. BRUCKNER. Yes, but the moving-picture performance lasts 2 hours, the ball game lasts 2 hours, the theater several hours, but soda water in warm weather is consumed from 6 o'clock in the morning until 12 at night.

Mr. MOORE. You mean that a man who wanted five or six drinks would have to pay two or three times the taxes collected at the moving-picture show?



Mr. BRUCKNER. What I wanted to suggest is that charging that 1 penny on the small bottle, if it is going to be the same ratio on the large bottle, the large bottle will be taxed four times as much, because the contents are four times as much, but the bottle sells for only twice the amount. It requires only one cap and less washing, etc.

Mr. MOORE. With the fact in front of you that we have got to raise twice as much money for this year as for the last year, and may have to double the taxes, what would you say as a general proposition, so far as your trade is concerned; where shall we put it?

Mr. BRUCKNER. The fair way to levy the tax is on the liquid drum, the way you are taxing it now, and taxing it twice as much, if it must be 100 per cent. That is the only correct way.

Mr. MOORE. You would prefer it, then, the way we have it?

Mr. BRUCKNER. It is the only way to reach everybody. They can't get away, any man who bottles nonalcoholic drinks, such as Bevo. They are made with liquid gas.

Mr. MOORE. Would they pass it on? The complaint was that we would tax carbonic acid gas and the trade might not be able to stand it. You would have to pass the price along?

Mr. BRUCKNER. No question about it.

Mr. MOORE. Then, instead of the Government getting the 1 cent on the retail price, you would have to arrange it so that you would get the 1 cent?

Mr. BRUCKNER. That is all.

Mr. MOORE. We would have to get the money out of you?

Mr. BRUCKNER. Out of the liquid drum. I do not pay any tax, but the liquid drum pays a tax and I pay it to him. Under this law I do not pay any tax to the Government direct.

Mr. FAIRCHILD. Do not individuals make their own gas?

Mr. BRUCKNER. No, not that I know of.

Mr. FAIRCHILD. I understood that at one time the hotels in New York City were manufacturing the gas that they use.

Mr. BRUCKNER. I do not think so. If they do, the bill as it is now taxes them 1 cent a gallon on their product.

Mr. MOORE. Wasn't there a carbonic-acid gas machine a few years ago?

Mr. BRUCKNER. I do not think it is on the market now.

Mr. MOORE. Didn't they undertake to sell it to hotels?

Mr. BRUCKNER. At one time.

Mr. MOORE. Isn't it in business now?

Mr. BRUCKNER. I do not think so.

Mr. MOORE. I understood that there was a concern in New York that undertook to supply hotels with gas-making machinery so that they could make the gas themselves.

Mr. BRUCKNER. But if they do they must pay for the finished product a cent a gallon.

Mr. RAINEY. Anything else?

Mr. BRUCKNER. I wish that some of the committee would invite some questions.

Mr. RAINEY. Has there been any increase in the price of soft drinks?

Mr. BRUCKNER. Not after the tax was on. There was an increase in the price of bottles and boxes. They have increased 100 per cent, labor and everything else.

Mr. FORDNEY. I did not come in until after you had begin your argument. I remember you very well from last year. Do I understand you to say that if there is an increase on this business, any taxes put in this new law, that it should be on the carbonic-acid gas?

Mr. BRUCKNER. Yes.

Mr. FORDNEY. And then distributed in the same way as now?

Mr. BRUCKNER. Yes, I think so; I think that is the way. You would reach everybody and treat them fairly.

Mr. FORDNEY. But the manufacturer of the gas last year after this law became effective added to the price?

Mr. BRUCKNER. Yes; we paid them.

Mr. FORDNEY. Undoubtedly they would increase the price if we added more tax?

Mr. BRUCKNER. Yes; that is to be expected.

Mr. RAINEY. Has it now doubled to the consumer?

Mr. BRUCKNER. No; the price of the small soda of last year was 5 cents, and in the face of all this increase it is still selling at 5 cents.

Mr. FAIRCHILD. You wouldn't think it feasible to increase the price at the soda fountain from 5 cents to 6 cents?

Mr. BRUCKNER. Soda water has had a standard price, and the next price advance would be 10 cents, and that is out of the question.

What I am trying to bring out is that if there is going to be a tax on the consumer, if he pays a cent tax on a 5-cent bottle because the contents of the quart bottle is four times the half pint, I do not think it would be fair to charge 4 cents tax on that bottle because it goes into the family.

Mr. LONGWORTH. While you would say that it is not reasonable that you could increase the 5 cents to 6 cents, nevertheless a great many different industries made precisely the same argument to us and they have increased the price of a 5-cent cigar to 6 cents and 7 cents.

Mr. BRUCKNER. In the cigar store and confectionery store, but the greater amount goes to the café.

Mr. LONGWORTH. As I say, it may be inconvenient to the trade to increase the price to 6 and 7 cents, but it is possible because it has been done.

Mr. BRUCKNER. We do not want to evade.

Mr. LONGWORTH. I am not insinuating that you are. I am only saying that it is a possibility. It may be an improbability, but it is a possibility.

Mr. BRUCKNER. Anything is possible.

Mr. LONGWORTH (continuing). That the price may be raised to 6 cents.

Mr. BRUCKNER. But if you are going to raise our tax and you want to raise twice the amount, you ought to put it on this gas. We have got to pay the tax. We are not fighting that. That is the fair way to my mind, the practical way, and costs the Government little or nothing to collect.

Mr. FORDNEY. If we double the tax, which is passed on now, you will pay and the manufacturer will turn it into the Government?

Mr. BRUCKNER. That is it.

Mr. FAIRCHILD. And you will pass it on to the dispenser?

Mr. BRUCKNER. We must advance the price to him, because we can not stand another advance.

Mr. MOORE. Is there an association of bottlers in New York?

Mr. BRUCKNER. Yes; and throughout the country.

Mr. MOORE. There was a general association represented here. We also had representatives of the Pennsylvania association. I was wondering if you had been in conference with them or were just speaking for yourself.

Mr. BRUCKNER. They asked me to come here.

Mr. MOORE. You are speaking in a representative capacity?

Mr. BRUCKNER. Yes.

Mr. FORDNEY. I do not know of anything that I can ask to help the situation.

Mr. BRUCKNER. I thank you.

#### STATEMENT OF MORRIS L. ERNST, ATTORNEY, NEW YORK CITY.

Mr. RAINEY. State your name and your occupation.

Mr. ERNST. Morris L. Ernst, attorney, not representing any particular interest, New York City.

I would like to ask the consideration of the committee to a new tax. I represent no interest in connection with it whatever. I refer to a tax on the fee-charging employment office. The United States Government is now committed to the system of public employment office, and has made an appropriation in the sundry civil bill of \$7,000,000 and a million dollars has been spent in the last six months. In view of the President's proclamation of recent date beseeching employers to use the Federal system exclusively from August 1 on, it occurred to me that there would be an additional source of revenue in taxing the private employment business.

There is no definite estimate that I can find as to the number of such offices. In New York there are about 1,000 and in Illinois about 300. There are probably 10,000 of them all told. They are now for the most part established—licensed by the various States—the license fee being merely nominal to cover the expense of regulation.

Mr. MOORE. Have you studied the question from the standpoint of the Southern States, Mr. Ernst?

Mr. ERNST. I am familiar with it. I might say that I have been doing some special labor work in connection with the United States Shipping Board and for the New York State Defense Council. I understand that in the South and many of the localities, they have raised the license fees considerably during the last year or so.

Mr. MOORE. Take Georgia: Do you know what the license fee is there now?

Mr. ERNST. I do not, offhand. I have a list that was prepared up to 1916.

Mr. MOORE. Are you familiar with the recent legislation in Florida on that subject?

Mr. ERNST. I am familiar with it from the other angle. I have been instrumental in putting on the statute books of New York State a law under which the State of New York is doing a service. I am familiar with the Federal service to this extent that it is my opinion that we will not have priority of labor as long as we allow these employment offices to conduct their business. We can not really give priority to certain lines of industry because we have these private agencies that are running on their own account.

Moreover, these commercial agencies are producing constant labor turnovers. That is how they make their money, by frequent turnovers. I am familiar with the attempt of the State of Washington to wipe this out by legislation. That legislation was declared unconstitutional by the Supreme Court of the United States by a vote of 5 to 4.

Mr. MOORE. Are you connected with the Department of Labor in any way?

Mr. ERNST. I am called upon from time to time by the United States Shipping Board to go to certain shipyards in conjunction with their work, but I am not talking as an official.

Mr. MOORE. Are you connected with the United States Shipping Board?

Mr. ERNST. I am connected by just being called on when they want me.

Mr. MOORE. You are an attorney at law in the State of New York?

Mr. ERNST. Yes, sir.

Mr. MOORE. And you have been making a specialty of this business?

Mr. ERNST. Not in a legal sense, just for my own interest.

Mr. MOORE. I just wanted to establish your Government connection, because you have an interesting subject. What is your Government connection?

Mr. ERNST. I was asked by the New York State Defense Council to open up a clearing house for labor in the city of New York to connect up the 100 or more employment offices in the city of New York that are operating without any fee.

Mr. MOORE. Don't they pay a mercantile tax or some other tax in the State of New York?

Mr. ERNST. The agencies that charge a fee to employers or employees are licensed.

Mr. MOORE. And they pay for the license, which is in effect a tax?

Mr. ERNST. No; it is not a tax to the State. It is merely sufficient to pay the expense of regulation.

Mr. MOORE. In Pennsylvania they pay a very substantial license fee for the privilege of doing this business to which you refer.

Mr. ERNST. Now, as I understand the Pennsylvania law, though I am not positive, the amount of the fee is merely sufficient to cover the expense of regulation.

Mr. MOORE. And keep them under control, of course.

Mr. ERNST. It is not a tax, that is, if the amount exacted as a fee is more than the expense of regulation in New York it would be unconstitutional.

Mr. MOORE. In New York State?

Mr. ERNST. Yes, sir.

Mr. MOORE. I do not think that is the theory in Pennsylvania. It is a source of revenue.

Mr. ERNST. That is the theory in New York of the licensing power.

Mr. MOORE. What sort of a tax are you proposing, what sort of a Federal tax, that may help us in the matter of revenue?

Mr. ERNST. The amount involved is small in your total, but it seems to me that no matter what the amount is the remedial effect of controlling by tax, or limiting to some extent the private endeavors

running along side of the Federal employment offices, would be worth while?

Mr. MOORE. The Government is to spend money for the purpose of regulating the employment of labor to be used for any purpose on the farm, shipyards, wherever called.

Mr. ERNST. Of course, that would not be limited.

Mr. MOORE. Your suggestion comes from some authority, or is it your own?

Mr. ERNST. My own suggestion.

Mr. MOORE. Your suggestion is that we should now impose a tax on independent employment agencies in order that the Government may better control the distribution of labor. Is that about the size of it?

Mr. ERNST. That is, as far as my own personal opinion goes. I am in favor of the tax being a power to destroy.

Mr. MOORE. You would put them out of business during the war.

Mr. ERNST. I would always. They have done it in England. There is no private operating in England.

Mr. MOORE. I asked you about Florida a moment ago, because I have some information on the Florida situation and of the southern situation. Along the Gulf States there has been a heavy draft upon negro labor lately. Certain of those States have been passing laws, and I think Florida is one of them, putting a very high tax or license fee upon those who employ labor, those who come into the State for the purpose of taking labor away.

Mr. ERNST. I understand that the law applies where a man comes in to take labor out of a State, and that, of course, is different from exacting a license fee for the purpose of securing employment.

Mr. MOORE. If it was applied to a certain nationality, it would be called a padrone.

Mr. ERNST. A private employment can only be maintained at a profit by frequent turnovers.

Mr. LONGWORTH. You would not include household servants, domestic servants?

Mr. ERNST. I would include every employment office that operates for a fee, and would include charitable institutions. The charitable institutions are not operating for a profit, but still charge a fee. That has been charged on the old theory that what costs nothing is not considered of any value.

Mr. LONGWORTH. You would include domestic servants?

Mr. ERNST. I would include domestic servants, any employment agencies under the tax. The United States Government is committed to what England has had for 10 years, the national system of labor exchanges, as they call them there, and in time of war it seems rather folly where war demands are so essential, to maintain an independent group of 10,000 agencies to apply their business irrespective of the policy laid down by the United States Government.

Mr. FAIRCHILD. What is the method of Great Britain?

Mr. ERNST. Before the war it had 432 national employment exchanges, and since that time, according to the testimony of Sir Stevenson Kent, of the English labor commission, who was here, they have extended that to 2,000 in number, in a country twice the size of New York State, where we have in New York seven offices, which they have planned to increase to 40.

Mr. FORDNEY. What were they taxed in Great Britain?

Mr. ERNST. They were not taxed, as I understand it, but merely a Government order was issued, or a regulation, preventing any person from sending anybody to a job unless it was done by the O. K. of the chairman and on a card of the national labor exchange system. In other words, take the coppersmiths. The Government said that they wanted to control, more or less, where the coppersmiths would go, and I mention the coppersmiths because the survey in this country shows a shortage of about 1,000. In that way all the private agencies were discontinued. Even the Y. M. C. A.'s in England—and this is not a matter of record, so far as I know—must call up the Government office before they can send a man to a single industry, so that the Government can make sure that the men are being sent to the more essential industries.

Mr. FORDNEY. You believe, then, in concentrating these employment agencies and putting them all under the control of the Federal Government?

Mr. ERNST. Yes; it would do that. And I think it is within the province of this committee, indirectly to a great extent, to do that through the tax. Now, as to the amount, it is a matter of guesswork, and those with whom I have talked suggest anywhere from \$100 to \$5,000.

Mr. MOORE. What does the Shipping Board and the Emergency Fleet Corporation say about this?

Mr. ERNST. I have not spoken to any member of that board, except Mr. Charles D. Barnes, who is the head of the Federal and State employment service, and who has been in charge of the New York State service of the Shipping Board. He has expressed hearty approval as an individual.

Mr. MOORE. Is that due to the fact that there is a scarcity of men in his service, would you say?

Mr. ERNST. That approval?

Mr. MOORE. Yes.

Mr. ERNST. That approval is due fundamentally to the fact that the Federal system can not get very far and allow these agencies to come along, and for two or three dollars a man take men from their present employment.

Mr. MOORE. We have men to take care of the details of the connection between the employer and the employed in the shipping business—in the business of seamanship.

Mr. ERNST. As to seamanship itself I am not informed, but as to the man in the ship yards, of course, we know more about.

Mr. MOORE. If any such nefarious practice was going on, the shipping commissioner has authority to keep posted.

Mr. ERNST. Aside from the shanghaiing, or anything of that sort, by these commercial employment offices, in view of the appropriation by Congress to spend \$7,000,000, it occurred to me in the first instance in reading the President's proclamation that the Government should not be handicapped by having fee-charging offices in the way.

Mr. MOORE. What do you know about the labor attitude on this question, the attitude of organized labor, especially the unions like the Seamen's Union, and the American Federation of Labor?

Mr. ERNST. As well as I understand it, the American Federation of Labor, at their convention at Buffalo eight or nine months ago pronounced in a very lengthy resolution, with approval of the Federal employment service, and I do know as a fact that the unions for years have condemned these private employment agencies and padrones, and all sorts of fee-charging agencies. The movement is pretty general throughout the United States against that practice of taking a fee from the man who is out of work.

Mr. MOORE. A railroad contractor needs a lot of men for a piece of work in Ohio. He is unable to get labor in the vicinity. He goes into the Southern States and offers inducement to men to come to his employment, and he brings them up here. That creates discontent in the State. Is that one of the things that you want to correct?

Mr. ERNST. That is one of the things that we want to correct. If we had an adequate Federal system, the State where that contractor has his business will go to the Federal office and communicate with the Southern States and obtain his men.

Mr. MOORE. An individual or a concern owning large forests wants to put in a lot of lumber jacks. Advertisements are issued and solicitors are sent out in large cities are found, and a group of men is found to go forward into lumber camps. Would you stop that?

Mr. ERNST. I would not want to stop that, but I would want to have that done through the Federal Employment Service.

Mr. MOORE. How would you get the men?

Mr. ERNST. Let us assume that a plant in Pennsylvania needs some skilled hull makers in a shipyard plant. That is a particular instance that I am familiar with. They can't find them in the State of Pennsylvania, so the Federal office in Pennsylvania would get in communication with the New York office, and the New York State man, working in conjunction with the Pennsylvania man, would be sure that he is not taking some men from New York that are needed more there.

Mr. FORDNEY. That is what the Federal Government is doing now. It is seeking men and giving employment to them at shipyards, munition factories and other places over the country, and it is taking men away from corporations, individuals, and private industry. How would you remedy that? You are disapproving of the thing that the individual does now. I want to know how you are going to approve what the Federal Government is doing?

Mr. ERNST. That is a pretty good morsel that you have given me.

Mr. MOORE. In many instances the Government has granted larger wages than men got in private employment, and they put the private employer out of business.

Mr. ERNST. I am familiar with that, and I have followed the English experience with a system of leaving certificates.

Mr. FORDNEY. I have this from an Army officer, that the Government is offering as high as \$10 a day for eight hours' work at Camp Meigs, right here in town, and \$12 on Sunday, and that they took them away from the shipyard in Philadelphia where they were not getting such wages.

Mr. ERNST. The only solution of that is an adequate system of employment offices through which the people must be placed, so that

one branch may not be supplied with men at the expense of another branch.

Mr. FORDNEY. Let me tell you what will be the result, it seems to me. This is a new thing to me, but I suppose if you established federal employment agencies all over the country, you would have one head of that agency, wouldn't you?

Mr. ERNST. Yes, sir.

Mr. FORDNEY. Just exactly like we have one railway director general to-day. The operations of the railroads of the country are being directed by Mr. McAdoo, a man for whom I have very high regard, although I thought before that duty was put upon him that he had plenty to do for one man to manage the affairs of the Federal Government in getting money to carry on this war. There are 750 great railway systems in this country to-day. They had 750 well-trained and efficient general managers. Do you believe that any one can direct the management of all those railroads as well as the 750 were directing the management?

Mr. ERNST. I am not in a position to answer as to that. It seems to me that this Federal employment service can be very well managed by one man, and if we had 750 different men to handle the work it would create a chaos.

Mr. FORDNEY. It is the same principle. What would be your judgment as a business man, or an experienced man in law, or otherwise, as to the management of one man being as efficient as 750 well-skilled men?

Mr. ERNST. I would say that we are tending in this day to the one-man theory, and it is proving to be the correct theory.

Mr. FORDNEY. Do you approve of the Government ownership of railroads?

Mr. ERNST. I haven't any opinion on that.

Mr. FORDNEY. Well, that is one of the tendencies of one-man management.

Mr. ERNST. May I come back to my point that I fear is being lost?

Mr. FORDNEY. I did not want to get you away from that. I thought we were discussing that.

Mr. ERNST. The one principle I am discussing is to tax the private employment business so that it will not seriously interfere with the work of the Federal employment offices.

Mr. FORDNEY. I am not trying to get you away, but I want to get into the deepest water in your argument. We have a great many employment agencies all over the country at nearly every principal town where labor is employed in machine shops, foundries, glass factories, shipyards, on the farm. There is a scarcity of labor now, and there is a great struggle to obtain labor. I do know this that men in the North, where the labor scarcity was felt first, sent men into the South to get negroes and take them North, and they took them north in great numbers, by the thousand. The wages of the South were in no way compared with the wages of the North or the West. Wages are lower in the South. What would you do, would you stop that?

Mr. ERNST. I would, if I were in charge of an adequate Federal employment office.

Mr. FORDNEY. If you waited for the red tape to come through a Federal employment agency you would go out of business waiting for men. It takes so long to get the Government to act.



Mr. ERNST. Many concerns are going out of business, not waiting for men, but because they are being taken away from them.

Mr. FORDNEY. I will tell you what is taking men away, that is because they can get better wages somewhere else, or better opportunities.

Mr. ERNST. Or the men believe that they are getting better opportunities.

Mr. FORDNEY. But when a man is working for \$5 a day and someone comes along and offers him \$10 a day there isn't much doubt about that?

Mr. ERNST. But very generally the reports in the newspapers have overestimated the shortage of labor in this country, in my opinion.

Mr. FORDNEY. Are you an employer of labor?

Mr. ERNST. I have been. I was at a plant this morning, the Hog Island plant. They were turning away 1,000 men to whom they can not give work. I was with the shipyards men less than two weeks ago, and a half dozen made that statement that there was not the shortage of labor with them, except certain skilled labor.

Mr. MOORE. My information about Hog Island is that they are getting rid of men they do not want; sorting them; getting rid of those who are not efficient.

Mr. ERNST. Yes; in spite of that and on top of that there are numbers of men traveling around that section of the country looking for jobs.

Mr. MOORE. But they are not skilled men.

Mr. FORDNEY. Do you mean to say that a laboring man can not get employment if he wants it, anywhere?

Mr. ERNST. I say with considerable difficulty.

Mr. FORDNEY. Tell me where, in the name of God, there is a town in this country where there is a man who can not get a job if he wants it, and I will show you a white blackbird.

Mr. ERNST. There are many men out of work because they read in the newspapers every day that 20,000 men are needed here and others are needed there, and every time they read it they think they are worth more, and when he is offered a job, it does not come up to his expectations, and sometimes when men go after a job they will not get it because an employer who wants 100 men advertises that he needs a thousand, so that he can take his pick from the applicants.

Mr. FORDNEY. Do you know of an institution in this town—do you know of an institution in this country—that has got a sign up, "Labor not wanted?"

Mr. ERNST. Yes, sir. I went out to Pelham last Thursday and I saw a sign on one of the large cantonments that is still being built, "No more help wanted." I was at Hog Island shipyards and I saw 500 men turned away. When I was conducting a clearing house in New York City the jewelers had 400 or 500 skilled watchmakers and toolmakers ready to go into ammunition plants.

Mr. FORDNEY. Yes; if you take some men that want some special line of work, like men who want to go into the Army, but want it fixed so that they can get a soft job where there are no bullets; but you take a man that wants to work and will take any employment that is offered him, it is easy for him to find a place. On the Pacific coast the Government has sent 10,000 into the lumber camps, and the wages range from \$8 to \$10 a day for common labor. I know it,

because I am in business there, and we are paying that. We are running only about half our force and can not get more men from the Government, and you tell me that men are walking the streets looking for employment.

Mr. ERNST. In New York City, I can get figures to show that from five to fifteen thousand people are there looking for work. Some will not take the jobs that are offered because they do not come up to their expectations.

Mr. FORDNEY. If you are correct in your statement, it is the most surprising statement I have heard for months that there are men in this day who are willing to accept employment and can not get it.

Mr. MOORE. Won't it help you a little to know that over in the Senate they raised the House appropriation from \$1,000,000 to \$7,000,000 a few days ago in order to bring about a larger distribution of labor in the United States?

Mr. FORDNEY. I know there are a lot of strange things being done, but sifted out there is a whole lot of politics in that.

Mr. ERNST. May I close this point? That is about the full argument.

Mr. MOORE. Let me emphasize that fact. Mr. Fordney would like to know that Congress backed by the department has made an appropriation of \$7,000,000 to work up this labor situation with a view to acquiring more efficient distribution. Whether it is wise, I do not know. The department has said they wanted it, and while the House thought that \$1,000,000 was sufficient, the Senate wanted \$7,000,000, so this compromise was made at \$7,000,000. That is the usual compromise between the House and the Senate, when the Senate is backed up by the administration.

Mr. ERNST. I have not ax to grind on the subject at all, but it would seem to me strange to vote \$7,000,000 for a system which must be of little value if it is to be allowed to compete with the individual system.

Mr. MOORE. We were told that it was important to have this \$7,000,000.

Mr. ERNST. I believe it is.

Mr. DIXON. You are not interested in the amount of money to be raised, except to put these men out of business?

Mr. ERNST. It would produce \$5,000,000 or \$10,000,000 revenue, which, of course, is a comparatively small matter.

Mr. LONGWORTH. Don't you think it is going too far to tax out of business agencies supplying domestic help—household labor?

Mr. ERNST. I purposely would not tax anybody out of business.

Mr. LONGWORTH. There is a great deal in your proposition as to labor.

Mr. ERNST. The Federal Employment Agency would be in a position to handle the situation as to domestic help. That situation develops along with your plans for other help. For example, a great many domestic servants have left their service and gone to places where the munition plants are located. You can not separate the two.

One distinction that might be made would be between institutions that are not engaged in this business for profit, Y. M. C. A.s and Y. M. H. A.s, but they are charging a fee to employees on the old

notion that a free public school would not do, because if they did not pay for it, it would not be worth anything.

Incidentally it occurs to me that this list of occupations might be extended so as to provide considerably more. It struck me that auctioneers might be included.

Mr. MOORE. They pay State and local taxes?

Mr. ERNST. The same as a theater is licensed or a broker is licensed or a manufacturer of oleomargarine in paying a tax.

Mr. MOORE. Any other that you have thought of?

Mr. ERNST. Those are the two that have occurred to me.

Mr. MOORE. You suggested employment agencies, auctioneers.

Mr. ERNST. Those are the only ones that have occurred to me.

Mr. LONGWORTH. Book agents?

Mr. ERNST. Yes; for lawyers' benefit.

I have another proposition, if it can take a minute of your time, that I can not speak about with the same confidence as I have on this first point, but it will provide a tremendous means of revenue. Let me call it a tax on labor turnover. It is not in existence, so far as I know. It sounds pretty radical. Let us assume that every concern employing a hundred persons, or over, on the average, must make a return at the end of the year showing the monthly average number of employees of the plant. He must also make a return showing the total number of persons hired. Let us say that the average number of employees of a concern is 5,000 and the total number hired 20,000, not an unusual state of affairs. That will be a turnover of 400 per cent. What I had in mind was a tax along the following lines:

Supposing a man hires 20,000 people a year. When a man goes into the service, take that out of the 20,000. Allow him for deaths of his employees, and allow him in addition a margin of safety, say a turnover of 100 per cent, and then put a tax on that additional inexcusable turnover. I hope I have made myself clear. Let us assume that he has 5,000 employees, hires 20,000; 1,500 of them go into the service, and then allow him, because he has increased his plant, and for other reasons—allow him a turnover of 100 per cent of the 20,000, which would be 5,000, and which would be excusable in times like this, and there are still 12,500 hired for which there is no excuse.

Mr. DIXON. Who is to be the judge?

Mr. ERNST. The 100 per cent factor of safety would cover any reasonable amount, and after that you have a graduated tax. There are many concerns in this country that to-day have practically no turnover of labor, because they have figured out that it is important to find out why men are leaving. The usual way is to pay attention only to getting men into the shop, and keep hiring more help, regardless of why they are leaving. It is estimated that Mr. Ford, with his \$10,000,000 bonus, saved over \$2,000,000 by cutting down this turnover.

Mr. DIXON. But the employer himself may not be responsible; the men merely leave.

Mr. ERNST. And we have a condition where the Government is taking men away, but we have this fact to face that the employers are not troubled with this labor turnover who are giving consideration to this subject. The Winchester Arms Co., the Ford plant, and many others that are not paying as high as the Forst plant are not

losing their men, because they have made a study of the reason men leave. It costs an employer from \$5 to \$100 to lose a man. If you tax a man \$1 on a man, it would not be a large amount of what he is losing by having him go away. In order to make it fair allow a man 100 per cent turnover. He has to pay a tax.

Mr. FAIRCHILD. I am interested in manufacturing. I was told recently that we had one of the most up-to-date factories in the country, and we are doing everything we can for our laboring men. We have never had a strike, and we give them the highest wages, and do everything we can to please them. At the same time the general manager of one of the factories told me recently that out of 1,300 men whom he had employed, he had lost 1,000 this last year.

Mr. ERNST. I think he did very well.

Mr. FAIRCHILD. Your law certainly would not control men who think they can get better pay some other place.

Mr. ERNST. I should say that a concern such as yours should not be taxed. That turnover is not unreasonable. But how about the concern that hired—take the Ford plant in the old days, when they kept 23,000 men, and hired some 60,000 to 70,000 men a year.

Mr. FAIRCHILD. We have lost 23 per cent in one factory that went to war.

Mr. ERNST. That is a proper allowance. Let us allow war, death, and 100 per cent turnover, but above that if a plant continues to take on men and let them out, have a graduated tax.

Mr. FAIRCHILD. I can't see how the suggestion would have any effect on the individual man.

Mr. ERNST. It would have on the employer, and the employer by finding out why they are leaving, like the Stotson Co., has, would cut down the turnover. The amounts of the tax could not be passed on to the consumer, because he would be competing with a man in the same business, who has not the same turnover. He could not pass that on, because he is competing in the market without the tax.

Mr. FAIRCHILD. I should say that what you have is very intangible.

Mr. ERNST. I will put it in figures and give you a concrete case. Let us say, let us take the case of a man who employs on the average 5,000 people, and that his total hirings during the year were 20,000, and there are any number of employers who will do that. Now, under the tax law require every employer to make a return showing the average number of persons hired. From the total of 20,000 deduct those who have entered into the service of the United States, and 100 per cent turnover. If the average employment was 5,000, 100 per cent would be 5,000, 5,000 would enter the service, and there would be 2,500 more for deaths, etc., and that would leave 2,500 taxable persons.

As to the rates, I have no fixed opinion on that. Suppose on the 2,500 you collect a tax of \$1 on the first 500, \$2 on the next 500, and a graduated tax for the rest.

Mr. FAIRCHILD. He can not control his men, because they will go and they will come.

Mr. ERNST. I believe it is within his control. I thank you.

Mr. DIXON. Mr. Stewart.

**STATEMENT OF HON. GEORGE M. BOWERS, REPRESENTATIVE  
IN CONGRESS FROM WEST VIRGINIA.**

Mr. BOWERS. I want to introduce Hon. J. H. Stewart, commissioner of agriculture of the State of West Virginia, who wishes to offer a general plan on which we hope that some agreement can be reached whereby the income from the orchardists in our State will be taxed.

Orcharding in West Virginia, as we understand it, is a more advanced grade of farming. To cite an illustration, we have in the county in which I live some 200 operations. Of these, 35 are incorporations, and 165 are orchards owned, operated, and controlled by individuals. It is to some extent a new innovation in West Virginia. Orcharding commenced there, apples, some 20 years ago in a small way, and from time to time it has advanced until, with all due respect to the gentleman from Oregon, that county alone raises more apples than the entire State of Washington or the State of Oregon, not combined, but individually.

Mr. MOORE. Can you beat them on flavor?

Mr. BOWERS. Our quality is much better; their color is a little better.

Mr. TREADWAY. You don't include western Massachusetts, do you?

Mr. BOWERS. Western Massachusetts is not included.

Mr. HAWLEY. There must be something wrong with your claim.

Mr. BOWERS. We claim, and we have evidence to prove, that in the county of Berkeley, State of West Virginia, we raise more apples than the entire State of Oregon, and over in the county of Frederick, in Virginia, which joins our county and which is one of the two counties in the Valley of the Shenandoah, which is noted for fruit growing, they raise more apples than the entire State of Oregon.

Statistics show that in my county last year we raised something more than 400,000 barrels. If those barrels had been put in boxes, as they are in the States of Oregon and Washington, it would have made about 1,200,000 boxes. The statistics show that last year the State of Washington had, I think, about 968,000 boxes.

But this is the proposition, as I understand it: It takes an orchard at least 12 years to develop, and after that length of time some of these orchards have become lucrative and profitable. Now, as an illustration, a farmer may have 160 acres of high-grade land in the valley, and may, perhaps, have 20 acres in orchard. At the end of 12 years that 20 acres brings him in five times the income that the 140 acres used for ordinary agricultural purposes bring him.

Now, there must be a basis upon which taxation can be agreed upon. In reporting, as I understand it, an income tax in the past we have simply shown what has been received, and what has been expended, and the amount left has been subject to income tax. But in the meanwhile some of these properties—I know orchard properties in my county 20 years ago which sold for \$5 an acre, but after the orchards had been developed, that same proposition is worth \$100,000. Now, we simply wish to reach some conclusion upon which to base our reports as to excess-profits tax and income tax, and the committee has asked the commissioner of agriculture of the State of West Virginia, Hon. James H. Stewart, to some extent to represent them at this conference.

Mr. TREADWAY. May I ask a question? Do I understand you that it is the purpose of your organization to suggest an additional form of taxation that you do not now have?

Mr. BOWERS. We haven't any direct form at present.

Mr. TREADWAY. You pay excess profits?

Mr. BOWERS. We are simply being treated as agriculturists.

Mr. TREADWAY. You want to pay more money?

Mr. BOWERS. No; we don't want to pay more money. We are willing to pay our share, and we do not wish to evade our proportion. We are of the impression that if these properties can be valued upon which we receive a certain percentage as dividends, the excess profits over and above that amount would be subject to taxation.

Mr. TREADWAY. You want, in other words, a higher valuation of assets?

Mr. BOWERS. If the property is worth \$100,000 upon which as a bank we might receive an added per cent of dividends, the additional profits should be subject to an income tax.

Mr. MOORE. You spoke about its taking 12 years for an orchard to yield. Does that rule hold throughout the country?

Mr. BOWERS. I would not say that it holds in Washington or Oregon; in Washington especially. In Washington the development is by irrigation, and my understanding is that in Washington State and Oregon an orchard can become self-sustaining at the end of seven years.

Mr. MOORE. I heard it stated at five.

Mr. BOWERS. Seven is about right.

Mr. MOORE. It could be very early.

Mr. BOWERS. If I understand it, I think it is about seven years. If I am wrong, I hope some one will correct me.

Mr. MOORE. Do you mean 12 years from the time of planting the seeds to the fruitage of the tree?

Mr. STEWART. From the time of planting the tree.

Mr. BOWERS. Trees are planted one, two, or three years old.

Mr. MOORE. From the time of planting the tree to the time of bearing?

Mr. BOWERS. As the tree develops it is more expensive, not only for spraying purposes and everything of that kind, but the larger the tree the more spraying it requires.

Mr. MOORE. Well, I only wanted to get about the 12 years. It takes 12 years from the planting of the tree up to the time of bearing?

Mr. BOWERS. Well, no, not up to the time of bearing, but up to the time it becomes self-sustaining. Of course, at the end of 9 or 10 years there are a few apples on the trees.

Mr. GREEN. I think my friend Moore has not investigated the practice of apple growers or he would not count it that way, because they buy the trees from the nurseries when they are about two years old, do they not?

Mr. BOWERS. Well, two years old—sometimes a little over. I think about two years old, don't they, Mr. Miller?

Mr. W. H. MILLER. Yes; one and two years.

Mr. GREEN. They buy one or two year old trees and they estimate the time from the time they take that tree and set it out.

Mr. BOWERS. Yes; but understand that in a few instances peaches are planted between.

Mr. MOORE. I don't think you quite agree with my colleague, Mr. Green of Iowa, who indicated to me privately that they did not use seed at all. I think probably he is a little in error about that. We plant the apple seed to get the tree, but we cultivate it for two years before it is set out. That is about what you mean, isn't it?

Mr. BOWERS. That is it exactly.

Mr. HAWLEY. You plant the apple seed—usually the crab apple seed if you can get it—and then graft on to that at the end of the first season. That is one legitimate species of graft. (Laughter.)

Mr. BOWERS. Well, you are more familiar with that than I am.

Mr. DIXON. Mr. Stewart can probably explain that more satisfactorily.

Mr. BOWERS. But you understand the cost means from the date of the purchase of the land with which this orchard is commenced, started, up until the day of the development, and in those cases not including the time of the individual or of the property; and the only way that we feel that we can reach a conclusion as to the cost, of course, is by referring to some extent to our expenditures. A great many orchardists have not kept an account of them, because some of us never did believe that we would reach that period when there was a possibility of paying income tax.

Mr. MOORE. Mr. Bowers, I always thought you knew more about fish than you did about apples, but I am willing to leave it to you on the apple question.

Mr. BOWERS. Well, gentlemen, there are other gentlemen here more familiar with it than I am. I must confess that I have some knowledge of suckers, and since I have become a Member of Congress I have a better knowledge of lobsters. (Laughter.)

Mr. MOORE. We have found that out and can sympathize with you.

Mr. BOWERS. And, Mr. Moore, at some future time I would be very glad to discuss the subject of boll seal with you. That is the most delightful of all vocation. You know that because I have told you about it.

Mr. DIXON. We will hear Mr. Stewart now.

**STATEMENT OF MR. J. H. STEWART, CHARLESTON, W. VA., REPRESENTING THE EASTERN FRUIT GROWERS' ASSOCIATION.**

Mr. STEWART. Gentlemen, I am commissioner of agriculture and member of the Eastern Fruit Growers' Association. We have an association which banded itself together to look after the interests of the fruit grower, and they are from the States of Pennsylvania, Delaware, Maryland, Virginia, and West Virginia. I am a member of that association and have been asked to take a little time—your time—not so much to try to advise you and inform you but to ask of you.

We are out in the country growing fruit, principally peaches and apples and pears, and other fruit, and have not learned the refinements of technical taxation, and having heard rumors of what might be done in the way of excess-profits taxes, we have been fearful that in the exercise of that law we might suffer injuries not intended by this committee or by Congress.

You have been told by your fellow Member, Mr. Bowers, that it takes 12 years to bring an apple orchard in the East here up to profit-

able bearing. That is about correct. It depends upon the locality, soil, and variety of fruit. There are some places where a variety will bring a considerable crop in 7 or 8 years, while a different variety at a different place in the same State would not bear profitably before 14 or 15 years. Compare the York Imperial in the Potomac Valley, where they bear a crop in seven or eight years, with the Albemarle Pippin in Virginia, in the very circumscribed area that it grows properly.

The thing that we want to bring to your attention is this: We are not hoping or desiring to evade any taxation which we should pay or may be able to pay. We are more than willing to contribute our full part. Every time the State from which I come has been called upon for anything in behalf of this war we have met that demand, whether in money, men, or in anything else, but we have a lot of small corporations and individuals of limited means who have adopted the orchard business in the State and have invested their all, plus all they could borrow. Now, they have agreed with the banks and it is understood among them, whether a corporation, limited partnership, or individual, that when that orchard arrives at profit bearing and has what you might call a little killing, then those debts are to be paid. If the tax is placed on valuation, the low capitalization which was fixed by the amount originally put in, and not by the amount actually invested—that was the basis, then no part of this excess profits can be devoted to the payment of the debt, and the orchard will be driven out of business and probably driven into bankruptcy. It was for the purpose of evading that result, which I am sure this committee would not want after having its attention drawn to it, and in the second place fix a basis not upon the original valuation of the land or the original capitalization of the company, but upon the amount actually put in, including reasonable compensation for the supervision of the owner that we think fair. We believe that is fair, and we ask the committee in its deliberations among all the complex things which you have to consider—being masters of the subject—not to forget that these men are among those to whom those in authority in this country have called for at least one indispensable essential for success in this emergency in which we are all engaged.

Mr. MOORE. Have you prepared an amendment to the bill?

Mr. STEWART. I have a statement, a paper, which I would like to leave with the committee.

Mr. DIXON. If you leave it, it will be printed in the hearings.

Mr. STEWART. I want to committee to read it.

Mr. MOORE. I thought you might have in concrete form an amendment embodying what you have to suggest as to what you think ought to be done, and if you would read it, it would help the committee.

Mr. STEWART. I will ask Mr. Miller to read that for me—Mr. Harry Miller. It is a short paper and it will not take more than five or six minutes.

Mr. DIXON. Will be glad to to have him read it.



**STATEMENT OF MR. H. W. MILLER, PAWPAW, W. VA.**

Mr. MILLER. Gentlemen of the committee, I have been asked to make a short statement.

We, a committee of the Eastern Fruit Growers' Association, representing the fruit interests in five Eastern States, namely, Virginia, West Virginia, Pennsylvania, Maryland, and Delaware, with a production aggregating 20,000,000 bushels of apples and 5,000,000 bushels of peaches, ask you to consider our business interests regarding the proposed excess-profits tax measure to be enacted by Congress in the near future.

Orcharding is on a different footing from any other line of business, for the following reasons:

It requires about 10 years to bring an apple orchard into bearing and about 5 years for a peach orchard. During this time the owners lose the interest on their money and pay out all the expenses and get practically no return, yet pay their full share of all taxes assessed. If the apple orchard does not come into bearing until 11 or 12 years of age, this item often adds as much as 50 or 60 per cent to the investment with no return.

After the orchard is 10 or 11 years old, full crops may be expected every other year, with partial crops or total failures the off year. Thus you will note that the first 10 years is a period of cost without profit and the balance of the life of the orchard, usually 20 to 25 years, does not produce every year. Figuring the total life of the orchard (apple) at from 30 to 35 years, we find that not more than 60 per cent of the years are productive and the balance are an expense to the grower.

The orchard business does not run under contracts guaranteed by the Government or some responsible firm to net so much profit, but the bad years and attendant losses fall directly upon the producer. Hailstorms and freezes sometimes change the most favorable prospects into dismal failures in a few hours, and the orchardist can not insure against these things as the ordinary manufacturer can. No man could undertake a business as hazardous as the fruit business, which is idle 40 per cent of its life; on a basis as low as manufacturers, who take no such risks.

Many of our orchards are owned by small corporations, with capital running from \$10,000 to \$100,000, the capital stock having been held down low in order to make good dividends, and in many cases the owners working for nothing or on a very small salary. These corporations find themselves now in a very peculiar position. Owing to the rising cost of producing an orchard in recent years, they have exhausted their capital and have had to borrow large sums of money to bring their orchards into bearing, so that instead of watering the stock the plants have cost much more than the capitalization. If the excess-profits tax is laid on their small capitalization and no provision is made in the law to allow them to pay off their indebtedness first, they will only get a small part of their earnings to apply on their obligations, and will, therefore, be years in paying off their debts, leaving no chance to declare dividends on their stock.

Now, gentlemen, this refers more particularly to orchards planted in the last 10 years. Older orchards—Mr. Bowers says that his is one of the older orchards—pay very well. We don't intend to mis-

lead the committee by saying that they will not pay when they are matured, but those that are maturing now are at greater cost on account of the expenses due to the war than they would have been had the war not come on, and so we are just bringing this point to your attention.

Mr. GREEN. An orchard that is just maturing would not bring in anything, would it?

Mr. MILLER. Well, that is just the point I want to emphasize. If it makes a good killing this year, we want to know whether you are going to take a big share of the profits before we can pay the bills, or anything of that kind.

Many of these companies have borrowed from banks and individuals, promising to pay from their earnings when the orchard bore. If the excess tax is laid on their low capitalization and they are not allowed to use their bills payable as capital, it will make their tax bills altogether out of proportion to other corporations who have large capitalization and can, therefore, make plenty of money on a low dividend and escape excess taxation, too. This condition would destroy the selling value of the stock of the small corporations and also their credit and hurt the banks and others who have financed them.

The orchard man's surplus invested during the first 10 years of nonproduction is tied up in the orchard and must be gotten out during the balance of the orchard's lifetime or not at all. Overtaxation will take this surplus and the owner will never realize on it at all, while the manufacturer realizes on his investment as he goes along and is guaranteed against loss largely by his contracts. The orchards, if not permitted to make good profits after their owners have waited so long, will naturally be allowed to go out and we will find after the war that this great natural food supply will be very materially cut down just when the whole world will need it the most. We are informed that the orchards of France and Belgium have been destroyed by the German Army, and certainly think it would be wise to preserve ours, realizing that taxation will not stop when the war closes and an industry that requires 10 years to start can not be made over in time to produce either food or taxes when once abandoned. The Secretary of Agriculture has asked the farmer and fruit grower to produce everything possible to feed our people, our armies, and our allies. We think every orchardist has done his best to respond. Mr. Hoover has asked us all to save fats and grains by eating fruits and vegetables, and thereby allow our country to export the meat and grain for the Army. This is wise and we think should be continued, but we must realize that it is impossible to save that which we do not produce. It is a physical impossibility to feed our 100,000,000 people and our allies on bread and meat alone. We must use every filler it is possible to obtain and there is nothing better than fruit; it appears to us, therefore, that the Government ought to foster this industry. This food supply is already grown and does not even have to be planted, and will, we assure you, be pushed to the limit of its productive capacity, which can be made very large, if we are not, in our peculiar circumstances, made to suffer undue taxation.

We believe that if not overtaxed, this industry will enable our people to do much more to support the Government by buying bonds in the

future than it has up to this time. We ask you, therefore, not to kill the goose that lays the golden egg, but allow our business to live and produce many more golden eggs to support our people and the Government.

For the above reasons, we do not think our business should be subject to an extreme excess-profits tax in the good many years with no provision for the first 10 years of cost without profits and for the off years thereafter. We therefore ask that a clause be incorporated in the new law permitting agricultural and horticultural corporations to liquidate their obligations incurred within the last five years before they become liable to the excess-profits tax, provided no dividends are paid before that is done.

Mr. MOORE. Have you got something there in the form of an amendment to the bill that will cover the points you make?

Mr. MILLER. Well, we have got this suggestion.

Mr. MOORE. The suggestion is all right. I understand that, but I thought possibly you might have an amendment in such a form as to let us tie it up to the bill and be exactly what it is that you want.

Mr. MILLER. If you will permit us, we can submit that.

Mr. DIXON. Certainly, we will be glad to have you do it.

Mr. MOORE. It would simplify the whole matter to see just what you want, as applied to the law, if you are asking for an amendment of the existing law we will know just what it is you are driving at.

Mr. MILLER. (Reading:)

We further suggest and recommend that in view of the fact that the orchardist loses interest on his investment for 10 or 12 years, that this interest be credited to his capital account and that his excess profits be calculated on the basis of the original investment with interest added.

You understand that if the interest goes on for 10 or 12 years before he gets anything at all, it amounts very often to 50 or 60 per cent of the whole—sometimes 75 or 80 per cent, and if as at present, the corporation starts out with a capital stock of \$10,000, by the time it gets to bearing, and it has borrowed \$5,000, we are only permitted to pay our assessment on the \$10,000, leaving the \$5,000 to be paid afterwards.

Mr. DIXON. You get credit for the interest.

Mr. MILLER. For the interest, but not the original investment and a very material expense has been added to the cost of the plant which we could not help in the face of the war conditions.

We herewith attach a typical case of the small corporation in the orchard business.

A typical case is that of a corporation organized with \$10,000 capital, all paid in cash, the stockholders of which have been called on within the past five years to raise additional sums by loans to the extent of \$5,000 in order to bring the orchard up to production by reason of the enormous increase in cost of labor and material.

These loans remain unpaid and the stockholders have never received any dividends.

In the event of the net proceeds of the company for the year 1918, being, say, \$4,000, should not the company's indebtedness be paid off at least to some extent, before the Government computes the company's income for taxation for 1918?

This point not appearing clearly set forth in the existing law, it is asked that it be made so in the revenue bill now under consideration.

We believe the Government recognizes the fruit industry as an essential one, and to this end we feel it should have some degree of protection. It goes without saying that stockholders of companies who have indorsed their paper for years and get no protection, nor dividends, will soon become tired of the proposition and let the property go to sale, and take one loss for their final loss. This will occur if a reasonable measure of the profits derived from fruit sales are not permitted to go to the stockholders after they have waited for some times a period of 1 years without any revenue.

And again, if fruit growers are not allowed to have a good margin of profit on their investment, they will have no incentive to continue in the business if already interested, and certainly will not engage in it if they know in advance that they can get but interest rates on their investment. Fruit growing is a more hazardous and risky line of production than the growing of grain.

It requires years to bring an orchard up to a profitable bearing age. Even though successful in not having the various pests to contend with, or to kill the trees before they reach bearing age, the life of a peach tree is not more than 13 years and if a big crop at good prices is not had in this period, the grower comes out with a loss (cite statement attached).

Apples require from 10 to 14 years to come up to a profitable bearing age, the grower putting money and more money into the plant each year. This, with a reasonable sum for interest on his initial investment would show that he has doubled the original amount invested when the trees come up to bearing.

Should the grower be taxed on this business, which is an essential one during the war, to the limit that is proposed, he could not liquidate his long-standing indebtedness, the banks would lose confidence, and the grower, if not very strong financially, would be forced to abandon a proposition which he had spent much money in developing and devoted some of the best and most active years of his life in caring for, without receiving even his investment in return.

We urge that you allow interests of this nature an opportunity to first pay off their obligations, or a certain percentage of their indebtedness before making them liable for war-tax purposes. Last season (1917) our results were not as good as in 1916, the year before the United States entered the war. This shows that the war does not have the same effect on our efforts as it does upon coal, steel, ammunition, cotton, and other items directly necessary for war purposes. Aside from this, we are up against a labor shortage, increased wages—lavily increased—uncertain transportation facilities on a very perishable commodity, and lack of ice for the proper refrigerating of our fruit.

## STATEMENT.

[Company organized in 1910. Capital stock of \$30,000.]

Initial capital actually in the plant.....		\$30,000.00		
Bills payable owing as of Jan. 1, 1918.....		29,576.81		
Amount received from sales of fruit 1910-1917, inclusive.....		112,179.65		
		171,756.46		
Actual amount paid out for all purposes.....		92,847.27		
		78,909.19		
To this should be added amount at which camp, hardware, and live stock are carried in excess of their real value.....		3,000.00		
Also salary allowance to general manager and president, which was not paid to them for the period of 7 years.....		7,500.00		
And also an allowance of 6 per cent on the amount of capital stock invested for 7 years.....		12,600.00		
		102,009.19		
		102,009.19		
1910, no crop.	}	Expenses first 5 years.....	21,955.10	
1911, no crop.				
1912, crop.....				\$2,113.48
1913, crop.....				8,894.53
1914, crop.....				18,171.67
1915, crop.....				18,501.68
1916, crop.....				27,819.20
1917, crop.....	36,679.09	Expense.....	24,195.61	
		Expense.....	20,197.25	
		Expense.....	26,499.31	
		112,179.65	92,847.27	

In other words, we have lost in five seasons and profited in only two seasons and have a bills-payable account of \$29,576.81 yet unpaid, some of which has been carried with the original loaners since 1911.

The company has paid no salaries to officers, no dividends to stockholders, since its organization. We have cut out peach trees which have died, or were broken, to the value of several thousand dollars, which does not show on our books as a loss.

Several of the stockholders have indorsed the obligations of this company since its organization, without any protection whatever from the company, have received no salary, not even expense money actually expended in behalf of the company and solely in the interest of the company.

Mr. MOORE. How large an orchard will that \$10,000 company control?

Mr. MILLER. I think usually a \$10,000 corporation—well, they would run anywhere from 50 to 100 acres.

Mr. MOORE. About how many trees to the acre?

Mr. MILLER. From 30 to 40 trees to the acre, depending a little on how they are planted.

Mr. MOORE. I suppose you have it figured out as to the number of boxes of apples that can be taken off of an acre?

Mr. MILLER. Yes, sir. That depends, of course, a little on the variety and on the location. Are you asking for information on that line?

Mr. MOORE. Well, I have heard it figured out in other instances. I suppose it will enter into the general question of profits and of the importance of these deductions that you suggest. If you cared to

give to the committee an illustration of the production of a 40-acre farm such as might be controlled by a \$10,000 corporation in one year it might be helpful. I don't want to pry into your business, of course.

Mr. MILLER. We appreciate that, and we will do anything we can to enlighten the committee. We are not here to cover up anything.

Mr. MOORE. We would like to know about what one tree will produce and what the total number of trees in 1 acre produces.

Mr. MILLER. We would say on the average 100 barrels to the acre is a good crop; that is, after the trees are, say, 14 years old. Under that, anywhere from 10 to 25 barrels.

Mr. MOORE. Mr. Miller, how many States are represented here to-day?

Mr. MILLER. Five States, I believe, by this Eastern Fruit Growers' Association.

Mr. MOORE. This is the Eastern Fruit Growers' Association for which you gentlemen now are speaking?

Mr. MILLER. Yes, sir.

Mr. MOORE. That includes how many States?

Mr. MILLER. Five—Pennsylvania, Virginia, West Virginia, Maryland, and Delaware.

Mr. MOORE. Is New Jersey in?

Mr. MILLER. New Jersey is not in this.

Mr. MOORE. That includes Pennsylvania, Delaware, Maryland, Virginia, and West Virginia?

Mr. MILLER. Yes, sir.

Mr. MOORE. That includes a large peach-growing as well as a large apple-growing area?

Mr. MILLER. Yes, sir. I think you will find, Mr. Chairman, that these mature orchards that have come under this 10-year period of which we are speaking as having been loaded up a little bit on account of the war in increased cost, are more largely located in West Virginia, Virginia, Maryland, and Delaware than any other States.

Mr. LONGWORTH. What effect, if any, has the war had on prices?

Mr. MILLER. I am glad you asked that question, sir. I will say this much, that from 10 to 12 years ago—my father was in the orchard business before the Civil War, so we have seen a good deal of it—from 10 to 12 years ago a good barrel of apples would sell for \$3. To-day the same barrel will sell for from \$4 to \$4.25; in some cases, \$4.50. Now, 10 years ago we paid—12 years ago we paid 75 cents a day for our labor. To-day we pay whatever we can get. We are up against the coal mines that are paying \$10 or \$11 a day for labor.

Mr. LONGWORTH. In other words, the cost of production has gone up at a higher rate than your return?

Mr. MILLER. Yes, sir; the selling cost has gone up something like 73 per cent, and the production cost has gone up twice that much, so that in reality we are not as well off as we were 10 years ago. The war has not benefited us to the extent that it has some of the war material manufacturers or ammunition manufacturers or people of that kind.

Mr. MOORE. What is your State, Mr. Miller?

Mr. MILLER. West Virginia. I will say also, gentlemen, in 1913, that was before the war broke out—I am speaking just from my own experience—the peach crop sold for 75 cents per basket at the

station. That was a half-bushel basket, \$1.50 a bushel. In 1916 which was two years after the war had broken out in Europe, our crop sold for 68 cents. In 1917, which was last year, our crop averaged about 73½ or 74 cents per basket. So that you can judge, gentlemen, that we were better off five years ago than we are now, because the increased cost of production had not mounted up so quickly as it has now.

Mr. DIXON. How do you market your crop? Do you sell to wholesalers in the cities?

Mr. MILLER. Now we are attempting to sell direct to the consumer, if we can. That is in carload lots as far as possible, and that has been very successful in the last two years. Previous to that time we sold anywhere we could, and sometimes we made a good deal and sometimes we did not. The orchard business, the apple business, and the peach business are both carried on more largely now by exchanges, people banding together and selling through these exchanges.

Mr. DIXON. Did your corporation experience hardships under this law during these last years?

Mr. MILLER. Yes; the last three or four years.

Mr. BOWERS. I know of no better evidence of the cost of production than that last year, it was not a hard problem to buy barrels for 33 to 36 cents a barrel, and to-day you can't buy the same barrel for less than 75 cents a barrel. That gives you an evidence of the additional expense as compared with last year, and labor is nearly in the same proportion.

Mr. LONGWORTH. And you get \$4.25 a barrel?

Mr. BOWERS. Yes, sir.

Mr. LONGWORTH. How much did you get before?

Mr. BOWERS. Twelve years ago we got \$2 a barrel and last \$3 to \$3.75.

Mr. MILLER. Ten or twelve years ago we could sell the same barrel of apples for the same money.

Mr. BOWERS. Last year is the only time we have ever gotten anything like \$4 a barrel.

Mr. MOORE. It is evident that the retail price has gone up. I don't know whether you gentlemen who are growers are getting your share of it, but as apples and peaches are sold in the large cities there is ample evidence that they are charging pretty high prices. The price is certainly double what it was last year.

Mr. MILLER. What we intended to lay before the committee is that the relative ratios between cost and selling price have not been maintained.

Mr. LONGWORTH. Not so far as the producer is concerned, but Mr. Moore is speaking of the retail price, which has been very much higher.

Mr. MOORE. I was rather interested in Mr. Longworth's question, which was to the effect that the price per barrel had been advanced so moderately in view of the terrific increase in the retail price.

Mr. MILLER. We believe that there has been some profiteering between the producer and the consumer.

Mr. MOORE. Either you are not getting yours or somebody is getting theirs.

Mr. GREEN. Most of these orchards are carried on by corporations?

Mr. MILLER. Well, it depends a little on the locality. Now, in Butler County Mr. Bowers says that out of 200 concerns only 35 of them are corporations. But in Morgan and Hamshire and Mineral the reverse is the case. The proportion are little corporations that have banded themselves together and have cleared up a piece of land and started into the fruit business.

Mr. GREEN. These corporations, of course, charge up the cost of superintendent and interest and every item that is properly chargeable to carrying on the orchard?

Mr. MILLER. But they have exhausted their capital on account of the costs due to the war.

Mr. LONGWORTH. Do you know what the retail price of apples is in Washington to-day?

Mr. MILLER. I do not.

Mr. LONGWORTH. Do you know, Mr. Bowers?

Mr. BOWERS. I imagine about \$8 a barrel.

Mr. LONGWORTH. Not more than that?

Mr. BOWERS. Well, yes, the way you buy them, 3 for 10 cents and sometimes 5 cents a piece, 10 cents a piece. Of course it largely depends upon the character of the apple.

Mr. LONGWORTH. I mean your average apple, what would that sell for per barrel in any large city?

Mr. BOWERS. I couldn't say the average apple, because we have different varieties. For instance, the ordinary Ben Davis would probably bring in the fall, last year, \$3.25 a barrel.

Mr. LONGWORTH. That is your price?

Mr. BOWERS. That is our price.

Mr. LONGWORTH. What would you say that would retail for?

Mr. BOWERS. Well, I don't think that very many of the Ben Davis are found on the local market. The Ben Davis—we look upon the Ben Davis, so far as the producer is concerned, as a splendid apple, but as an eating apple we do not regard it very highly. The Ben Davis gets its value from the fact that it can be shipped across the Equator. In fact, it can be shipped anywhere.

Mr. HAWLEY. You can't consider the price of apples now on the local market, in connection with profits, because this is the end of the season.

Mr. BOWERS. Yes, exactly. Now, to give you an illustration, to-day if you had some very select yellow transparent apples and they were sent to some of the markets, I have no doubt they would sell in boxes for as much as \$3 a box, while in the fall the average Yorks and Bens, as we call them, would probably sell for \$4 or \$4.50 a barrel, or about \$1.50 a box. The price of apples is regulated, to some extent, upon the demand and depends upon the season also.

Mr. LONGWORTH. I was only trying to get a rough idea of the difference in the price to the producer and the selling price.

Mr. BOWERS. In the fall the producer who can get storage and is able to handle his apples to good advantage, possibly may have an opportunity to get a better price than those who are compelled to ship and sell direct from the orchards. Yet, strange to say, last fall the individual who made his sales direct from the orchard did better than those who stored them, except the individual who might have carried a few special varieties until the present time. Isn't that right, Mr. Miller?



Mr. MILLER. Quite right.

Mr. HAWLEY. Did you export many apples prior to the war?

Mr. MILLER. Yes, sir; we had quite a good export business.

Mr. HAWLEY. What proportion of your crops were exported?

Mr. MILLER. I can't say, sir, but a large proportion of the Yorks were.

Mr. HAWLEY. You are not able to export any this season?

Mr. MILLER. No.

Mr. HAWLEY. You have to depend on the local market entirely?

Mr. MILLER. Yes, sir.

Mr. HAWLEY. So it will be the same product with a diminished market?

Mr. MILLER. It seems so, yes, sir.

Mr. HAWLEY. Did you have any trouble in getting cars? Were you given priority in the shipment of your apples?

Mr. MILLER. We had a great deal of trouble in midwinter, when the coal shortage was so great. A number of our storage houses were embargoed, particularly at Winchester, some at Charleston and Berkeley Springs. I know there were embargoes for two or three weeks. They couldn't get cars out. The result was that they had two or three and some of them four weeks that season to sell apples in.

Mr. HAWLEY. Do you get priority orders for your apples?

Mr. MILLER. We tried to do that but were not successful last year.

Mr. HAWLEY. You had to take your chances ordinarily?

Mr. MILLER. We did last year, yes, with loss to those who happened to be caught in the embargo, because it just shortened the season to sell.

Mr. BOWERS. Apples are like everything else, there is a certain period when they ought to be sold, and by keeping them too long you lose frequently a great many of your apples.

Mr. DIXON. You can file any statement that you desire with the clerk, Mr. Miller.

Mr. MOORE. May I have one more word, Mr. Chairman? Who is the president of the Eastern Fruit Growers' Association?

Mr. MILLER. E. L. Cahill, Hancock, Md.

Mr. MOORE. You gentlemen have met and conferred over this general problem, have you?

Mr. MILLER. Yes, sir.

Mr. BOWERS. From what I have learned within the last few minutes my understanding is that about 80 per cent of the orchardists in the immediate locality here are virtually represented by individuals present to-day.

Mr. MOORE. I am very glad the gentlemen came, speaking for one member of the committee. I want to say, what has been said to a number of others—these gentlemen may not have heard it—that we are up against the problem of raising more revenue. It is not the fault of this committee. This committee had the notion—I think the majority of the members had the notion—that we would not be required to levy additional taxes for next year or prepare a bill for this session—before the close of this session—but the President came before Congress a short time ago and delivered a message in which he pointed out the necessities of the Government to further the war, and he and the Secretary of the Treasury have informed us that \$24,000,000,000 are needed for the year ending June 30, 1919. Of

course the farmers and fruit growers and manufacturers and all of us have got to participate in raising that revenue. The Secretary of the Treasury tells us that we must raise \$8,000,000,000 by taxation, which means, in effect, doubling the taxes of 1918. Now you gentlemen have made a suggestion with regard to the modification of the law, and I am going to ask you if you have any suggestion to make as to how we can raise this additional revenue without interfering with your business or without unduly oppressing the fruit growers for whom you speak.

Mr. MILLER. I will say this, gentlemen, we want to assure you that we are entirely loyal to the President and to the Congress, and we want to pay our full share. We are not asking so much for a modification of the present law as that we have a just basis to go on in the next law, in the new measure.

Mr. MOORE. You want credit allowances for certain payments, interest, etc., which is a fair proposition, as I assume the committee will consider.

Mr. MILLER. Then, our people did want, if they could be permitted, with bills that were incurred because of the rising costs due to the war, to pay some of that back before the taxation was assessed.

Mr. MOORE. Speaking for the minority, I want you gentlemen to know—and I suppose the majority members want you to know—coming from four or five States as you do that we are not seeking to impose any additional burdens on anybody, but it is absolutely necessary, with the request of the President and the Treasury Department, to get this money, that we ask for these suggestions as to how we can get the revenue.

Mr. MILLER. I think Mr. Stewart has some recommendations which you might consider.

Mr. BOWERS. In other words, we would like to have leave to submit any proposed amendment.

Mr. MILLER. There is one suggestion, gentlemen, I don't know whether it will meet with approval or not, because it hits a tender spot in lots of people's homes, but we are trying to raise sheep in West Virginia, in the mountains, and we have got thousands of cur dogs out there that just make it impossible in our section to raise sheep, because every time you get a flock ready the dogs get in and scare them away. I tried it two or three times myself, and I have got a farm of over 400 acres cleared and I had to abandon it. I would suggest that the committee put a tax of two or three dollars a head on every dog in the United States.

Mr. MOORE. Now, you are a farmer and I am glad you have made that suggestion. You are the first farmer that has done it.

Mr. LONGWORTH. We had another farmer here that did that.

Mr. MOORE. That suggestion of yours strikes a very responsive cord from a city like mine, the city of Philadelphia. We are preaching now the doctrine of increasing the sheep and increasing the meat supply by keeping the dog away from the sheep. We want more sheep and more wool and more meat, but the trouble has been in Congress heretofore that the farmer population through its very able, very earnest representatives, has not altogether approved of the proposition, because the farmer likes his dog. Now, if the farmer would come forward through his Representatives and say that we

ought to hold the dog in check in order to increase the number of sheep, I think we will get more votes on that question.

Mr. MILLER. I am glad to hear you say so. It is just this, gentlemen, I will just cite my own case. As I tell you, I have tried to raise sheep two or three times on my farm. I could keep 150 or 200 sheep along with the orchard, but the last flock I had, I waked up about 5 o'clock one morning and the dogs had been in the sheep, and I had to go and kill what I could, and the rest of them came back in two or three days and they tried it over again. They did that a number of times, and one time one old sheep—we didn't find him until the next day. He had run himself into a thorn bush so far that he could not pull out, and he was so scared that he wasn't fit for anything. And I think that we would destroy a consuming force when we get rid of the dog, and we would add an increased production by making it more favorable for the sheep, in our State at least.

I thank you, gentlemen.

Mr. STEWART. Mr. Chairman, just one word. The statement has gone around that an apple orchard would be profitable in five years. That statement has not been made in earnest anywhere that I know of in the East, except by a class of promoters who have bought low-priced land, planted it or promised to plant it to trees and bring it up to profit, and keep it and maintain it for the stock buyers, or the unit buyer, as the case may be, after five years. I have in mind a single concern that sold several million dollars of that sort of thing. I was sent there to examine into that thing and make a report on the conditions, etc. It has gone into bankruptcy and caused a great deal of trouble to the original promoters, some of whom were very honorable men but were misled by people they thought were telling the truth. Such a thing as that is impossible in the East. Most of the orchards are a bill of expense up until they are 12 years old, absolutely, and it is the purpose here of not destroying an industry, rather than the hope for any particular benefit to an individual member of this association. Now it is a fact, based upon careful investigation—information from the Department of Agriculture here—that peach planting in this country has ceased, except possibly a little sporadic planting in western New York and a little in Arkansas, and the same condition obtains practically for apple orchards, while the home orchards have gone out of business. It is almost an obsolete thing. Now if these men are faced with a losing business for an indefinite period, looking forward, they have lost credit, they have lost their investment, and it will discourage industry so that for 12 or 15 or 20 years we will practically have a very limited and meager supply of fruit in this country, which will be a great injury, financially and otherwise. What we really wanted here more was to get a proper basis of taxation, so that the owner would have credit for the original investment, fair compensation for his services, and the actual money put into the business—interest on it. If we get that, that is all we want.

I thank you.

Mr. DIXON. Is Mr. Goldman present, or are there any other representatives of the fruit growers who desire to be heard?

Mr. BOWERS. We have the secretary of the Virginia State Horticultural Society here. I would like to ask that a few minutes be given him.

Mr. GARNER. Mr. Bowers, while you are up, may I ask you a question?

Mr. BOWERS. Yes, sir; certainly.

Mr. GARNER. I come from a fruit country also, and if I understand the position of you gentlemen it is that it takes you 8 or 10 years to prepare your investment for a yield of revenue?

Mr. BOWERS. Yes, sir.

Mr. GARNER. And therefore in laying the basis of excess profit, that investment for the number of years ought to be taken into consideration?

Mr. BOWERS. I think so.

Mr. GARNER. I think there is something in that.

Mr. BOWERS. That is my view of the situation, and I think it meets the wishes of those present.

Mr. GARNER. The same question will come back to the question that Mr. Moore referred to. We are getting so much money out of you this year.

Mr. BOWERS. Yes, sir.

Mr. GARNER. Now, if you will tell us a way we can get twice that amount of money out of you next year without disturbing your business and laying a basis for disaster, as you suggest, why I am pretty sure the committee will adopt your method, but we have got to have twice the amount of money next year that we got out of you this year. Now, will you tell us how to get it?

Mr. BOWERS. I don't agree that that is the proper course to pursue. For instance, last year, and upon the basis of our returns of last year, we treated these properties, you understand, as virtually agricultural properties, and the expenses incurred—or defrayed, rather—were simply placed on one side of our ledger and the amount we received on the other side, and whatever the balance was was of course subjected to income tax and to a slight degree excess-profits tax only in a few instances. But as these orchards became more fully developed, notwithstanding our investment, if we could reach some basis by which we could receive fair remuneration on our investment and on our time and on the money invested, that is all we ask.

Mr. GARNER. Well, your argument only applies to excess taxation. It is not applying to income tax, is it?

Mr. BOWERS. Well, to some extent, in a few instances, to excess-profits tax.

Mr. GARNER. I mean, that is the only one the basis of investment can apply to. Of course, your income is net income, whether you made it 10 years ago or 100 years ago. I don't see how it is possible for the committee to give you any relief from paying the same income, based on the same principles as everybody else, but we can give you relief so far as excess profits are concerned, but I am just telling you that we have got to have twice as much money this year by taxation as we had last year. Now, if we don't get it out of you we have got to get it out of somebody else, and you gentlemen ought to assist, and if you are not willing to pay twice as much as you did last year, tell us where to get that surplus that we are not going to get out of you, over and above what we got last year. That is all I want you to do, to help us out here.

Mr. BOWERS. We are willing to help you, understand, but we don't exactly think we ought to contribute all of it.

Mr. DIXON. Now you may proceed, Mr. Massey.

**STATEMENT OF MR. W. P. MASSEY, SECRETARY OF THE VIRGINIA STATE HORTICULTURAL SOCIETY, WINCHESTER, VA.**

Mr. MASSEY. I am secretary of the Virginia State Horticultural Society, and I am representing the Virginia growers and am secretary of the National Apple Growers' Association, representing a good many States in the Union.

The gentleman has summed up exactly what we want, and we think we deserve it. Whether we can pay those taxes as they stand now this year and next year is a question which I doubt. If we have to pay them this year we will do it, but I doubt if you can look to us for anything else next year, because there won't be much left. What we want has been summed up very clearly. We simply want to consider as part of our capital invested the amount of money that we have spent in bringing up our orchards to a bearing state. We also think that the owner of the orchard should be allowed a reasonable compensation for the 10 or 12 years which he has devoted to this work. Ordinarily our orchardists do not consider that as an expense. They donate that work themselves, their wives and children, and in any other organization under the sun that is considered, as I understand it, legitimate expense. If we are allowed that, and if we are allowed out interest and what other expense we have been out, that is all we want. We don't want any special legislation; we don't want any favoritism, but we want what we consider to be fair and that is all. We are willing to pay all the tax we can, to shoulder our share of the burdens. We realize that they are large and heavy, but we simply think we ought to have an equal share with the other manufacturers in the country. And we are manufacturers the same as the maker of shoes or automobiles.

Mr. GARNER. Mr. Massey, nearly everybody that comes here is telling the same story—and I don't doubt but what there is a good deal of truth in it—that if you tax the people \$8,000,000,000 this year they won't be able to produce \$8,000,000,000 worth of taxes next year. But the country has got to have \$24,000,000,000 from July 1 this year to July 1 next year, to run this Government in this war, and the best economic opinion in this country is that the proportion should be \$8,000,000,000 in taxes and borrow from the people \$16,000,000,000. I doubt whether we can borrow the \$16,000,000,000. It is a right smart amount of money to go out and take up in 12 months. Now if you can't stand it and the manufacturers of other goods—as you term them—can't stand it, and we can't borrow it from the people, what are we going to do about it?

Mr. MASSEY. I think the apple growers' contention is that the manufacturers are much better able to stand this than we are. Now, when I am speaking of the apple growers, I am speaking of the nonproductive, not the productive orchards.

Mr. GARNER. Now I represent a farming country myself. My district is larger than your State.

Mr. LONGWORTH. It is mostly growing goats, isn't it?

Mr. GARNER. Well, we have a good deal of variety down there. The manufacturers come and tell us—and some of the leading magazines and newspapers of the country—that the farmers are getting rich. You and I know better than that.

Mr. MASSEY. Certainly.

Mr. GARNER. But the manufacturer believes that, and he believes he is bearing a disproportionate part of the burden of this taxation during this war, and if we undertake to go out and classify the farmer and give him a certain exemption, a certain classification, I am afraid you Republicans down in West Virginia will put us Democrats out of business. [Laughter.]

Mr. OLDFIELD. He is from Virginia.

Mr. GARNER. Well, I bow.

Mr. MOORE. If that is your purpose, God bless you, Mr. Massey. [Laughter.]

Mr. MASSEY. Well, that is all I have to say, unless there are some questions I can answer. If not, I thank you.

Mr. DIXON. That is all, I think.

Now we will hear you, Mr. Goldman.

**STATEMENT OF MR. CHARLES GOLDMAN, 41 PARK ROW,  
NEW YORK CITY.**

Mr. DIXON. Will you please state whom you represent, Mr. Goldman?

Mr. GOLDMAN. I represent the United Retail Jewelry Storekeepers' Association and the Diamond and Jewelry Merchants' Association.

Mr. LONGWORTH. Are either of your associations connected with the so-called Jewelers' Vigilance Committee?

Mr. GOLDMAN. I am happy to answer that they are not.

Mr. LONGWORTH. Have you ever at any time been connected with them?

Mr. GOLDMAN. I am happy to answer that in the same way.

The particular statement that we wish to make this afternoon is with reference to the tax upon loose stones, not with reference to the tax upon articles of jewelry manufactured, but particularly with reference to the tax upon stone cut, but unset.

Now, in the revenue act of October 3, 1917, no specific mention has been made of loose stones which are cut but unset, and therefore it requires a definition to determine whether under the terms "articles commonly or commercially known as jewelry"—which is the language of the revenue act—whether loose, unset stones were included within that term, and under Treasury Department ruling 2553, Commissioner of Internal Roper ruled as follows:

Precious stones cut but not set will be regarded as subject to tax when sold by the importer, or if cutting is done in the United States, when sold by the manufacturer or dealer for whom the cutting was done.

The result of that definition was to include loose stones within the terms "articles commonly or commercially known as jewelry," because the tax was imposed upon articles commonly or commercially known as jewelry, upon the importer, producer, or manufacturer. This definition holds the man that has the stones cut a producer of diamonds, and in the same way he would be taxed under that provision of the act which states that tax shall be borne by the importer, producer, or manufacturer of articles of jewelry.

In addition to the sales tax which is imposed upon those articles it was held that the floor tax would also be imposed upon those articles, upon the stocks in possession of the wholesale dealers. A very

considerable sum of money would have been produced in that way, but there followed a very forceful protest by the Jewelers' Vigilance Committee. This body contended that unset stones were not included in the phrase "commonly or commercially known as jewelry," and on November 1, 1917, as result of this protest, Treasury Department ruling No. 2573 was issued. This revoked ruling 2553, and on this particular subject provided as follows:

Precious and imitation stones, cut but not set, and parts of jewelry, including mountings, which require the addition of material or stones or other parts to become complete articles of jewelry, will be subject to tax when sold to the consumer.

Now that was directly in accordance with the suggestion of the Jewelers' Vigilance Committee, as appears in their brief which was submitted to the Commissioner of Internal Revenue, in which they use this language:

There is only one method by which the tax can be evaded, and that is by the separate purchases by consumers of unset stones and mountings or settings. This leak can be stopped by the adoption of the rule suggested by this committee that unset stones and unfinished mountings or unfinished jewelry shall be taxed as jewelry when sold to the consumer—there may be some question as to the strict legality of such a ruling, but the jewelry trade would welcome it and assist in its enforcement.

Now there undoubtedly was some question as to the strict legality of such a ruling but the persons affected by it did not protest it. The retailers did not protest it because they felt they would assist the Government by not protesting it, and I believe they felt that the time would come when they would be in a better position to protest it, when a new act would have to be framed.

Mr. LONGWORTH. Does the retailer pay that tax?

Mr. GOLDMAN. The retailer pays the tax. When he purchases a stone separately and a mounting separately from two separate producers of the respective articles and sells them together to a consumer he is obliged to pay the tax as a producer of the article. When he sells a loose stone and a loose mounting to the customer he is also required to pay the tax.

Mr. LONGWORTH. Does he pay the tax based on the price he pays?

Mr. GOLDMAN. No; the tax is based upon the price he sells it for. If the retailer sells the loose stone to a private person he pays the tax based upon the money which he receives, the sale price of that article.

Mr. LONGWORTH. How can you figure that that is the price upon which he pays?

Mr. GOLDMAN. Well, the language of the act is, "when sold by the producer." I think it is section 600-E.

Mr. LONGWORTH. That provides:

Upon any article commonly or commercially known as jewelry, whether real or imitation, sold by the manufacturer, producer or importer thereof, a tax equivalent to three per centum of the price for which so sold.

Now whom do you call the manufacturer of a cut stone? Is it the man who cuts it?

Mr. GOLDMAN. Well, the difficulty arose in this respect, because they contended that according to the ordinary terminology and according to legal definitions unset stones were not included as articles of jewelry, not real articles of jewelry. Of course an unset stone is not considered an article of jewelry. However, they did not want to have untaxed all the diamonds that were being sold in that way, and

so they framed this—it is a makeshift really—for the sake of including within the operation of this act the sales of such stones.

Now, they say when the article is sold by the producer, the importer, it is not subject to the tax. When loose stones under this ruling 2573 were sold by the importer of the stone it was not considered an article of jewelry.

Mr. LONGWORTH. You mean it was not considered an article of jewelry until actually sold to the consumer?

Mr. GOLDMAN. Until actually sold to the consumer. That is the effect of this ruling. In other words, it is one instance where sauce for the goose is not sauce for the gander.

Mr. LONGWORTH. The difference is only a technicality. It amounts to the same thing exactly.

Mr. GOLDMAN. The difference is this—I am going to illustrate as we get along further: The retailers have a very unusual sort of competition to contend with. There are thousands upon thousands of itinerant dealers, gentlemen that carry their stock of loose diamonds in their pockets. Of course diamonds are very compact and they can do that. Those are the gentlemen that, unfortunately, do not, in most cases, pay this tax. Now, as it is at present they are just about able occasionally to meet that competition by reducing the amount of their profits, but when they pay the taxes under such circumstances they pay it out of their own pockets, because they have to meet this competition. Now, it was not intended that this should come from the consumer, and I can show that if the tax is placed upon the importer when he sells it or upon the producer of the stone when he sells them, it will come to all subsequent hands with the tax already added. And in addition to that feature of it it will result in considerable economy to the Government because it would not require so much administrative expense to look after it. It simply means that instead of having countless thousands of retailers to keep after, they will have a limited number of importers or wholesalers, cutters of diamonds, to look after.

Mr. LONGWORTH. Whom do you call the retailer, the man who sells the cut stone?

Mr. GOLDMAN. To the consumer.

Mr. LONGWORTH. To the consumer, who is usually a private person?

Mr. GOLDMAN. Yes, sir. The term "consumer" is used in the ruling; and that is why I used the same term, although I know that, strictly speaking, such articles are not consumed by the public.

Mr. LONGWORTH. And those stones are not considered as jewelry until the retailer sells them?

Mr. GOLDMAN. Until the retailer sells to the ultimate customer, the man that is going to wear it—to the wearer.

Mr. GREEN. It seems to me it is not only a question of simplifying the matter a good deal, but that a great many escape taxation at present.

Mr. GOLDMAN. Well, it escapes taxation, because it is impossible to have eternal vigilance over the number of people that are affected by it.

I want to express the opinion of the assistants in the office of the third collector of internal revenue of New York, with whom I have had personal contact. They say this: They are on the trail of them,



but they can not get them. They are elusive. They can not locate them. They haven't got any particular place of business and it is hard to locate them.

Mr. MOORE. They must get these stones somewhere. Where do they get them?

Mr. GOLDMAN. They get them from the importer, from the cutter, or from a wholesale dealer. Those are the three sources.

Mr. MOORE. Then they sell them to jewelers?

Mr. GOLDMAN. No; these retailers that I am particularly speaking of sell to private persons.

Mr. MOORE. I am speaking of the man now that carries the stones around in his vest pocket.

Mr. GOLDMAN. They sell to the private person.

Mr. MOORE. I want to find out how we are going to reach that man.

Mr. GOLDMAN. Under the present law you don't reach him, because he evades it.

Mr. MOORE. He gets the stones somewhere and we ought to be able to trace them.

Mr. GOLDMAN. He gets the stones generally from the wholesale dealer, because he hasn't any credit to get them from the importer.

Let me explain another situation in the industry. The importer does not sell in small lots. The importer sells in very large quantities. So do the cutters. The only ones that sell to these perambulating merchants are the wholesale dealers in diamonds.

Mr. MOORE. Well, there are a good many of them, I suppose? There are a good many of that type of merchants?

Mr. GOLDMAN. They are numberless. It is impossible to form any conception of the number there are.

Mr. MOORE. Is it possible that any of the goods they carry around are stolen goods?

Mr. GOLDMAN. I don't know. I have never taken any interest in getting any information as to that aspect of it, but I suppose there is always that possibility, because you can't keep your eye on all of them.

Mr. MOORE. It is very hard to trace them; but when they produce those jewels and offer them to somebody, then you have got something in hand, and it is a question of tracing the history of it. Now where do they get them?

Mr. GOLDMAN. You have got something in hand if you know when he has made the sale, but there isn't any information as to when he has made that sale.

Mr. MOORE. I wouldn't want to buy a stone from itinerant merchants such as you referred to unless I knew where he got the stones.

Mr. GOLDMAN. But the character of people that buy from these itinerant merchants are not of the same caliber as your honorable self, sir.

Mr. MOORE. That may be. I thank you for the compliment.

Mr. GOLDMAN. That is so. They deal principally in the congested neighborhoods, the congested districts. They go to a man and say, "Here, I have got a ring here, Mr. So-and-so. It hasn't paid the war tax. It is 3 per cent; it may be more now. Here is an opportunity to save that."

Mr. MOORE. Now, you have a suggestion to cover that situation?

Mr. GOLDMAN. Yes, sir. I want to say in addition to the fact that under this ruling 2,573 that on the sales which were made by the importers, by the cutters, and by the wholesalers that they were not taxed, but that in itself is not the only thing. The floor tax was not imposed. Now, the floor tax, I am sure, would produce a very considerable amount of revenue if it had been imposed as was suggested by the first ruling. If it had been imposed, it would have produced a very great amount of revenue, because it would have been imposed upon the wholesale dealers, who are not producers of it, and there are millions and millions of dollars' worth of stones in the hands of just those dealers throughout this country.

Mr. MOORE. From which we are getting no revenue?

Mr. GOLDMAN. From which at present you are getting no revenue, except when it gets into the hands of the ultimate consumer, and it may not get there until the present emergency is passed.

I suggest that precious stones cut but not set should be subject to tax when sold by the importer, or if cutting is done in the United States, when sold by the manufacturer or dealer for whom the cutting was done. That is what we would term the first hand. There are two ways in which stones originate in this country. They are either imported into this country or else they are cut here by a few select firms who do that class of business. I am not prepared to give exact figures, but I am quite sure that the number of cutters number in the early hundreds throughout this country.

Mr. MOORE. When you refer to "cutter" your suggestion is we should reach him?

Mr. GOLDMAN. Yes, sir.

Mr. MOORE. Does that include the operation of setting the stone in the mounting?

Mr. GOLDMAN. No, sir.

Mr. MOORE. Now, wouldn't it be easier to get the revenue in that way, to catch the stone as it goes from the mounting? We are dealing only with the cutter. Don't you let the other go?

Mr. GOLDMAN. No, I am suggesting—as I will when I get along further—I would suggest that the same rule shall be applied with reference to mountings; that they also should be taxed by the person that produced them.

Mr. MOORE. That is what I say.

Mr. GOLDMAN. Yes. I will get to that in a moment. Of course, I emphasize the stone because that represents such a very great amount of money. The others do not. Where you have a ten or twenty dollar mounting you may have a \$600 stone in it, or sometimes even more.

Mr. MOORE. Well, there are two places where we can catch that floating stone. One is in the hands of the cutter, and the other is in the hands of the moulder.

Mr. GOLDMAN. Of the importer. There are two places where those stones originate in this country. One is in the hands of the importer who brings them into the country to cut. The other is the hands of the cutter who has them cut after they are imported into this country in the rough state. Now, I suggest for favorable consideration the proposition that I have just stated, for the reason that it will reduce evasions of law to a minimum, and I have gone into that subject so completely that I do not think I need to restate that the

evasions of law, of course, increase as the number of persons affected by it increase; and as I stated before, the number of importers and the number of cutters is very small, whereas the number of retailers—well, you can't count them. And another fact, the cutters and wholesalers are generally clustered in one small area, whereas the retailers are scattered far and wide over the entire country.

Mr. DIXON. Have you prepared an amendment to the bill?

Mr. GOLDMAN. I have it in here, yes, but I am afraid that it is not in as concrete a form as I would like to have it.

Mr. DIXON. Will you read it?

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

Precious stones, cut but not set, shall be subject to tax when sold by the importer, or if cutting is done in the United States, when sold by the manufacturer or dealer for whom the cutting was done.

Now, that is not original. I do not claim that that is original with me, but it is the exact language of the Treasury Department ruling No. 2553, which was the first ruling adopted by the Treasury Department.

Mr. DIXON. And afterwards overruled by a subsequent ruling?

Mr. GOLDMAN. Afterwards revoked by Treasury decision 2573.

Mr. GREEN. The only difficulty that I see about that—and that may not be any difficulty at all to one familiar with the jewelry trade like yourself, whereas I am entirely unfamiliar with it—would be when these cut stones were sold to somebody that was going to mount them and then sell the article—a ring, or a broach, or something of that kind. Now, when the article was sold, wouldn't it then be subject to a double tax—a tax on the whole article, both the stone and the mounting?

Mr. GOLDMAN. Well, my suggestion is that the stone should be taxed in the hands of the importer or producer. The mounting should be taxed in the hands of the manufacturer. Now, both the component parts of the jewelry are now taxed and it doesn't require an additional tax in order to get it all.

Mr. GREEN. So that the retailer would simply pass it along in the price?

Mr. GOLDMAN. Yes; with the tax already added to it.

Mr. GREEN. And not concern himself about the payment of it at all?

Mr. GOLDMAN. He wouldn't have to.

Mr. GREEN. When he bought something and paid the manufacturer, say, \$10 for it, that would include the tax which the manufacturer had already paid?

Mr. GOLDMAN. That is it. The manufacturer would have paid the tax and put it into that price—that \$10.

Mr. GREEN. And he could go ahead under ordinary rules of business?

Mr. GOLDMAN. Yes, sir.

Mr. LONGWORTH. Is there any difference in the case of pearls and in the case of cut stones? A pearl, I assume, is almost invariably sold unset. Of course, occasionally, they are sold in a necklace.

Mr. GOLDMAN. I think, from my limited personal experience in the field, that stones are generally sold unset by the importer or producer of the article—I mean the finisher of the article—but then it would come directly within this definition, because it would include

precious stones cut, but not set. Now, it may be desirable to use a more generic term than "cut," because it may include something like polishing, or something like that.

Mr. FAIRCHILD. What is the classification of the pearl? Is it a precious stone?

Mr. GOLDMAN. It is a precious stone. In fact, it may be a precious or imitation stone. Let that term be employed in order to cover it.

Mr. FAIRCHILD. What about imitation jewelry? Is that manufactured in this country—imitation stones? I mean scientific stones as they call them.

Mr. LONGWORTH. It is covered by our bill anyway.

Mr. GOLDMAN. It says whether real or imitation. Articles real or imitation are covered by the present act.

Now I suggest that it would reduce the evasions of the law, and I believe I have made that clear, because of the fact that it would reduce the number of person affected by the law, and accordingly the number of evasions. Now in addition to that it must be borne in mind that the tax will be received in larger sums. I personally have seen a retail jewelry store keeper come to the office of the collector of the third district in New York and pay a tax of 18 cents for a month. I think that the Government lost money on that particular transaction, because I am sure that the machinery necessary to collect that 18 cents was very very much more than the amount of tax that they received in that instance. Now that will be eliminated if the tax is imposed when the goods are sold, when the unset stones are sold. They are usually sold in large quantities by everyone excepting the retailer, everyone in the industry excepting the retailer.

Now it will reduce the cost of administering the law for the very same reason, because it will not require continual vigilance, eternal vigilance over such a larger number of people. It will simply require a vigilance over both the producer and the importer of the loose stones and the manufacturer of the article of jewelry.

Mr. GREEN. So that I may be sure that I understand you—when these stones get into the hands of the jeweler, the manufacturer as we commonly speak of him, who makes the brooches or the rings or whatever it may be—then the tax on the stone is paid by the man that sold it to him and is included in his bill?

Mr. GOLDMAN. Yes, sir.

Mr. GREEN. When the manufacturer makes up the article of jewelry, then he will have to pay a separate tax on the mounting?

Mr. GOLDMAN. That is right, sir.

Mr. GREEN. So that when we prepare this law we will have to prepare some kind of a system whereby the manufacturer would in such a case as that pay a separate tax on the mounting?

Mr. GOLDMAN. That is right, sir. And in connection with that I want to say that it has been necessary to so construe the present law.

Mr. GREEN. It has? I was not aware of that.

Mr. GOLDMAN. I will be glad to show that. Here is an article from the Jewelry Tax Primer. This is the revised Jewelry Primer of the war excise tax. I believe it is official, although this particular copy does not seem to be. It says here—

Prepared by the war revenue tax committee of the jewelers' vigilance committee.

No; I guess it is not official, but it represents an instance similar to the one you have referred to:

Where a mounting is set with diamonds or other precious or semiprecious stones or pearls or imitations thereof, and some part of the mounting remains to be finished, like the addition of one or more stones, if such an unfinished piece of jewelry is sold by the manufacturer, producer, or importer thereof to any one but a final consumer, is this a taxable sale of jewelry under the act of October 3, 1917?

Well, in this particular case the answer is no, because the person who finally added or causes to be added, missing stones or parts, becomes a manufacturer or producer of the finished article of jewelry and subject to the sales tax of 3 per cent, if and when he sells it. But here it says further—

Where a retailer or other dealer purchases emblem goods, gold knives, taxable watches, or other completed articles of jewelry upon which the vendor has paid the tax, and he afterwards has them mounted with precious or imitation precious stones, upon what part of such jewelry will the tax accrue when he sells it?

No further tax will be due upon that portion already tax paid, but the retailer or dealer will then be held accountable for the tax on the increased selling value of the articles in which such stones have been set.

I believe that is identical with the question propounded by you.

Mr. GREEN. You think there will be no difficulty about the administration of a law of that kind?

Mr. GOLDMAN. No, there has been no difficulty in administering under this provision.

Mr. GREEN. What about getting the tax from the itinerant vendor?

Mr. GOLDMAN. You will get it before him, because he hasn't the facilities for manufacturing such an article.

Mr. GREEN. They couldn't escape the tax under your plan, that is very true, because the tax would be paid before it gets to their hands.

Mr. GOLDMAN. Yes. And then it would equalize the conditions throughout the country—I mean throughout this retail industry.

Mr. GREEN. So that everybody would be on an equal basis.

Mr. GOLDMAN. Yes, sir. I think one point that will appeal to the members of this committee is my statement that it will produce greater revenue for the Government.

Mr. HAWLEY. How much more will it produce?

Mr. GOLDMAN. I am sorry, but I haven't any means of obtaining such figures. I went over to the Library and strived mightily trying to get some information on which I could base such an estimate, but I could not find any information that would be of any assistance to me.

The two points which have been heretofore raised are that there will be fewer evasions and the cost of administration will be less, which will show a clear way to increased revenue, and my argument is that directly there will be a substantial increase in the sum realized from such taxes by adopting my rule, the form suggested. Under the present law, as interpreted by Treasury decision 2573, the tax is imposed upon sales of precious stones only when made to the ultimate consumer. That is one point, of course, I want to drive home, that it is not taxed until some time later. All of these precious stones ought to be taxed in the hands of the importers or cutters or wholesale dealers, because they may not be disposed of to the consumer for some time to come—probably, as I said before, not until the present emergency has passed, and the revenue act is needed, as I say, for immediate revenue.

Mr. GREEN. You would then not wait for them to sell these stones, but tax them now?

Mr. GOLDMAN. In the same way that a floor tax was imposed on articles of jewelry in the hands of wholesale dealers by the present act, it is possible and fair to impose a similar floor tax upon the stores of goods in their possession now.

Mr. GREEN. I am glad to agree with you, that there is an instance for Mr. Garner—he is not present just now—where he might get some more taxes. [Laughter.]

Mr. LONGWORTH. The floor tax is  $1\frac{1}{2}$  per cent?

Mr. GOLDMAN. At present one-half of the sales tax. If it is going to be more than that, then I certainly urge as emphatically as I can the imposition of a tax that will result in the taxation at the first source, so that you will not be put in a position where a large tax will be paid by one retailer, and another retailer will get on without paying any tax at all. That may be possibly equalized somewhat by greater purchases on one hand, which the other man can not make, but if the tax is going to be very great or much greater than it is now, it will simply mean that the established retail dealers in this country will not be able to sustain it if this competition is continued, and the only way of eliminating that competition and putting them on a fair basis is to tax the article before it gets to either of them.

Mr. GREEN. Of course, in saying what I did, I was merely voicing my own opinion.

Mr. GOLDMAN. Now, with reference to mountings, while the gentleman that preceded me did not bring along with him any exhibit—it might have added to the enjoyment of the occasion if he had brought some apples with him—I have brought with me some mountings to illustrate what a mounting is composed of [exhibiting ring mounting]. This mounting, by the way, is a platinum mounting.

Mr. GREEN. Mr. Longworth has special designs on platinum mountings, and I might say the suggestion has considerably impressed some of the rest of us.

Mr. GOLDMAN. I want to show you these to illustrate that these are in the hands of retail dealers.

Mr. DIXON. I suggest that you stand over there by the table and describe those things so the stenographer can get it in the record.

Mr. GOLDMAN. These exhibits indicate that most of the mountings are manufactured before they get into the hands of the persons that set the stones into them, and by totally different persons, and the popular impression that the mountings are made by the same concerns that set the stones into them is not correct. In other words, we have a totally separate person, and it is likely to facilitate the tax if that will be remembered, that while on the one hand the man that produces the diamond or imports it is taxed, the man that produces these mountings, and they both sell them to the same person, the man that makes the completed article of jewelry, and they will come to him already with the tax added.

That, to some extent, answers your former question as to the production of these articles.

Mr. LONGWORTH. Are the stones in the mounting that you have there?

Mr. GOLDMAN. No, sir.

Mr. GREEN. Do the retail dealers do much of the inserting of the stones in the mountings?

Mr. GOLDMAN. Quite a considerable amount, and so do these itinerant dealers, as I have stated before. In fact, they carry all their stuff loose. They very seldom carry it mounted, and then after the stone is sold they recommend a particular form or style of mounting to the customer.

So the wording of the present act, it is suggested, should be followed with an amendment so that "jewelry" will be made extensive and broad enough to include mountings, settings, and such parts of the jewelry which we put in a position or condition to be formed into jewelry. Now, to explain that and to possibly meet some criticism at some future time, I want again to refer to these exhibits. It is possible that one concern will manufacture the top of this ring [showing]—this part of it; that another concern will manufacture the bottom part of the ring. It will be joined together by the person who puts them in condition to be used as jewelry. That is the time for it to be taxed, because it can not be used as jewelry when separated. You can not buy one-half of the ring. You have got to wait until it is a completed article as a ring, and when it is in condition to be used as jewelry, then it should be taxed. I suggest that, because in connection with the discussion before Commissioner Roper by the jewelers' vigilance committee that was one of their strong points, because they contended it was so difficult to put your finger on the points where parts of jewelry are subject to a tax, so as to prevent double taxation, and I suggest that this can be done by saying that it shall be taxed when it is in condition to receive the stone or to be used as jewelry by the addition of one or more parts.

Mr. FAIRCHILD. What class of jewelers comprise the jewelers' vigilance committee?

Mr. GOLDMAN. Well, they represent the wholesale dealers, the importers, and the cutters. They represent the very large concerns.

Mr. FAIRCHILD. They probably would not agree with your position?

Mr. GOLDMAN. They certainly will not.

Mr. LONGWORTH. None of the firms which constitute your membership are members of the Jewelers' Vigilance Committee?

Mr. GOLDMAN. No, sir.

Mr. FAIRCHILD. I understood you to say that your association was not, but I wanted to know whether any of the firms in your association were members.

Mr. GOLDMAN. No, sir; there is not one, I am pretty sure, because their interests are so conflicting that it would be like attempting to mix oil and water.

Now, of course, articles of jewelry which will be manufactured after the passage of the act, the proposed act, would be subject to the tax when sold by the manufacturer, in the same way as the present act now provides—that is, a complete article of jewelry aside from the stones, as for instance an ornamented watch case with the movement in it, or some other articles of jewelry that do not require the addition of stones.

As I said before, a floor tax should be placed upon stocks of precious stones set and unset in articles of jewelry and mountings ready to be set, in the hands of wholesale and retail dealers. Now it seems rather

unusual that I would suggest that a tax should be imposed upon members of our own association—that is, the retail jewelers—but in order that the tax law that I suggest should be properly imposed, that the Government will get all the revenue that it should get, it is necessary that a floor tax should be placed upon articles in the hands of retail jewelers as well as in the hands of wholesale jewelers, and that is the only way, of course, in which all of the articles will be subjected to the tax, because the stocks of unset stones in the hands of wholesale and retail dealers will be subject to the floor tax.

Mr. LONGWORTH. Would you see any objection to making the floor tax as high as the sale tax?

Mr. GOLDMAN. I certainly do. I see this objection to it, that the articles upon which the floor tax will be imposed will outlast the necessity for the tax. They will not be disposed of very likely before the necessity for the tax has passed.

Now with reference to the floor tax, as each article of goods is sold while the present emergency lasts, then and only then is it subject to the tax, but if you put as high a tax upon the stock of goods, you may be in a position where the necessity for the revenue will end in the course of a year, but the articles upon which the tax has been placed will outlast it by 10 years. That is the objection that I see to that.

Now I want to show in what respect all of the articles of jewelry, or the articles that go to the making of jewelry, will be subjected to the tax under this arrangement. The stock of unset stones in the hands of wholesale and retail dealers will be subjected to the floor tax, as will also the set stones and other articles of jewelry and parts of jewelry in their hands. The tax will be imposed upon loose stones when sold by the importer or by the dealer cutting them or causing them to be cut. Articles of jewelry manufactured after the passage of the act will be subject to the tax when sold by the manufacturer. Now in that way every article of jewelry will be subjected to the tax, and there will be a surprisingly few evasions.

Now, there is another thing that has been directed to the attention of members of this association—something that has never been in any act that I know of, and that is that pawnbrokers who have occasion to dispose of their unredeemed pledges do it by means of what are termed "auction sales" in our city, in the city of New York. I don't know what system they have, of course, throughout the country. I believe that is controlled, possibly, by local laws which may provide a method by which unredeemed pledges shall be disposed of by pawnbrokers. But it stands, I am sure, without question, that throughout the country in this way there is sold a huge quantity of stones and articles of jewelry. Now, it may be that these particular articles that are pledged a year ago, sometimes two years ago, sometimes three years ago, because they continued to make good by paying interest and are allowed to continue the pledge, that those articles had never been subjected to any tax, and it is suggested that some means be found to place a tax upon those articles. It is only fair that they also should bear the tax. Most of these auction sales are frequented by the same type of dealer that I referred to before, the type that carry the articles in their pockets, and even though they are subjected to tax at present, the collector for the third district of New York will bear me out that they are practically never paid. I mean that they



are subject to the tax in this way: If they buy an article at the pawn-broker sales and they are obliged to resell it, they should pay tax the upon is as the producer of the article of jewelry. But it is more honored in the breach than in the observance.

Mr. GREEN. Would this amount to any considerable sum, if a tax were imposed?

Mr. GOLDMAN. I suppose in our city alone probably in the neighborhood of \$1,000,000, or more, is disposed of in that way.

Mr. HAWLEY. How much of a tax would you suggest?

Mr. GOLDMAN. It is suggested to me that it is as much as \$5,000,000 in our city.

Mr. FAIRCHILD. I should think the sales would amount to more than \$1,000,000 in New York City.

Mr. GOLDMAN. \$5,000,000, these gentlemen suggest.

Mr. HAWLEY. How much tax do you say there should be on it?

Mr. GOLDMAN. I should say the same tax as on any other article of jewelry, to be fair to all concerned. I think throughout the country this is quite a sum; so far it has gone without being taxed. I think it should be.

Mr. LONGWORTH. Does your firm, on your association, deal in made-up jewelry?

Mr. GOLDMAN. Yes; which they have made up as such.

Mr. LONGWORTH. And second-hand jewelry? They buy jewelry, second-hand?

Mr. GOLDMAN. Yes; and every other jeweler does in this country, from Tiffany's to the most insignificant jeweler in the country.

Mr. LONGWORTH. Do you buy the settings, or do you make them up?

Mr. GOLDMAN. We buy the settings complete, invariably.

Mr. LONGWORTH. Then you don't buy the gold, do you?

Mr. GOLDMAN. For the purpose of manufacturing jewelry?

Mr. LONGWORTH. Yes?

Mr. GOLDMAN. No, sir. I don't think one-half of 1 per cent of the retailers do buy gold for that purpose.

Mr. LONGWORTH. Now, is there a regular line of trade that manufactures the settings?

Mr. GOLDMAN. I think I can best answer that by directing your attention to the advertisements in the Jewelers' Circular, which is chuck full of that sort of advertising. There is one [indicating].

Mr. LONGWORTH. What do they advertise?

Mr. GOLDMAN. They advertise the sale of signet rings, and I think I noticed some mountings.

Mr. LONGWORTH. What I am trying to get at is this: You want to make a piece of diamond jewelry; you own the diamond; do you buy a setting and put the diamond in?

Mr. GOLDMAN. Yes; even if the customer should require a peculiarly novel design, the design has to be sketched and brought to the manufacturer, and the manufacturer creates it.

Mr. LONGWORTH. And you are not in that business?

Mr. GOLDMAN. We are not in that business.

Mr. LONGWORTH. What is that business called?

Mr. GOLDMAN. He is called the manufacturing jeweler.

Mr. LONGWORTH. Now, he is the man that buys the material for the setting?

Mr. GOLDMAN. He is the man that buys the raw materials for the purpose of making them into settings. I want to say that it takes

quite extensive machinery to be able to send out these settings in a commercial manner, so that they can be sold commercially.

Mr. GREEN. So that the cost would not be prohibitive?

Mr. GOLDMAN. Yes, sir.

Mr. LONGWORTH. I take it men engaged in that business are members of your association?

Mr. GOLDMAN. Personally I think they are.

Mr. LONGWORTH. Do you know Mr. Rothschild?

Mr. GOLDMAN. I have never met the gentlemen.

Mr. LONGWORTH. We expected him here to-day.

Mr. GOLDMAN. I was so informed, and that made me all the more delighted to be here.

Mr. LONGWORTH. Do you know why he isn't here?

Mr. GOLDMAN. I don't want to be boastful and say that he isn't here because I am here; but I do think he wanted to know first what would be said.

Mr. LONGWORTH. Tiffany's are both manufacturers and retailers?

Mr. GOLDMAN. Oh, yes; they are manufacturers and buy stones in large quantities and set them up. They also cut diamonds.

Mr. LONGWORTH. When you buy settings for your jewelry, you buy them from the so-called manufacturing jeweler?

Mr. GOLDMAN. From the manufacturing jeweler.

Mr. LONGWORTH. And do you buy a certain amount of those settings?

Mr. GOLDMAN. The stock settings, like the octagon setting, we buy quantities at a time.

Mr. LONGWORTH. Some quantities at a time?

Mr. GOLDMAN. Yes; the jeweler may buy quantities at a time; not one for each individual sale, but he may have them on hand.

Mr. LONGWORTH. Platinum settings?

Mr. GOLDMAN. I want to withdraw the statement that that is platinum; I am now told it is white gold.

Mr. GREEN. For our information, what is white gold?

Mr. GOLDMAN. It is ordinary gold with some chemical added.

Mr. COHN. It is gold with some nickel added, and chemicals to change its color.

Mr. GREEN. An alloy?

Mr. GOLDMAN. I am informed it is an alloy—nickel—and chemicals added to give it the color.

Mr. LONGWORTH. Is that the same price as gold?

Mr. GOLDMAN. They say a trifle more.

Mr. LONGWORTH. How does that compare with the price of platinum?

Mr. GOLDMAN. About one-tenth less.

Mr. LONGWORTH. You say it is very difficult to buy platinum settings now?

Mr. GOLDMAN. Yes; it is hard to get them now.

Mr. LONGWORTH. Why is it difficult to get platinum settings?

Mr. COHN. It isn't in the market now. They can't sell any.

Mr. GOLDMAN. I understand you gentlemen are aware the Government is commandeering platinum in certain stages of manufacture—in certain processes of manufacture. I understand that up to some

process it is waived, but when it reaches that point the platinum is commandeered by the Government.

Mr. LONGWORTH. How recently was such a rule made?

Mr. GOLDMAN. Within the past five weeks, I think. Within the past five or six weeks, I am sure. My attention was called to it about a month ago.

Mr. LONGWORTH. That commandeering has gone to the extent only of platinum in the more or less raw state?

Mr. GOLDMAN. I don't think it even affects the industry generally, but they have picked out particular firms. That particular aspect of it has not concerned me, because my clients are not in that branch of the industry.

Mr. LONGWORTH. You don't know anything about platinum in—

Mr. GOLDMAN (interrupting). In its manufactured state I know nothing about it.

Mr. LONGWORTH. Your information goes only to platinum made up in the form of jewelry settings?

Mr. GOLDMAN. Yes, sir.

Mr. LONGWORTH. So that you are not informed as to the various rulings made by the Board of War Industries?

Mr. GOLDMAN. No; I know they are announced every week in the Jewelers' Circular, but I have not tried to inform myself. It is probable that the Jewelers' Circular for the past two months would give full information as to that.

Mr. LONGWORTH. Well, there has been no attempt yet to commandeer platinum in the form of jewelry?

Mr. GOLDMAN. I think there has been only in the process of manufacture, where the process of manufacture has not exceeded a certain stage; of course, that is just my recollection; I am not certain about that.

Mr. LONGWORTH. You couldn't speak, then, with knowledge of the platinum industry and its control?

Mr. GOLDMAN. No, sir; I can only cite you to the place where I get my information; that is the Jewelers' Circular, where I did notice the other forms of information set forth. I would like, if the committee will allow me, to leave this memorandum.

Mr. DIXON (presiding). You may leave that, and it will be printed in the hearings.

Mr. MOORE. Before you go, is your association an association wholly in New York?

Mr. GOLDMAN. Yes, sir.

Mr. MOORE. Is it a local association?

Mr. GOLDMAN. Yes, sir.

Mr. MOORE. You do not speak for the National Jewelers' Association?

Mr. GOLDMAN. No, sir; I certainly do not.

(The memorandum referred to by Mr. Goldman is as follows:)

MEMORANDUM ON JEWELRY TAX SUBMITTED BY JEWELRY AND DIAMOND MERCHANTS ASSOCIATION (INC.), UNITED RETAIL JEWELRY STOREKEEPERS ASSOCIATION (INC.), CHARLES GOLDMAN, COUNSEL.

STATEMENT.

In the revenue act of October 3, 1917, no specific mention is made of precious stones. The tax is imposed, in the language of section 600, subdivision e:

"Upon any article commonly or commercially known as jewelry, whether real or imitation, sold by the manufacturer, producer, or importer thereof \* \* \*."

It became necessary, therefore, that a definition be given to the term "commonly or commercially known as jewelry," in order to determine whether or not it was inclusive of unset precious stones.

Accordingly, on October 26, 1917, the Commissioner of Internal Revenue issued Treasury Department Ruling No. 2553, which, with relation to this phase of the act, provided as follows:

"Precious stones, cut but not set, will be regarded as subject to tax when sold by the importer or if cutting is done in the United States, when sold by the manufacturer or dealer for whom the cutting was done."

This ruling included within the term "articles commonly or commercially known as jewelry," all precious stones cut but not set. Accordingly the tax was imposed upon all sales of such stones made by the importer or producer and the wholesale dealers were subjected to the floor tax provided by section 602 of the act.

Then followed a most forceful protest by the Jewelers Vigilance Committee (Inc.), which body contended that unset stones were not to be included in the phrase "articles commonly or commercially known as jewelry."

On November 1, 1917, as a result of this protest Treasury Department Ruling No. 2553 was revoked and in its place Treasury Department Ruling No. 2573 was issued. On this subject this latter ruling, paragraph No. 3, provides in part as follows:

"Precious and imitation stones cut but not set, and parts of jewelry, including mountings which require the addition of material or stones or other parts, to become complete articles of jewelry, will be subject to tax when sold to the consumer."

This is in accordance with the suggestion of the Jewelers Vigilance Committee, (Inc.) (see brief of Jewelers Vigilance Committee submitted to Commissioner of Internal Revenue, point IV, subdivision 7, published in Jewelers Circular November 14, 1917, p. 83). In the same breath, however, this committee states "that there may be some question as to strict legality of such a ruling \* \* \*". It can not be doubted that there is some question as to the legality of such a ruling, in the face of the act itself. If unset stones are "articles commonly, or commercially known as jewelry" in the hands of the dealer selling to the consumer, why are they not such articles in the hands of the importer or producer?

The retailers, however, did not protest the legality of this ruling. They submitted to it although in innumerable instances it resulted in severe hardship to them.

It resulted also in loss of revenue to the Government for the reason that the great volume of sales made by importers and producers went untaxed, excepting for the small portion that found its way to the ultimate consumer, and for the further reason that the vast stores of unset stones in the hands of wholesale dealers escaped the floor tax. Now the retail jeweler urges that the proposed act should not continue the present rulings, but respectfully suggests that T. D. 2553 be made the model for the proposed revenue act upon precious stones cut but not set.

"Precious stones cut but not set should be subject to tax when sold by the importer, or if cutting is done in the United States, when sold by the manufacturer or dealer for whom the cutting was done."

This method of taxing loose stones is put forward for favorable consideration for the following reasons:

- (A) It will reduce evasions of the tax to a minimum.
- (B) It will reduce the cost of administering the law.
- (C) It will produce greater revenue for the Government.

The reasons advanced will be treated in the order above stated.

(A) *It will reduce evasions of the tax to a minimum.*—The number of evasions of law increases as the number of persons affected by it increases. Under the present act as administered the greatest possible number of persons are affected. Under the form of law here suggested the smallest number will be affected.

Under the present act and the rules formulated by the Treasury Department, the term "producer" as applied to articles of jewelry includes the retailer who sets precious stones in mountings. As practically every retailer throughout the country sets or causes to be set such precious stones in mountings, all these are affected by the act.

In contrast to this, if the tax is imposed upon loose stones "when sold by the importer or by the dealer who cuts such stones or causes them to be cut," the minimum number of persons will be affected thereby. In addition to the question of number of persons affected, the question of the character of such persons must be resolved in favor of the plan here urged. The cutters of precious stones are undoubtedly of higher commercial character than many of the retail jewelers for it is a fact, recognized in the industry, that many of the so-called retailers have no established position. They are commercial "pirates" of the industry. They are numerous, however; all of the larger cities reek with them and in the aggregate they accomplish a fair proportion of the sale of precious stones to consumers. Generally they have no

stores for the transaction of their business; their entire stock is carried about their persons. Those that have places of business have them in their homes on upper stories of buildings, most frequently without displaying any sign of their business. Great numbers of them sell precious stones as a side line to barbering, or to conducting restaurants, or to running pool parlors, etc. At present these illicit "retailers" with practically no exceptions, evade the payment of the tax.

This situation is real and not fancied, and it is serious. The collector for the third district of New York, who has had to cope with it will be able, it is believed, to attest to the numerous evasions by this class, and to the expense of detecting them. To emphasize the contrast, it is respectfully suggested that information be obtained from such collectors in whose districts large manufacturers of jewelry are located. From such information it can readily be determined whether the form of act proposed would not result in fewer evasions.

(B) *It will reduce the cost of administering the law.*—Under such an act as suggested herein the tax upon precious stones, cut but not set, will be imposed upon the importers and upon the cutters, and not upon the retail dealers, as at present.

Figures are not at hand, but even without them it is obvious that the number of importers of precious stones or the number of dealers cutting the rough stones after importation into this country, is very much less than the number of dealers selling such stones to the consumer, set or unset. The number of persons subject to the act being one of the greatest elements in the cost of administering a law of this character, it is apparent that in the form favored by this committee it would be very much less costly than the present act as administered under T. D. 2573. Also, the firms engaged in the importing and cutting branches of the industry are generally clustered together in a small area, whereas the retailers are scattered far and wide. This is another item resulting in economy of administration.

(C) *It will produce greater revenue for the Government.*—While the two points heretofore raised will of themselves show a clear way to increase revenue to the Government, by preventing evasions of payment and by reducing the cost of administration, it is proposed to show that directly a very substantial increase in the sum realized from such taxation will be effected by adopting the form of law suggested herein.

Under the present law, as interpreted by T. D. 2573, the tax is imposed upon sales of precious stones only when made to the ultimate consumer. This leaves entirely untaxed all of the precious stones in the hands of importers, cutters, and wholesale dealers, which will not be disposed of to the consumer for some time to come, probably not until the present emergency has passed.

The revenue act being needed for immediate revenue should, it is respectfully suggested, be so framed as to accomplish this result. As a matter of fact, with regard to "articles commonly or commercially known as jewelry" it is now so framed. It should also be administered in the same way with regard to unset precious stones, by far the largest single item in the industry.

In this way, also, the tax will be collected in larger payments, and the spectacle of vast, expensive legal machinery being set in motion to collect trifling sums in taxes will be eliminated.

As to mountings, settings, etc., the tax should be imposed on the manufacturer who produces them for use as jewelry.

T. D. 2573, under which the present revenue act is administered with relation to articles of jewelry, places mountings and parts of jewelry in the same class as unset precious and imitation stones. It provided as follows (subd. 3):

"Precious and imitation stones, cut but not set, and parts of jewelry, including mountings, which require the addition of materials or stones or other parts to become complete articles of jewelry, will be subject to tax when sold to the consumer."

The three reasons advanced in favor of placing the tax upon the importers and producers of unset stones, apply also, to favor the adoption of the rule indicated in the caption, that the tax upon mountings, settings, and parts of jewelry be imposed upon manufacturer or producer, who produces them in form to be used for jewelry.

The list of such parts of jewelry is not large and comprises mainly all forms of mountings and settings, not in themselves complete articles of jewelry, ornamental watch cases, etc.; metal watch bracelets, requiring the addition of movements or the bracelet parts to become complete metal watch bracelets.

Such a tax as here suggested upon mountings, together with the tax on unset stones hereinbefore proposed, would result in taxing all such articles just as soon as they entered the channels of commerce, and all subsequent dealers, and the consumer, will receive them with the tax added.

Articles of jewelry manufactured after the passage of the act should be taxed when sold by the manufacturer, producer, or importer.

This is the substance of the present act (sec. 600a), and it is respectfully recommended that this provision be continued in the proposed act.

A floor tax should be placed upon the stock of precious stones set and unset, articles of jewelry, and mountings ready to be set, in the hands of wholesale and retail dealers.

In order that none of the articles intended to be taxed should escape taxation, it is respectfully suggested that a floor tax be imposed upon precious stones, set and unset, and upon articles of jewelry and parts of jewelry which may be in the hands of wholesale and retail dealers. It is intended thereby that the floor tax shall be imposed upon precious stones set and unset in the hands of retail jewelers, as well as in the hands of wholesale dealers.

In this way all articles subject to the tax will be taxed. The stocks of unset stones in the hands of wholesale and retail dealers will be subject to the floor tax, as will also the set stones and other articles of jewelry and parts of jewelry in their hands. The tax will be imposed upon loose stones when sold by the importer or by the dealer cutting them or causing them to be cut. Articles of jewelry manufactured after the passage of the act will be subject to the tax when sold by the manufacturer.

*Pawnbroker sales or auctions.*—This phase of this memorandum relates to a question which does not appear to have been covered by the present act.

All unredeemed pledges in the hands of pawnbrokers are disposed of by them, generally by public auction. In this way great quantities of jewelry and precious stones are sold. Under the present act, such sales are not subject to the tax.

It is respectfully suggested that such sales be subjected to the tax.

Respectfully submitted.

JEWELRY AND DIAMOND MERCHANTS ASSOCIATION, (INC.).

UNITED RETAIL JEWELRY STORE KEEPERS ASSOCIATION, (INC.)

CHARLES GOLDMAN, *Counsel.*

JULY 1, 1918.

**STATEMENT OF MR. W. D. BROWN, OF WASHINGTON, D. C.,  
EDITOR OF THE R. F. D. NEWS.**

Mr. BROWN. Gentlemen of the committee, I am the attorney for the National Rural Letter Carriers' Association. I want to ask your consideration on behalf of the rural letter carrier in reference to a tax on motor vehicles. The present Congress has seen fit to relieve the condition of the rural letter carriers by giving them a substantial increase in their compensation, and we do not believe it would be just exactly fair now for Congress to take away a substantial part of that increase from the men who need it so badly, and who are the only class of Government employees who are required to furnish and maintain at their own expense all the vehicles necessary to the proper performance of their duties.

Mr. DIXON. That is on the theory that the committee is liable to put a tax on automobiles in the hands of the user?

Mr. BROWN. Yes, sir; in the hands of the user. Of course, I have no means of knowing what the purpose of the committee is. My appearance before you is based on newspaper reports.

I will say, Mr. Chairman, in the city delivery service, where there is a branch similar to the rural delivery service, namely, the mounted service, the Government pays the cost of that service, amounting in some cases to as much as \$1,000 a year for the vehicles. The rural carrier pays all the cost of his vehicle maintenance, and I ask, as the attorney for the National Rural Letter Carrier's Association, your favorable consideration of this class of Government employees.

Mr. MOORE. To what extent do the rural carriers own machines?

Mr. BROWN. I wouldn't be absolutely sure, Mr. Moore, but I would say at least 40 to 50 per cent now use motor vehicles. I have steadfastly urged the use of automobiles in rural deliveries, as a means of expediting the delivery of the mails; at this time, when labor is so scarce, and man power is at a premium, I have taken the stand that if rural carriers will take an automobile and cover their

routes in half to one-third the time they do in a horse-drawn vehicle, they can use the balance of the time in productive employment.

Mr. MOORE. How many rural carriers are there now?

Mr. BROWN. About 43,000.

Mr. MOORE. And about 40 per cent of them use automobiles?

Mr. BROWN. About 40 per cent; and perhaps 50 per cent. There are no statistics available on the subject.

Mr. MOORE. Isn't it a fact that when they buy a machine now they pay the tax on it?

Mr. BROWN. If there is a tax, they must pay it; yes, sir.

Mr. MOORE. There is a manufacturer's tax.

Mr. BROWN. They must pay it, of course.

Mr. MOORE. It has been shown here that the manufacturer passes that on to the purchaser of a machine.

Mr. BROWN. Well, I am not qualified to give testimony to that. I haven't bought a car.

Mr. MOORE. I think that can be accepted as a fact. What you object to is a direct tax on a machine owned by a free delivery carrier of the Government?

Mr. BROWN. Yes, sir.

Mr. MOORE. That is what you appear for?

Mr. BROWN. Yes, sir; the privately owned vehicle owned by the carrier. In the star-route service there is a law now that permits the Postmaster General to increase the pay of the star route carrier if he thinks the conditions warrant it; that was brought about by the conditions arising after the introduction of the parcel post; and with the mounted carrier of the city delivery service, the Government pays all his cost of vehicle, and naturally, if there is a direct tax on motor vehicles, naturally that would be considered a part of the mounted city carrier's cost of operation.

Mr. MOORE. Since the defeat of the pneumatic tube we are going to have more motor vehicles, but they will be Government owned, no doubt.

Mr. BROWN. If they are privately owned, the Government will pay the cost of upkeep to the owner.

Mr. MOORE. Let me ask you this, Mr. Brown: To what extent are the machines of rural carriers used for purposes other than the carrying of the mail?

Mr. BROWN. Well, to a limited extent they are used for other purposes. Not to a great extent, because the men, when they come in off of their routes, are engaged in other work where they can save any time by the use of motor vehicles, after they come in from their official routes, they are engaged in other work where the motor vehicles can't be used.

Mr. MOORE. I have been under the impression they used them for other purposes.

Mr. BROWN. They do in some cases, I am sure.

Mr. MOORE. That might have some bearing on their relief from taxation.

Mr. BROWN. Absolutely. But from my knowledge of the broad and general situation I would say the number of uses for the vehicle after the completion of the official day's work is so small as to be negligible.

I thank you, gentlemen, for the privilege of appearing before you.

**STATEMENT OF HON. A. J. SABATH, A REPRESENTATIVE FROM  
THE STATE OF ILLINOIS.**

Mr. SABATH. Mr. Chairman and gentlemen, I don't know whether I can add anything to what already has been stated, or give you any additional information; notwithstanding I feel it my duty to call your attention to a few facts before you start to frame the bill. There are a certain few men in this country who are always fearful that the common people and the laboring people, unless they are taxed, will not be patriotic, and they feel by imposing a tax they will make them very patriotic. Well, I don't find any objections on the part of the people of this country to paying a fair and reasonable tax. On the other hand, I believe that those people who are accumulating great profits, especially the last few years, due to the war, should pay their proportionate and just share of the taxes. I have, a year ago, heard the statement that there is a statement on the part of certain interests, in view of the fact that we were then considering a revenue through increasing the income tax, that they have started out to increase their profits to an amount that the income tax will amount to, so that it will not come out of any former profits, or profits that they make, and they have succeeded so that to-day their profits after the payment of the income tax is still greater than they were in prewar years. Now, I believe that these people, and these interests who are accumulating these tremendous sums of money should be taxed. I am not going to say that they should be taxed up to an amount whereby only \$50,000 should be left to them, but I believe in many instances, and where these things go into the millions—reaching a profit over \$1,000,000 they should be taxed up to 90 per cent. I believe when a man has \$90,000 left in these war times that is an amount that should suffice him.

In the last revenue tax you have provided an 8 per cent tax, an individual 8 per cent income tax; as I understand, really an occupational tax. Now, I find a large number of people who have large investments and are not obliged to work. Now, I think if you give this matter due consideration you will remedy that, to my mind, unfair tax, and tax all people alike, and especially those who do not earn their incomes and derive them from investments. I do not see why people who are obliged to work hard and earn their living and thereby perhaps have success to secure a larger income through hard work and application to their duties, should be taxed 8 per cent, and those who do nothing and derive their income from investments they have in real estate mortgages and other securities that are not taxed should be eliminated from this tax. Now, I think they should be eliminated and added together with additions on the income tax. I believe, also, that the country believes in an increased income tax, and I believe the income tax in conjunction with the excess-profits tax should be increased.

Now, I don't know whether you have read the report of the Federal Trade Commission that has been issued a few days ago.

Mr. MOORE. I was going to ask you whether you have reference to that when you speak of the interests that have not been taxed?

Mr. SABATH. Yes; and they have not reached one quarter of the interests that have accumulated tremendous sums, running into the millions. We have the industries going into the millions, and millions



of profits. You take the plate-glass industry and the glass industry, they are making millions and millions; and others, too. You take the Paper Trust, notwithstanding the fact of the agreement they have entered into with the Attorney General, they are raising the price again to the small consumer in a way that can be called nothing less than robbery. I have received letters from several foreign-language newspapers who are doing a splendid work of instilling patriotism into the minds of the people, and they are complaining bitterly at the prices they are obliged to pay. They say to them "You have agreed to fix the price at \$3.05," and they say, "Yes, we did, but we haven't any of that paper now, and if you want any you will have to pay more," and they make them pay \$3.75 and up.

Mr. GREEN. If a few of those gentlemen had been sent to jail for violating the law instead of being politely told not to do it again, it would have helped.

Mr. SABATH. I agree with you, too, but this—

Mr. MOORE (interrupting). Judge, that is true. You have referred to the Trade Commission report; and in that report there are some concerns from your own city, and others mentioned, and some of us have contended right along that the Attorney General's Department was available if anything was to be done to check up such improprieties as they might be guilty of; but we get no action.

Mr. SABATH. You know the condition. Due to this terrible war in which we are engaged, I presume the administration does not wish to create conditions whereby the big interests and the bankers of the United States will make the hue and cry that we are interfering with business.

Mr. MOORE. We will certainly make appropriations to prosecute, if there is any evidence.

Mr. SABATH. They are gathering the evidence, and I hope some of these people will be brought to time. You and I will not quarrel about these things. I feel the same as you do.

Mr. MOORE. I think they have the money to go ahead, if they have grounds for action.

Mr. SABATH. I presume the reason they are not going on and commencing these actions against these men is that there will be the hue and cry that the administration is interfering with business just now, and that it may cause conditions that will not be for the best interests of the Nation in view of these trying times that we are now having. But I hope in a short space of time the Department of Justice will reach it, and that every one of these, including the Steel Trust, as well as the Textile Trust—

Mr. MOORE. Anybody that is doing wrong and violating the law.

Mr. SABATH. Yes; the mere fact that the packers are located in Chicago, I wish to assure you that I do not ask that they be dealt with any differently than any other violaters of the law, or any other combination of men who are robbing the American people.

But in view of the conditions that exist, in view of the fact that we may not be able to stop it, I lay this matter before you, believing that we can easily by the revenue legislation at least impose a certain taxation upon them whereby they will perhaps come to their senses and realize that they can't do as they please, and that they can't retain all of that ill-gotten and unfairly accumulated profit.

Mr. MOORE. It would appear from the Federal Trade Commission's report that there has been certain covering in, in the way of padded salaries and things of that kind, that were intended to avoid it.

Mr. SABATH. All of these large industries, somehow or other, they preach patriotism, but when they can make excess profits they do so, and in view of the fact that we can't do so, I think we can by imposing heavy taxes up to 90 per cent thereby get it back from them.

Now, as to the excess-profits tax. I think the income tax is nicely graduated, and I believe, gentlemen, that you can't make a mistake if you follow the same system in the excess-profits tax and make it a real graduated excess-profits tax. I presume that that will receive your careful attention.

Now, I do not desire to take up a great deal of your time, but before I quit I desire to call your attention to one matter which I think should also receive you careful attention. We have in this country one or two companies, so-called trading stamp companies. They do not produce anything, but they do take away from the business man and from the consuming public millions each and every year, and I think that they should be eliminated. It is hard to reach it by direct legislation. Some States have already adopted a law precluding these companies to operate upon the public.

Mr. GREEN. I think it would be very easy to reach it by an indirect tax, and personally I have been in favor of such a tax for a long time.

Mr. SABATH. I think we should have a heavy tax on all those stamps, not only that they accumulate a great profit from all the ignorant people of the country and the business man, but in addition to that they bring about false prices, because when a business man is obliged to pay 3½ to 4 per cent on all the sales to a company that doesn't help to produce the merchandise, I think it is wrong, and by eliminating it—and you can eliminate it by a heavy tax—you reduce the necessities of life by 4 to 5 per cent, and you eliminate the waste. Now, some years ago I introduced a bill, and I have endeavored to secure action on it, and due to the conditions I have not succeeded, but I have promised some business men's organizations in Chicago and in Illinois that I will lay the matter before you gentlemen, and they feel that if it was laid before you properly, as it should be, that there would not be any question that they would receive favorable consideration. I regret exceedingly that I have not the time nor the ability to lay it before you as it should be laid before you, but I say to you that it is a nuisance and an imposition and an unnecessary expense upon each and every item that a people buy, whether in the line of eatables or in the line of articles that they are obliged to wear, and I think by imposing a heavy tax on these trading stamps it will eliminate the United Cigar Stores Co. from having a monopoly in the cigar and tobacco business, and it will eliminate the Green Trading Stamp Co. from making ten to I don't know how many millions of dollars a year, and it will take away the advantage from the large business man, the advantage they have over the small man, because the small butcher or the corner grocery or the small candy store can't use the stamps the same as the larger owners do. I hope you gentlemen will take this to heart, and when you reach that section of your bill you will not omit to put on a heavy tax on these trading stamps.

I presume you know more about the holding companies than I do, but it seems to me they have escaped taxation. I don't know whether there is a good, legal reason for it or not; but if there is no legal reason for it I think we ought to tax the holding companies the same as any other company; in fact, they should be taxed more than any other company. That is the last observation I want to make, and hoping I have not taken up your time unduly I thank you for your consideration.

I come from the second largest city in the United States, and the laboring people, whom I represent, are trying to do all they can to help the country, and they do not object to taxation, but they do point out that they are robbed every day in the year by these large interests, and they think they should be taxed according to the profits.

Mr. MOORE. How would you get at the trading-stamp proposition?

Mr. SABATH. By putting on a tax of 100 per cent on the trading stamp.

Mr. CRISP. You wouldn't raise much revenue that way.

Mr. SABATH. I will admit that it is not a revenue measure. You will put them out of business.

Mr. MOORE. They contend they encourage certain lines of manufacture, such as furniture, and other lines.

Mr. SABATH. They do not produce anything.

Mr. MOORE. Wouldn't that be absorbed by business already in existence?

Mr. SABATH. They are giving trading stamps, yes, and I mean to reach the United Cigar Stores as much as the Green Trading Stamp Co.; because I remember in years gone by a widow was maintaining a little cigar store or candy store, and the man who was crippled in a factory or shop, not being able to do any other work, with \$200 or \$300 he would establish a cigar and candy store. Now, it is impossible for these people to exist and compete against the United Cigar Stores, and they have eliminated the opportunity for these unfortunate people to make a living.

Mr. CRISP. Judge, isn't it a fact that these large companies use the trading stamps more than any other line of business?

Mr. SABATH. Yes, it is true, and you know human nature is human nature, and if they think when they get a few trading stamps they will get a present they go where they can get them; the little candy store and the little tobacco store can't give them out, and they are losing trade, and it is concentrated in the hands of a few men against the woman who used to make a fair living in that line of business.

(And thereupon the committee adjourned to meet Tuesday, July 2, 1918, at 10 o'clock a. m.)

# REVENUE BILL

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No. 21

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## HEARINGS

BEFORE THE

## COMMITTEE ON WAYS AND MEANS

HOUSE OF REPRESENTATIVES

WITH REFERENCE TO

## THE NEW REVENUE BILL

[THIS PRINT OF THE HEARINGS IS SUBJECT TO REVISION  
BEFORE THE FINAL PRINT]

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JULY 2, 1918



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1918

COMMITTEE ON WAYS AND MEANS.

HOUSE OF REPRESENTATIVES.

SIXTY-FIFTH CONGRESS, SECOND SESSION.

CLAUDE KITCHIN, North Carolina, *Chairman.*

HENRY T. RAINEY, Illinois.

LINCOLN DIXON, Indiana.

CORDELL HULL, Tennessee.

JOHN N. GARNER, Texas.

JAMES W. COLLIER, Mississippi.

CLEMENT C. DICKINSON, Missouri.

WILLIAM A. OLDFIELD, Arkansas.

CHARLES R. CRISP, Georgia.

GUY T. HELVERING, Kansas.

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ALLEN T. TREADWAY, Massachusetts.

JOHN E. WALKER, *Clerk.*

# REVENUE BILL.

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COMMITTEE ON WAYS AND MEANS,  
HOUSE OF REPRESENTATIVES,  
TUESDAY, JULY 2, 1918.

The committee met at 10 o'clock a. m., Hon. Claude Kitchin (chairman) presiding.

There were also present Representatives Rainey, Dixon, Hull, Garner, Collier, Dickinson, Oldfield, Crisp, Helvering, Moore, Sloan, Longworth, Fairchild, Sterling, Hawley, and Treadway.

Mr. COOPER. Mr. Chairman, I want to present to you Mr. J. W. Dawson, president of the K. and M. Railway Coal Shippers' Association of West Virginia, who wants to talk to you on excess coal profits.

## STATEMENT OF MR. J. W. DAWSON, PRESIDENT OF THE K. AND M. RAILWAY COAL SHIPPERS' ASSOCIATION OF WEST VIRGINIA, CHARLESTON, W. VA.

Mr. DAWSON. Gentlemen, Mr. Cooper states I want to talk on excess coal profits. I would like to make an explanation before doing that. I came to Washington on a different mission, not having any idea I would come before your committee while here. Therefore, I have not any exact, accurate figures or dates and I can not be expected to give the exact figures and dates for that reason, and I have not attempted to accumulate things of that kind since finding on Friday last I would be expected to be here to-day for the reason that I know you gentlemen have access to much more reliable and elaborate figures and data than I could hope to furnish. Another reason for my being here which I would like to explain is the interest I have in increasing the coal production of this country rather than assisting anyone to dodge taxation. My real object in being before you to-day is with the hope of doing something that will increase the production of coal in West Virginia and not with a view to lowering any taxes. I have no theory of taxation to advance or to oppose of any kind.

I would like to state to you at the outset that I have read very carefully the statement made to your committee by Congressman Slep, and I indorse and agree with all he said on that subject. He has evidently given the matter very careful consideration.

I would submit for the information of you gentlemen that a coal-producing concern can not fairly be taxed on the basis of its outstanding stocks and bonds, for the reason that some of the largest concerns, and possibly the smaller ones, are overcapitalized while others are greatly undercapitalized. Under existing conditions the basis of taxation should be capital actually in the business or its intrinsic worth at the time and on its net earnings after deducting

all expenses, if we are to tax corporations on their net earnings instead of individuals on their incomes.

If, therefore, my theory is correct, our problem is how to arrive at the net earnings of a coal-producing plant. Certainly not until after we have deducted from gross receipts all expenditures for things which have no substantial, intrinsic value after the coal has been produced, or not approximately as great a market value as before the production of the coal. For what then does the coal producer make expenditures which are not now but should be charged direct to the cost of coal and not to capital account? I submit the following: Tipples, buildings, power plants, machinery, pumps, cutting machines, haulage motors, fans, rails, ties, spikes, copper wire, entry driving, whether through rock or coal, inclines, shafts, and slopes. None of these articles has a perceptible value after the coal has been produced, for the reason that they nor any of them in normal times have a market value much in excess of the cost of salvage after they cease to produce coal.

I will give you an illustration to make my point clear. A number of gentlemen in our neighborhood about 14 years ago decided to go into the coal business, and did develop and operate a reasonably valuable coal property for a period of 12 years, during which time they expended some \$175,000 or \$200,000, principally in the things which I have enumerated. At the end of 12 years they concluded to sell their supposed assets, pay off their obligations, and go out of business. All of those assets, fixtures and equipment, sold for \$3,000. They stood on the books of the company at about \$175,000 or \$200,000. The stockholders were composed of the most practical and able men in our community, with plenty of money with which to do business. They ran along supposing they were breaking even or making a little money until they found they were not, and then closed out with a loss of the entire investment of about \$175,000, as I stated before. I have not asked for the exact figures, but I am intimately familiar with the plant and know I am not far wrong. Had the articles which I have mentioned, or the equipment which I have enumerated, been included in the cost of that coal as the money was expended, my opinion is the company would still be in business producing coal, and the stockholders would now be drawing small dividends instead of having sold coal for those 8 or 10 years at less than its actual, real cost.

I am advised that the Federal Trade Commission does not permit the things I have mentioned to be charged to the cost of coal, but they should be so charged if justice is to be done; or else a 10 or even 15 per cent depreciation charge should be deducted and included in the cost of coal before figuring the profit. The former plan, in my opinion, is preferable, for the reason that it may be necessary for many coal concerns to make much greater expenditures for such equipment in a given year than other coal companies are required to make.

I would submit for your consideration, gentlemen, that a coal plant, unlike a beef industry, a shoe factory, a cotton mill, a steel mill, or many other industries which are completed, ready to produce a given quantity of product by the investment of a fixed sum, after which the plant and good will usually increases in value almost indefinitely, enough to offset reasonable depreciation, whereas a coal

plant, like the human being, is never completed until it begins to shrink in value, which it does rapidly until worthless, and at an age when most other industries are the most valuable; or like an apple orchard, its past history has been that it has many lean years in which the profits are very small or none at all, compared with the few fat years during which reasonable profits are earned. If, therefore, you tax the few fat years on the same basis that you do an industry that makes a reasonable, fair profit year after year, you will place an unfair burden upon the coal industry which cripples it and prevents its producing the coal now needed.

Now, as to the alleged large profits and profiteering by the coal producers last year and this year, I have in mind what the Federal Trade Commission says about profits for 1917, and I take issue with them for the reasons which will follow, and I have filed with the Fuel Administration a protest against the last general reduction in the price of coal, contending that it tends to retard production when the additional tonnage is badly needed with which to lick the Kaiser. Notwithstanding the alleged large profits during 1917, many producers were required to reinvest all and more than the profits supposed to have been made to make repairs and betterments in order that tonnage might be kept up or increased. The stockholders drew no dividends and the production of coal after the expenditures was no greater than before.

I have in mind another illustration which I would like to give you. During the spring of 1917 a party of coal producers purchased one of the largest and best plants in our State at a price of \$600,000. The expected returns show that they will be required to pay taxes upon an earning of about \$200,000 or 33½ per cent for the year 1917, while those stockholders received no dividends and they have reinvested, since May, 1917, about \$300,000; and if we lick the Kaiser during the next 12 months, as we all hope, this company will not have made on its investment 15 per cent profit which the stockholders can ever get hold of, on account of the shrinkage in the value of the things for which \$300,000 was expended during the past 14 or 15 months.

To give you an idea of this shrinkage, previous to the war a mine car to be used in that mine could be purchased for \$45. To-day it is \$150. -Steel rails could be purchased for about \$35. To-day they are between \$75 and \$100. I have not recent quotations. A motor generator with which to convert the current from high to low tensions could be purchased for \$3,100. To-day it costs between \$5,000 and \$6,000. This concern can produce to-day, after expending this \$300,000, no greater tonnage than before, but had the money not been expended their tonnage would have decreased rather than increased.

I would suggest another illustration which I have in mind. A concern whose books will show that they earned about \$15,000 this year, I am pretty sure, has during the past two years been developed at a cost from \$150,000 to \$200,000. If peace is declared within the next 12 or 18 months, this company will actually have lost money rather than made it, on account of the shrinkage in its expenditures, and many other like cases might be cited.

Again, I would submit for your most careful consideration the fact that most of the coal producers of the United States who are now



charged with profiteering and with high profits made little or no net profits for the 8, 10, or 15 years previous to 1916, and if you throw their entire business for a period of 10 or 15 years into one compilation, including the war years, they will not have up to date made 8 per cent on their investment. That should be taken into consideration when determining what should be done with them at this time.

Another suggestion I have to make is that coal can not be produced without steel, without mine cars, without mine machinery, without copper wire, rails, etc., and none of those things can be produced without coal. I submit for your consideration the question, Is it fair and just and calculated to increase the production of coal to require the producers of that article to supply the producers of those other articles with coal at a profit of not to exceed 25 per cent, say, for argument, and permit the producers of those other commodities to charge the coal man a profit of 100 per cent or more?

Mr. GARNER. May I interrupt you there?

Mr. DAWSON. Certainly.

Mr. GARNER. Do you make that as a statement of fact?

Mr. DAWSON. Those are approximate figures. The theory of the statement is based upon facts.

Mr. GARNER. That would be very interesting if you could show that statement to be absolutely based upon fact.

Mr. DAWSON. I am. Take the case of the mine-car manufacturer who sells a car to-day for \$150 and who sold it before the war for \$45. I know enough about the manufacture of cars to know that that is a profit of 100 per cent.

Mr. GARNER. If we took all of that 100 per cent profit with the exception of 8 per cent, we would be getting some profit for the Government.

Mr. DAWSON. That is true; and if you take all that a coal operator earns except 8 per cent, he will not be a profiteer. But my contention, if you please, is that the coal operator should be permitted to make the same percentage of profit that any other important industry makes. Then let the Government take it, if it thinks best. I contend for that point generally for this reason, more than any other, that it is not in the interest of the coal operator, but in the interest of the United States and of democracy. All of us must concede that the quantity of any product is dependent very largely upon its possible or speculative profits.

If, therefore, you deprive the coal man of speculative profits, you deprive the country of a great tonnage, and I claim that a greater tonnage in the United States is of more importance than anything else that confronts us, not excepting wheat, shipyards, powder factories, or anything else. We can lick the Kaiser without any of those other things, but you can not lick the Kaiser without coal. That is an utter impossibility, and while we are doing a great deal to increase the production of practically every other thing needed, the production of coal is actually decreasing, which would not be true if you would permit the coal operators to do business on the same basis that you permit these other things to be done. I am not contending for any greater profits. I would not care if you passed a law to-morrow, if it were necessary to lick the Kaiser one day earlier, to confiscate every dollar in the United States, including

my own. I would not care a particle, but if you confiscate mine, let us confiscate the other fellow's.

Mr. GARNER. You were speaking of "we" just now, when you said that "we" permitted copper companies and steel companies to make more than coal companies. Now, you do not mean to say that the legislative branch of the Government does that?

Mr. DAWSON. No, sir; and I am glad that you give me the opportunity to make myself clear on that. When I say "we" I mean the people of the United States of America, one of whom I am, and not this committee.

Mr. GARNER. That is a matter which is entirely in the hands of the executive branch of the Government.

Mr. DAWSON. Yes, sir.

Mr. GARNER. And this committee in levying taxes can not anticipate what the executive branch of the Government is going to do in the matter you have referred to. The legislative branch must lay taxes with reference to certain rules of procedure, presuming that the executive branch of the Government will exercise a wise and patriotic judgment in the administration of its affairs.

Mr. DAWSON. I concede that fact, and I really question the wisdom or necessity of coming before your committee. I understand that the questions I am discussing are really determined by the Federal Trade Commission, but I have been lead to believe that possibly this committee could do something or intended to do something that might have a bearing on this question, and that is my only reason for coming before you. Just as it stands to-day, I appreciate the fact that I probably should be before the Federal Trade Commission, and, unless you care to hear me further, I will not—

Mr. RAINEY (interposing). We will be glad to hear any further statement you desire to make.

Mr. DAWSON. I am so much concerned, gentlemen, about the production of coal and its increase, that it has given me a great deal of anxiety, being, as I am, a very practical and well-informed coal man, who has inspected, selected, prospected, and developed three or four of the largest plants in Virginia and West Virginia, and who has spent the last nine months inspecting many of the various coal fields of the United States with a view to determining, if possible, what can be done to give us a supply of coal. I mention this, not to be talking about myself here, but to give you the idea that possibly I know what I am talking about. I am fully convinced that if the conditions which have prevailed during the past 12 or 15 months continue, the shortage of coal this winter will be greater than it was last winter, and I am fully convinced that, unless something is done to increase the production of coal, just in line with the activities in the production of other things, this shortage is going to delay our military activities, and that is going to cause the death of a whole lot of our boys unnecessarily. That is why I am here, really.

Mr. MOORE. May I interrupt you to ask a question?

Mr. DAWSON. Certainly.

Mr. MOORE. I agree thoroughly with that last statement of yours.

Mr. DAWSON. I am positive about that.

Mr. MOORE. I agree thoroughly with your statement about the production of coal and a possible scarcity of it during the coming winter,

and I want to ask you whether transportation has entered into that, also?

Mr. DAWSON. Transportation has more to do with it than any other one thing, or the lack of transportation.

Mr. MOORE. Yes; the lack of transportation. You stated that you relied very strongly upon tonnage, and that you regarded tonnage as the most important factor in the present war.

Mr. DAWSON. I do.

Mr. MOORE. Do you mean by that the tonnage that is represented by production or the tonnage represented by transportation?

Mr. DAWSON. I mean the aggregate tonnage of coal available for use by us and our allies. That is what I mean.

Mr. MOORE. Is there any shortage of production in mines like those in Virginia and West Virginia, or in Pennsylvania, or Illinois, or Indiana? Is there any real shortage of production?

Mr. DAWSON. You mean the possible production, I take it?

Mr. MOORE. Yes.

Mr. DAWSON. The mines in those States, and, in fact, of the United States, are capable to-day of producing all the coal that the United States and our allies need—that is, the mines physically can do it.

Mr. MOORE. In other words, we have got the coal?

Mr. DAWSON. Yes, sir; and we have got the development.

Mr. MOORE. Have we the power to produce all the coal necessary for our own purposes and for that of our allies? Can we produce it, or have we the labor to do it?

Mr. DAWSON. We can produce it if the operators are justified in making the necessary expenditures for the equipment and development necessary, and if the railroads can move the coal. I would like your permission to explain just what I mean by saying, "If the operators are permitted." You may take a coal mine that can, we will say, produce 1,000 tons of coal daily now, and that mine has quite an extensive internal development. Now, the production of that mine could be increased to 1,500 tons daily within a period of 60 days and without any more men if they should purchase 100 or 150 more mine cars, two or three more haulage motors, four or five cutting machines, etc.

Mr. MOORE. Whom is that up to, the miners or the Railroad Administration?

Mr. DAWSON. It is up to the owner of the mine to purchase those articles, but here is the situation that would confront him: If he purchased those articles to-day, he pays twice as much, or more, for them than he would have paid two years ago, and probably that much more than the cost of them six months after peace is declared. Therefore, if he expends \$100,000 in equipment with which to increase his production of coal with the same labor, he runs into a shrinkage in value of at least 50 per cent before he shall have gotten sufficient profits back to justify the investment; and if the conditions after the war are anything like they were previous to the war, the equipment will not be needed by him, and will be worthless on his hands.

Mr. MOORE. That puts it back on the producer himself. Now, when you say if the producer could go ahead—

Mr. DAWSON (interposing). If he were justified in going ahead.

Mr. MOORE. When you say that, you do not mean that there are any restrictions imposed upon the producer except the restrictions of the trade?

Mr. DAWSON. And those restrictions——

Mr. MOORE (interposing). You do not mean official restrictions.

Mr. DAWSON. No, sir; the only official restrictions I know of are in the direction of encouraging him to do that, and very recently, I would like to say, I happen to know, as other men connected with the coal industry know, that the Fuel Administration has been making extraordinary efforts to take care of the coal requirements of the country and to encourage the development of production, and I think they are going to do some good along that line. But that element of speculation which enters into every business man's mind when he goes to spend money is different in the coal industry from that in any other thing I know of. For instance, he does not know to-day at what price he will probably be selling coal 90 days from now. He does know that he is not permitted to take advantage of the price created by the law of supply and demand, but that the production or, rather, the price of everything that he purchased, is regulated by supply and demand. He therefore rests under a disadvantage in making those expenditures. All of those things which the coal men are purchasing now with the hope of increasing the production of coal, and which would increase the production of coal, should be charged to the cost of the coal, or the coal man should be permitted to charge war prices for coal, one or the other. I prefer the former method, because that would be absolute justice and nothing else.

Mr. RAINEY. What is your depreciation deduction?

Mr. DAWSON. It is not anything like in proportion with the depreciation of the plant, and is not greater than the depreciation that an ordinary manufacturing plant, which is a permanent thing, is permitted to have, as I understand it.

Mr. RAINEY. They have held this, with reference to the betterments that you are discussing, that such expenditures when capitalized, may be extinguished through annual depreciation deductions, which deductions will be computed upon the basis of the cost and probable life of the property.

Mr. DAWSON. Yes, sir; the probable life of the property, but that equipment which he proposes to purchase will not be needed by him or will not be useful to him during all the life of the property.

Mr. MOORE. You are a practical coal man and I am glad you came before the committee. I wish that some other strong men in the industries would adopt the same course. You can stand on your feet and answer questions that will help the committee materially. Before the war there was no great trouble in distributing coal throughout the country, so that the needs of the industries were met, was there?

Mr. DAWSON. Absolutely none, with a few rare exceptions of a few weeks at a time.

Mr. MOORE. We had never had, within your recollection, such a coal stress as we had last winter?

Mr. DAWSON. We had not.

Mr. MOORE. Now that was during the war. Since the war and the advent of these various official bodies that have come to regulate our war affairs, we have had considerable distress in the coal business.

Mr. DAWSON. We have.

Mr. MOORE. Take the city of Washington as an illustration. You are in the bituminous coal business altogether, are you not?

Mr. DAWSON. I am.

Mr. MOORE. Well, we have a lot of that in Pennsylvania as well as anthracite. Take a city like Washington last winter. We were without coal. There was plenty of coal around about us. Many of us were told there was no question at all about production; that we had plenty of coal up here in Cumberland, plenty of coal down in West Virginia and in Virginia and plenty of coal in Pennsylvania, but we could not get it. Now that was due, we were told, to lack of transportation facilities.

Mr. DAWSON. That was true.

Mr. MOORE. I want to ask you, as a practical coal man, whether in view of our necessities during the coming winter and in view of our experience during the past winter, there has been such improvement in the situation that we may expect to have more coal for the use of the people of the United States next winter than we had last winter?

Mr. DAWSON. We confront to-day a greater scarcity for this fall and winter than we experienced last year, unless something is done between now and frost to correct it.

Mr. MOORE. This would be the proper time to get the coal out and get it into the bins, would it not?

Mr. DAWSON. It would, and it should be gotten out.

Mr. MOORE. Are we getting the coal out in such quantity now as to warrant the belief that we will be kept warm during the coming winter in a city like Washington?

Mr. DAWSON. We are not.

Mr. MOORE. Now, what is the reason for it?

Mr. DAWSON. The reason for it is twofold. The direct reason for not getting out the capacity of the mines to-day is the inability to prevail upon the men to work with absolute regularity, first and second—

Mr. MOORE (interposing). That is a labor condition.

Mr. DAWSON. That is a labor condition, and I have no complaint to make against the coal miners. They are doing their duty just as consistently and constantly and patriotically as any other class of labor in the United States, I think. The other reason—

Mr. MOORE (interposing). We are appropriating billions of dollars here for all sorts of war purposes, for all sorts of purposes on the other side of the water, and I would like to know, from a practical coal man, whether any of this money is being so appropriated—

Mr. DAWSON. If you will pardon me just a moment; I had not finished.

Mr. MOORE. So that we may expect to get coal for the people of America during the coming winter?

Mr. DAWSON. I had not finished my question a while ago, and it might be that too much importance would be attached to the scarcity of labor if left in that shape.

Mr. GARNER. Let him finish his answer.

Mr. DAWSON. The greatest reason or the greatest cause for the shortage of coal tonnage in the United States to-day, up to this present moment, is the lack of transportation. Regardless of all other things you may do, we will not supply this country and our allies with coal unless it is transported, and transported as regularly and with the same dispatch that other things are transported not half so important.

Mr. MOORE. Does your coal go into New England, as a rule?

Mr. DAWSON. Not the coal of the particular membership of our association, but coal in the same part of the State does.

Mr. MOORE. Where does your coal go—abroad?

Mr. DAWSON. No; the bulk of our coal goes west of the Ohio, to the Great Lakes and into Michigan and Indiana and all through the Northwest.

Mr. MOORE. You ship more by rail than you do by water?

Mr. DAWSON. Oh, yes; five or six times as much.

Mr. MOORE. Do you ship much coal by way of Norfolk or Charleston?

Mr. DAWSON. Not at all. Of course, we go by Charleston, W. Va. Do you mean Charleston, W. Va., or Charleston, S. C.?

Mr. MOORE. Charleston, S. C.

Mr. DAWSON. No; our direct membership does not ship East, but coal from the same district on the opposite side of the river does go East, so the same conditions prevail as on coal that does go East.

Mr. MOORE. The Western people are crying for coal just as loudly as the people in New England.

Mr. DAWSON. Yes.

Mr. MOORE. So I think the illustration would apply either way. I want to find out if you are furnished with enough cars to carry the coal you are capable of producing.

Mr. DAWSON. We are not and have not been for 12 or 15 months except in short periods. Now, right there, if you will permit me, I would like to explain a theory I have which I will vouch for as being a fact about the car situation. The failure to remove coal is not the result of a shortage of cars. We have an ample quantity of coal cars in the United States to move the coal if they were equally distributed.

Mr. MOORE. You feel satisfied about that?

Mr. DAWSON. I know it.

Mr. MOORE. That is a very important statement.

Mr. DAWSON. I would like to say why and how I think I know it. I railroaded for 20 years and I have done everything on a railroad from pick and shovel to general superintendent.

Mr. MOORE. Then you ought to know.

Mr. DAWSON. And distributed cars for 12 or 15 years, and I am constantly watching car distribution; in fact, that is my principal business right now with the coal people. I will give you an illustration to make my point clear. You may take any given week and almost any given day since January 1, and you will find a certain coal district of the United States that is idle on account of lack of coal cars. You may look at another coal district on that same day and you will find more than enough coal cars standing idle, not used, than would have supplied that district. Now that is the point I have in mind.

Mr. MOORE. May I ask how you account for that, because that is a condition which, apparently, if corrected, would aid in the distribution of coal to the people who need it?

Mr. DAWSON. There has been a marked improvement in that respect within the last six months, I must say.

Mr. MOORE. Has it been due to favoritism in railroad management?

Mr. DAWSON. When?

Mr. MOORE. Getting right down to brass tacks, now.

Mr. DAWSON. It was largely due to favoritism in railroad management previous to the war, and largely due, also, to the fact that some railroads owned a great many more cars than they had actual use for, while other railroads owned fewer cars than they had actual use for. Therefore some districts would have a surplus of cars and others would have a shortage.

Mr. GARNER. You say there has been a marked improvement within the last six months?

Mr. DAWSON. There has been in the distribution of coal cars, in my opinion.

Mr. GARNER. You have not seen any exhibition of favoritism in the last six months?

Mr. DAWSON. I could not say "no" to that, but I do not believe it is the result of any intended favoritism on the part of any one who has a right to say yes or no about it. It is more the force of habit and custom, I think, than intended wrong.

Mr. GARNER. Mr. Moore was endeavoring, I imagine, to get from you a statement of what your opinion was as to the degree of efficiency with which the railroads are being run under Government management. Would you mind stating from your observation and your knowledge as to a railroad man as to the efficiency which the Government has been exhibiting in the management of the railroads?

Mr. DAWSON. The gentleman preceding you did not ask me that question.

Mr. MOORE. No; I did not ask you that question. The gentleman from Texas is fishing a little.

Mr. GARNER. I may be, but I know the ingenuity with which the gentleman from Pennsylvania gets at what he desires, and I will take upon myself the responsibility of asking you the question.

Mr. MOORE. Then ask it in your own way.

Mr. GARNER. Then I will ask you whether or not, in your judgment, considering the condition of the railroads at the time they were taken over by the Government, they are being run with equal efficiency so far as the coal situation is concerned, under Government ownership as compared with private ownership or control?

Mr. DAWSON. I think they are run with greater efficiency now than they were before they were taken over as to the handling of coal the country over, collectively.

Mr. GARNER. That is all.

Mr. MOORE. Now will you permit me to go on just a minute, Mr. Chairman?

Mr. RAINEY (acting chairman): Certainly.

Mr. MOORE. But you are still of the opinion, Mr. Dawson, that the next winter is going to be a hard one and that we will be worse off under present indications with respect to transportation, in the matter of the distribution of coal, than we were last winter?

Mr. DAWSON. Not worse off with respect to transportation, no, sir; worse off with respect to the shortage of coal or the possible shortage of coal.

Mr. MOORE. But you do not attribute that to your inability to produce the coal?

Mr. DAWSON. No.

Mr. MOORE. You can produce the coal?

Mr. DAWSON. Yes, sir.

Mr. MOORE. And you can produce enough coal, all operators included, to supply the wants of the people of America and of our allies in this war?

Mr. DAWSON. Yes, sir; by making—

Mr. MOORE (interposing). And if we are short of coal during the next winter it will be due to lack of transportation, will it not?

Mr. DAWSON. Lack of—

Mr. MOORE (interposing). We have no more cars this year, substantially, than we had last year.

Mr. DAWSON. It will be due partly to the lack of regular, uniform transportation from all the different fields alike.

Mr. MOORE. It is perfectly clear that if what you say is true—

Mr. DAWSON (continuing). And also there will be coupled the other situation, the lack of the district in which the cars happen to be spasmodically to produce a greater tonnage, which would be produced if those mines were justified in purchasing additional equipment which would enable them to load those cars more quickly when they do have them instead of having them left over.

Mr. MOORE. Exactly. There is not much of a quarrel between the gentleman from Texas, Mr. Garner, and myself on this point. You have indicated there has been something of an improvement in railroad management since the Government took over the railroads in that whereas one railroad company had a plethora of empty cars and another had a scarcity of them, there is now a more equal distribution of the cars.

Mr. DAWSON. Correct.

Mr. MOORE. But you have also stated that the prospects, even under this improved distribution of cars, are that during the coming winter, by reason of the lack of transportation facilities generally, we may be no better off than we were last winter.

Mr. DAWSON. Absolutely.

Mr. MOORE. Now, that is the point.

Mr. DAWSON. Coupled, however, with the failure of the mines to be better equipped. I do not want that to be overlooked.

Mr. MOORE. Then if the Government is in control of the railroads and of the cars and all our transportation facilities, it behooves the Government to get a move on itself if we are not to freeze next winter like we did last winter. That is the point.

Mr. CRISP. Mr. Dawson, may I ask you a question?

Mr. DAWSON. Certainly.

Mr. CRISP. In your opinion what will contribute most to the shortage of coal next winter, shortage in transportation or shortage in production of coal from the mines?

Mr. GARNER. Or want of equipment?

Mr. DAWSON. I do not think I could answer that question yes or no, because there would be no shortage in production if all the mines were permitted to operate every day.



Mr. CRISP. Is there any law prohibiting them from operating every day?

Mr. DAWSON. Not that I know of, except the law of supply and demand, which applies to coal cars.

Mr. CRISP. Then how can the Government regulate or relieve that situation if there is no law prohibiting it?

Mr. DAWSON. By seeing that every coal mine in the United States has a uniform car supply every day, no more nor less than they will or can load.

Mr. CRISP. What has this committee to do with that?

Mr. DAWSON. I did not raise the question. I do not know.

Mr. CRISP. Well the question is up, and Brother Moore was asking some questions, and I thought I would ask a few. I understood you to say—

Mr. DAWSON (interposing). I would like to answer that question a little differently, if you please, before leaving it. I think this committee is deeply interested in everything that affects our ability to lick the Kaiser one day earlier than it might be otherwise.

Mr. CRISP. I can speak for the whole committee and say, yes we are; but this committee has nothing to do with the operation of the railroads. They are entirely under the administration and control of the executive department. I would like to ask you another question. I am not a practical coal miner, and you are. You understand it and I do not. What per cent of the cost of operating a coal mine is the labor?

Mr. DAWSON. Well, figured on the present basis of charging off things to capital account and cost of the coal, I should say up to the spring of 1917 it would be about 60 or 65 per cent. That is a very vague guess, however, because I have never figured it accurately in that way. Since that time there have been such great changes in the amount paid labor that I am unable to answer for the reason that I have not been operating a coal mine since that time.

Mr. CRISP. I understood you to say, Mr. Dawson, that by increasing some of your machinery and your coal cars, the coal mines could put out 50 per cent more coal with the same labor and with this additional machinery. Am I correct in that?

Mr. DAWSON. I think I stated—

Mr. CRISP (interposing). I understood you to say 1,000 tons a day, and by putting in this machinery, 1,500 tons a day.

Mr. DAWSON. I said that; yes, sir.

Mr. CRISP. If that is true, as an economical, business proposition, if 66 per cent of it is labor, would it not pay the operators to put in this extra machinery and mine 50 per cent more coal per day.

Mr. DAWSON. I think you did not understand me fully. I did not say labor; I said laborers, or I intended to say that.

Mr. CRISP. I asked you what per cent was labor.

Mr. DAWSON. I meant as to the quantity of coal produced. The percentage of labor, if I understood you correctly, was 60 or 65 per cent; but my previous statement to the effect that 1,500 tons might be gotten out against 1,000 tons was not with the same amount of labor but with the same quantity of laborers. They would render more service and would get more money for that, and all that 65 cents would not be saved.

Mr. GARNER. You mine the coal by the ton?

Mr. DAWSON. Yes; most of it is piecework, but you would be able to get the cars around the mine more rapidly and each man would earn more money.

Mr. CRISP. As an economical proposition, would it not pay the coal operator better to have this machinery and get out 50 per cent more coal per day?

Mr. DAWSON. Not if that machinery costs him \$100,000 and two years from now would be needed at all and he saved only \$25,000 by purchasing it.

Mr. CRISP. What is the increased price you are getting for coal now compared with what you got before the war?

Mr. DAWSON. About \$1 to \$1.50 in some instances. It varies very much. There was no established price prior to the war.

Mr. CRISP. With this increased price, would not the increased output very soon cover any depreciation that might occur in the machinery when peace is established?

Mr. DAWSON. It would depend upon when it came about.

Mr. CRISP. I understand that.

Mr. DAWSON. That is all theoretical.

Mr. GARNER. If I understand the argument you have made, whether it be an argument based upon taxation or whether it be an executive duty of the Government, it is in substance this: That on account of the speculative feature connected with the war; that is the increased price of coal at present, the coal mine owners can not afford to increase their machinery and go to additional expense upon the theory that they are going to continue to have this increased cost at the present time or increased consumption by virtue of the war.

Mr. DAWSON. Consumption of equipment, you mean?

Mr. GARNER. Yes; and that is the principal reason why more coal is not produced.

Mr. DAWSON. No, sir; not the principal reason, but one of the reasons that enters into it.

Mr. GARNER. What is the principal reason?

Mr. DAWSON. The principal reason is the lack of uniform and adequate transportation.

Mr. GARNER. Well, if you had uniform and adequate transportation, you contend that they could not afford to arrange for this increased production on account of the speculative value of it?

Mr. DAWSON. No, I do not think I intended to say they could not afford to it if they had the transportation. If they had the transportation they might feel justified in doing it, but in the absence of knowing whether or not they would have the transportation and be in a position to earn more money with the equipment if they bought it, and the speculative feature and the possible shrinkage in value, all of that enters into their hesitancy about making the additional investment.

Mr. GARNER. Then, if you could by magic, as it were, arrange for an increased production of coal, you would, first, arrange for increased transportation?

Mr. DAWSON. Yes, sir.

Mr. GARNER. And, second, you would arrange for an increased cost of coal, or an increased price of coal, or more than the price at the present time?

Mr. DAWSON. No, sir; not for an increased cost of coal, but for a decreased cost of coal.

Mr. GARNER. How much are you getting now for it?

Mr. DAWSON. What I mean by that is this, that the larger the coal tonnage that a mine produces, the less it will cost to produce it.

Mr. GARNER. Would you put up the price of coal, or would you have the Fuel Administrator to make an increase in the price of coal to the miner?

Mr. DAWSON. Do you mean to the operator?

Mr. GARNER. Yes; to the operator.

Mr. DAWSON. I can not say that I am here to advocate any such theory as that.

Mr. GARNER. I am just asking you—

Mr. DAWSON (interposing). But I would like to qualify that by this proposition, that he be permitted to take advantage of competitive conditions in determining the price of coal, or that they should be enabled to purchase what they have to purchase at regulated prices within reason, or that they should be permitted to charge that equipment expenditure into the cost of coal during the war.

Mr. GARNER. Not being able to control the prices of the articles which they buy, then you would be compelled to let them charge into the price of coal the depreciation involved?

Mr. DAWSON. That is my contention.

Mr. GARNER. That would naturally increase the cost of coal?

Mr. DAWSON. No, sir; that would not increase the price of coal, but it would decrease the cost of coal production.

Mr. GARNER. It would increase the price of coal at the mouth of the mine?

Mr. DAWSON. Yes, sir; the cost of coal, but not the price of it.

Mr. OLDFIELD. Would it increase the cost of coal to the consumer?

Mr. DAWSON. No, sir; on my suggestion, it would not—

Mr. RAINEY (interposing). This is exactly what the department holds—

Mr. DAWSON (continuing). Or that is not my understanding.

Mr. RAINEY. The rule is that the deductions shall be made every year, computed upon the basis of the cost and probable life of the property.

Mr. DAWSON. Yes, sir; if you please, but you say the probable life of the property and I am discussing the probable usefulness of the equipment to its owner. Those mines are equipped to load to-day what coal the United States needs in peace time, but now they have to go ahead and spend, we will say, \$100,000, with which to equip the mines to produce an additional tonnage for war time. After we have peace that equipment is worthless, and they have lost \$100,000, because the equipment will be lying idle and they can not use it.

Mr. RAINEY. We are producing every year more and more coal. Is not that true?

Mr. DAWSON. Yes, sir.

Mr. RAINEY. And we produced more coal in 1917 than we had ever produced before?

Mr. DAWSON. Yes, sir; that is correct.

Mr. RAINEY. Commencing with the year 1900, our production of coal increased at a uniform rate each year until the war started?

Mr. DAWSON. I can not differ from you, because I am not positive. I do not remember.

Mr. RAINEY. Do you know how much coal was produced in 1900?

Mr. DAWSON. No, sir; I have not those figures.

Mr. RAINEY. There were 269,000,000 tons produced.

Mr. DAWSON. Yes, sir.

Mr. RAINEY. Do you know how much we produced in the succeeding years, as shown by the statistics?

Mr. DAWSON. I know how much, approximately, was produced in the last two years, but back of that I do not remember accurately.

Mr. RAINEY. Back of that we increased the production of coal 17,000,000 every year; that is, for every year over each preceding year, and the equipment of our railroads was increased so as to carry that much.

Mr. DAWSON. Did we do that in 1907?

Mr. RAINEY. Yes.

Mr. DAWSON. In 1908?

Mr. RAINEY. Yes; the production increased 17,000,000 tons every year. Do you know how much we increased our output in 1917 over prior years?

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

Mr. RAINEY. We increased it 64,000,000 tons. That was the additional strain put upon our railroads and equipment in 1917. Do you know how many cars it would take to carry 64,000,000 tons of coal?

Mr. DAWSON. No, sir; but I could tell by figuring it out.

Mr. RAINEY. I have figured it out. I want to show you that the question of the coal supply is largely a question of transportation.

Mr. DAWSON. It is, absolutely.

Mr. RAINEY. You are right about that, and I want to show you some startling results that I have obtained by figuring the matter up. Now, to show you how much 64,000,000 tons of coal is, and that is the additional amount that we were required to carry over our railroads in 1917—

Mr. DAWSON (interposing). You could divide it by 50.

Mr. RAINEY. I figure that coal cars are of varying lengths, from 32 to 41 feet, and I figure that there are more of the larger size than of the smaller size. I take 38 feet, therefore, as the average length of coal cars, and then I allow 3 feet space between cars which, I think, would be right. By doing that, I find that it would require three trains of cars extending across the continent, from New York to San Francisco, and back again from New York to St. Louis to carry that coal. It would require that much in the way of solid trains of cars to contain 64,000,000 tons of coal.

So that was the additional strain placed upon the railroads in 1917 over that of any prior year. That was the additional burden the railroads were called upon to carry, and it is no wonder that they fell down after winter set in, and winter commenced on the 8th day of December. But notwithstanding the failure and notwithstanding the coal shortage which occurred on account of the freezing weather of the winter of 1917 and 1918, they carried in 1917 enough additional coal over prior years to make, if loaded on coal cars a train like that I have mentioned, extending three and a half times across the continent. We have not been able to add materially to our supply of coal cars, have we?

Mr. DAWSON. No, sir.

Mr. RAINEY. Therefore, what you have outlined, or the conditions you have outlined and which you said would occur again this winter, are absolutely inevitable?

Mr. DAWSON. No, sir.

Mr. RAINEY. You think not?

Mr. DAWSON. No, sir.

Mr. RAINEY. Do you think that with the same supply of coal cars we can carry an adequate coal supply this winter by a proper distribution of cars?

Mr. DAWSON. I do.

Mr. RAINEY. You may be right, and I hope you are. Under the old system, a proper distribution of cars would be impossible as between rival railroads?

Mr. DAWSON. It would not be impossible, but it would be impracticable, because they would not do it.

Mr. RAINEY. That is as bad as being impossible. Under one control, we may accomplish the remarkable feat of distributing as much coal as we can produce this winter, and we can produce always as much as can be distributed?

Mr. DAWSON. Yes, sir; but not always as much as cars could be supplied for. There is a distinction there, because cars are supplied more to one district than another. That is not as bad as it used to be, though. I want to put that statement in the record.

Mr. GARNER. In other words, they have not reached perfection yet?

Mr. DAWSON. No, sir; but we are better off than we were six months ago in that respect.

Mr. RAINEY. No doubt you are correct about that.

Mr. OLDFIELD. Would it help the situation if the coal could be shipped to the nearest point? That is to say, if the people out in Indiana used coal mined in that section, and if points down South, or in the vicinity of Birmingham, were supplied from that field, would it not be better than shipping the coal across the country as they have been doing? For instance, they ship anthracite coal from the East away out into the West.

Mr. DAWSON. I am wondering if the chairman heard that question, because I am glad to have it asked. I will answer it by saying that you are exactly right. The Fuel Administration and the Railroad Administration have worked out that feature so that it is now in effect, or they are putting into effect that zone movement of coal. That zone movement of coal has relieved the railroad car movement, and that means an increased tonnage of coal to supply the market.

Mr. GARNER. That has been one good that the Government control of railroads has accomplished, so far as the movement of coal is concerned?

Mr. DAWSON. I do not know whether the Government control of railroads or the Fuel Administration worked it out, but it is a good thing. It would not be a good thing in peace times.

Mr. GARNER. It was worked out under Government control?

Mr. DAWSON. Yes, sir.

Mr. OLDFIELD. Why would it not be a good thing in peace times?

Mr. DAWSON. Because, under the present zoning system, at least, it would have a tendency to put some coal producers out of business.

It would put some coal producers out of business where there was overproduction and enable others to make vast profits.

Mr. RAINEY. You know more about coal production than I do, and I want to say that you are right about the falling off of production in 1907. In 1906 we produced 428,000,000 tons, in 1907, 420,000,000 tons, and in 1908 we produced 371,000,000 tons of coal, so that there was a falling off in 1908.

Mr. DAWSON. That is what I thought.

Mr. RAINEY. But we made it up afterwards by going back in 1910 to 447,000,000 tons.

Mr. DAWSON. Yes, sir.

Mr. RAINEY. In 1909 we produced 411,000,000 tons, but the average increase from 1900 to 1917 was, as I stated, 17,000,000 tons a year?

Mr. DAWSON. Yes, sir; that was the average.

Mr. RAINEY. But in those two years there was a falling off, so that we were both right.

Mr. MOORE. Are we mining any more coal relatively than we were at this time last year?

Mr. DAWSON. I am not informed as to that particular feature.

Mr. MOORE. I would like to know whether we are mining more?

Mr. DAWSON. It is my understanding that we are behind. Taking this year's production up to the present time as compared with last year's production, and we are something like between forty and sixty million tons behind.

Mr. MOORE. We are that much behind?

Mr. DAWSON. Yes, sir. I know that we were that much behind about six weeks ago, or something like that.

Mr. MOORE. I had reference to the quantity being produced to-day. A wise man would attempt to store up coal now for winter, would he not?

Mr. DAWSON. If he could get it.

Mr. MOORE. You have indicated the power to produce it.

Mr. DAWSON. But the man who wants to store up coal can not get it.

Mr. MOORE. Why not? If the Government is in control of it, they might induce the storing of coal at the present time when coal is "got-at-able." If they wait until November or December, when snow and ice are on the ground, we may be worse off than we were last year. The coal cars you have referred may then be clogging up the port of New York in the effort to get cargoes on the ships.

Mr. DIXON. Is it a fact that people are being urged to buy supplies of coal now?

Mr. DAWSON. That may be, but they can not get it.

Mr. DIXON. But they have been urged to get it?

Mr. DAWSON. Yes, sir.

Mr. MOORE. If they had more cars, more ships, and more barges to get coal out, they could get it to storage places for use next winter, could they not?

Mr. DAWSON. If we could handle the coal industry so that every mine could be operated every day that it wants to operate, and so that every miner could work every day that he wants to work, there would be no shortage of coal.

Mr. MOORE. But the miner does not work when the cars are not there?

Mr. DAWSON. No, sir.

Mr. MOORE. If the car is there, the miner works?

Mr. DAWSON. Not always.

Mr. MOORE. As a rule he does?

Mr. DAWSON. Yes, sir; as a rule. If the miner does not see a car he does not go to work, because there is nothing for him to do. If the car is there, he goes to work.

Mr. MOORE. If, in this working season when the miner is ready to work, cars were there in plentitude, we would have all the coal we want for next winter stored up by this time?

Mr. DAWSON. Yes, sir.

Mr. MOORE. Not to store up but enough to make us safe; and we would be in position to store it up now, if we could get it?

Mr. DAWSON. Yes. My position, gentlemen, the broader situation about this car proposition, is this, and I have contended for it for the last 18 months, and before a good many different people. The greatest trouble, in my estimation, with the shortage of coal in the United States is the habit of the human being to follow out an old practice, and that old practice by the railroads has been for the last 20 years to move every commodity off of them in preference to coal, and move coal last, if they could. That to a certain extent still enters into our transportation facilities, and I contend that considering what is confronting this country, and that coal is the most important thing on the face of the earth to-day, coal should be moved more promptly than fresh meat or wheat or anything else; and if you will do that, there will be no shortage of coal.

Mr. MOORE. If this Government appropriates \$12,000,000,000 for one year's war operations, and we are to appropriate twenty-four billions for next year's war operations, and we can give the Director of Railroads \$500,000,000 for the purpose of developing the railroads of the country under Government control, it would seem not an unreasonable proposition that the Government should put more cars on the railroads, and that it might put a few boats and barges on the canals and streams of the country to get coal out and move it for storage purposes at points where it will be needed for next winter's supply?

Mr. DAWSON. I want to make myself clear about that car situation. The Government does not need to put on any more coal cars to move this coal. It would be a good thing to put barges on the rivers to relieve the railroads, because that would not congest the railroads. The coal cars of this country to-day do not average serving the public, in the movement of coal, 1 hour out of the 24. If you purchase more coal cars it has a tendency to greater congestion at terminal points, and I question if as much coal will be moved. What we should do would be to move those coal cars an average of at least 50 to 75 miles a day instead of an average of only 18 to 20 miles a day, and you will have a surplus of coal.

Mr. MOORE. You have suggested the remedy.

Mr. RAINEY. You understand that the Government is putting barges on the rivers at the present time?

Mr. DAWSON. I did not know that.

Mr. RAINEY. Yes, they are; on the Mississippi River.

## REVENUE BILL.

Mr. DAWSON. There should be just as big shipyards for the building of barges and boats for use on the streams to haul coal as there are for seagoing ships.

Mr. RAINEY. Is it not true that the coal operators have been habitually asking for more coal cars than they needed, expecting the number to be cut down?

Mr. DAWSON. The operators ask for a larger number of cars than they need for the reason that they have no means of knowing definitely if they ask for 100 cars whether they will get 50 or 100 per cent of what they ask. They might get 20 when they did not need 10, and the fellow who needs 20 might get in the same proportion.

Just one last suggestion, which is right in line with what I have said, and that is my contention. I contend that every expenditure of a coal-producing concern during the war should be treated and regarded as being just as speculative and as temporary as the construction of a powder mill that you are going to dismantle after the war; and the owners of those plants, and the men who spend their money should be permitted to charge every dollar of that expense to cost, or they should be permitted to sell coal at war prices, one or the other. I prefer the former.

I thank you very much.

Mr. RAINEY. Mr. Crosser, do you desire to be heard now?

Mr. CROSSER. My name is down on the list, but the fact is that I made this appointment for a week ago in behalf of Mr. John Z. White, of Chicago. He has waited here that long, and I prefer to give way to him, in view of his patience in waiting as he has.

Mr. RAINEY. Mr. White will come in in your time, will he?

Mr. CROSSER. He will take my time.

### STATEMENT OF MR. JOHN Z. WHITE.

Mr. RAINEY. Please state your name and occupation, and what interest you represent, for the record.

Mr. WHITE. John Z. White; I represent the Henry George Association, with headquarters at Chicago. My occupation is extending the information that they have to the people of the United States, and occasionally swapping real estate. I wish to say, in the first place, that I am distinctly in favor of any form of taxation that may turn out to be necessary to provide the funds to carry on the struggle that we are engaged in for the purpose of exterminating the German military establishment. The only question is, what sort of taxation is most calculated to achieve that end.

Now, as illustrating the idea I wish to advance, I would relate an occurrence given to me at Spokane, Wash., not many weeks ago. It seems a man of some considerable importance at Spokane bought some thousands of acres of land in Alberta, across the line in Canada. He inquired as to the taxes on the property, as purchasers of land usually do. But they have a system in west Canada, or part of it, whereby they levy a surplus tax on unused land. The real estate agent, with that frankness for which they are noted, failed to inform the purchaser of this surplus tax.

Mr. SLOAN. That is, the real estate agents in Canada, you mean?

Mr. WHITE. Yes. I am engaged in that line of business in the United States, and I observe a similar frankness on the part of the



gentry here. They are good business men. I am not criticizing the men, but simply remark the characteristic, and eminently proper, illustrating the universal principle of caveat emptor. Our friend, when he discovered upon purchasing the property that he was up against a considerably increased bill over his anticipation, said that that was a Canadian swindle—"Canuck" was the word he used—and he would not be abused in that way; so that he bought some tractors and plowed up the land and planted wheat; and then he told it in Spokane joyously that he not only avoided the tax but made \$20,000 on his wheat crop.

The matter I wish to call the attention of you gentlemen to is the fact that this extra tax on land which made it a little greater burden to hold it vacant operated in this instance to extend the production of wheat, of which the world is very much in need at the present time, and that is the secret of the correct use of the taxing power. The power of taxation can be used in a way to check production. It can be used in a way to extend production. And that nation is strongest in the modern world whose productive power is greatest. You must make a shell in the shop before you can send it across no man's land to educate a German. Anything that operates to increase production operates to increase military power. A tax upon the value of land which makes it burdensome to hold it vacant operates precisely as it did in the case which I have just recited. Now, we can recite millions of cases of that kind, but one covers the whole matter.

The next proposition I shall call your attention to is that the first Secretary of the Treasury of the United States, Alexander Hamilton, in discussing the levying clauses of the Federal Constitution when it was up for consideration and adoption or rejection, several times, in somewhat different forms of words called attention to the fact that to get revenue you must tax land or commerce. You may call the tax by any one of 500 or 1,000 different names, but the result of the taxation will inevitably be a tax upon the value of land or a tax upon the things produced by human industry, for the simple reason that there are no other forms of property. We make buildings, machinery, vehicles, furniture, clothing, food. The land and products constitute all there is, and we are going to get all of our revenues, public and private, from one of these.

Mr. STERLING. Why one? Why not two?

Mr. WHITE. Hamilton, of course, pointed out that you might tax both. But all revenues come from one or the other of these.

Mr. STERLING. Is that true now?

Mr. WHITE. Every revenue we derive comes from one or the other of these.

Mr. STERLING. Oh, yes; but all revenue does not arise from one.

Mr. WHITE. I said from one or the other.

Mr. STERLING. That is true.

Mr. WHITE. I do not mean to say we must put all of our taxation one way, but the two forms of property constitute all the property there is. Now, it happens, according to the best accounts we have, that about one-half of all the property in the United States is land. For instance, I went over the tax reports of the State of Missouri some years ago, and I found there that the land was a little short of one-half of the total valuation, and in our institutions of learning and in general calculations it is customary in making estimates to

consider one-half of the property of the United States as land and the other half products. I believe that the statisticians generally agree to approximately that division.

Some of them put it a little up and some a little down. It is along in that neighborhood. If that is the case, the Government of the United States is failing to levy a tax upon one-half of all our property. They get a part of the revenue derived from land through the income tax. In our States over half of the local and State revenue is also derived from production, with the result that, in a broad approximation, while the land is worth one-half of all the property of the United States, it is bearing in the neighborhood of one-fourth of the taxes.

Now, I wish to call attention to the fact that we need all of the revenue we can get, and that putting a tax upon land operates to tax lands that are vacant and at the same time tends to stimulate the owners of such lands to bring them into use, and thereby extend production, out of which all taxes are paid; and any plan we can introduce at the present time to increase production is certainly advantageous, even in time of peace; and in time of national strain such as we are under at present it is a matter, it seems to me, of the very highest duty.

Let me call attention to one picture showing the practical operation, because it is only in the practical operation of these things that we are ultimately interested. To-day, with the harvest binder, one man can do in the harvest field what seven men used to be required to do with a McCormick reaper. When I was a boy on the farm we used to have one man driving the reaper, another man on the rake, and five men strung around the field on stations, binding. One man to-day does the work formerly done by those seven with the harvest binder, and the harvest binder does not cost as much in the shop as the old McCormick reaper cost then. We have saved labor in the shop in this relation. We have saved labor on the farm in this relation. Wheat was then 70 cents a bushel, and now they tell me it is something like \$2.50 a bushel. One man on the farm is paid about as much as we paid two when I was a boy. We seem to have enormously reduced the labor cost of producing wheat, but in some way or other the price of wheat has gone up, and we think a very definite explanation might possibly be furnished to us by the gentlemen who are supposed to be the intellectual leaders of our people, but some way or other it is not forthcoming; and I discover this fact.

My father bought land when I was a small boy at \$20 an acre. You can not buy that selfsame land to-day for \$250 an acre. We have very markedly reduced the labor cost of harvesting wheat, but we have raised the land cost of getting that wheat more than we have reduced the labor cost, with the result that the price of wheat must go up. If you went into the middle of Chicago, for instance, at that time you did business on land that was worth \$3 a front foot, in the center of the city. That selfsame land to-day is worth \$22 a front foot. Now, that is characteristic of all our industrial activities in varying degrees. We have by inventions, by improved adjustments, by wiser methods of administration, reduced labor costs, but at the same time we have increased land costs.

Now, this is brought about very largely by this kind of a development. One hundred years ago three-fourths of our people were farmers, very much in the same condition as they are in Russia

to-day. At the present time one-third of our people are farmers. That condition has been brought about by the introduction of farm machinery, because we have reduced the number of people necessary on farm lands.

Mr. SLOAN. May I interrupt you there just a moment?

Mr. WHITE. Yes, sir.

Mr. SLOAN. I was interested in your illustration concerning wheat. You are able to make that illustration only because we have these special war prices for wheat. Prior to the opening of the European war the 70 cents a bushel you speak of for wheat, of the olden time, was not very greatly increased in the prices for 1911, 1912, and 1913, except where affected by proximity to a market.

Mr. WHITE. I understood that the price had considerably advanced before the war broke out.

Mr. SLOAN. Not in those years. It advanced some, but not largely in excess of those figures you stated.

Mr. WHITE. I would not want to dispute on definite facts without looking up the record.

Mr. SLOAN. I am somewhat familiar with the prices of wheat in the various years; and of course it is now somewhere about three times as high as it was in July and August in the years 1911, 1912, and 1913.

Mr. WHITE. Yes; I remember that we used temporarily now and then to have dollar wheat, or perhaps running above a dollar. I do not know that it was permanent.

Mr. SLOAN. Yes; you would have dollar-wheat in Chicago, and an average price running, on farm prices, from 75 cents to 90 cents.

Mr. WHITE. The other grains have risen very considerably over the old-time prices in the same way and for the same temporary reasons; I mean before the war broke out.

Mr. SLOAN. Our differences were not so great.

Mr. WHITE. Certainly our papers have been filled for years with the advance in the cost of living.

Mr. SLOAN. That was a phenomenon that arose about 1912 and 1913, when certain political changes took place.

Mr. WHITE. The great advance in grain has been in recent years.

Mr. SLOAN. I do not dispute that, but in regard to your mention of grains, I wanted to have that correct. I am familiar with the prices of grain.

Mr. WHITE. I did not mean to say that the price of wheat before the war was \$2.50, or anything like that, but the same tendency is evident, the same in character only varying in degree that where we have been reducing labor costs prices have been going up.

Now, there must be some explanation for the rise in prices while we have economized in the cost of production. Now what I wish to call your attention to is the necessary development that goes on under present arrangements, and I do not wish to go into the abstract or the historical, only for a moment. Primitive man held land in common. Civilized man must have property in land. No man would put up the Metropolitan Tower in New York unless he can have title to the land on which it stands. But did primitive man surrender property in land for nothing or did he get something?

I think that the thing that civilized man has in place of the primitive right of land is the sovereign right of taxation, and just as

primitive man did not know how to use land, so civilized man has not yet learned how to use the taxing power, and I wish to call attention to the fact that this power must necessarily be utilized. As we increase the amount of land and reduce the members of men engaged in farming, we liberate an enormous part of the power of the United States. Liberating that power from the farming industry, we can now develop manufactures, and manufactures can be carried on in groups. We can cooperate and carry on manufactures to greater advantage if we are close together, and hence the city grows.

Now, someone will own the center of that city as it grows. We do not say that it will be the Duke of Westminster or the Duke of Buccleuch, but we do say that someone will own the center of the city, and that has developed in the city of Chicago until 10 families own the heart of the city, 5 families owning a small part, and the other 5 owning the greater part of the heart of the city. That development, in one form or another, is inevitable. It can not be disputed; it is an inevitable result of civilized life. We institute property in land by law. There follows the city. Someone owns the center of that city.

Now, I say these families get rich. I am not quarrelling with these families, at all. So I buy vacant land as near the center of the city as I can, and other people do the same, until over half of the building lots of the city of Chicago are vacant, and half of the remainder are very poorly improved. Our actual city is built on a very small fraction of the available area. We buy this land and hold it vacant; for a rise. A perfectly legitimate enterprise—under the law as it now stands.

Now, your part of the population continually comes from the country to the city, because of improved methods on the farms, and that population is met by artificially increased prices of land. To get revenue for that city, we continue to increasingly load their products by taxation. It is that artificially increased value of land and the load of taxation on products that bring pause to that city's growth, because further development can not be carried on profitably; and so our population has been running west for 100 years, until we are in the cactus and in the sage, and in the ice in Canada.

They are growing wheat 1,200 miles north of our border, or were a short time ago. The people can not produce as much in the cactus as they can within our corporate limits, and forcing our population out in that way is decreasing our social power, which is making the people of the United States less able to protect themselves, in case their power becomes necessary in exercise. Added to that, you enormously increase the transportation charge to get what little they do produce to market, over what that transportation charge would be if they were permitted to produce where the land is most valuable.

Now, our proposition is simply this, to permit the highest development of the commercial or cooperative process by making it profitable to put our valuable lands to use instead of making it profitable to hold them out of use. In other words, lay taxes in every way it is possible, to get money to defray those expenses, but at the same time levy those taxes in a way that will enable the people to produce the most possible out of that property out of which the tax can be drawn.

Mr. MOORE. Would not the producer then have to stand a larger share of the taxes than he does now?

Mr. WHITE. What is that?

Mr. MOORE. Would not your producer then have to stand a larger share of the taxation than now, if we separate him from the consumer?

Mr. WHITE. Separate him from the consumer?

Mr. MOORE. Yes.

Mr. WHITE. Why, we should tax the—

Mr. MOORE. The burden of your argument thus far, aside from the single tax, is that we should make more productive those lands and out of those derive more revenue.

Mr. WHITE. I say out of those a larger revenue could be derived.

Mr. MOORE. Then you are relieving the urban population and to that extent placing an increased taxation upon the rural population, are you not?

Mr. WHITE. No, I am asking you to tax city lands sufficiently to bring them into use.

Mr. MOORE. But with a view of driving people into the country for the purpose of making the land productive?

Mr. WHITE. No, this land is in the city the same as it is in the country.

Mr. MOORE. Yes, I understand; but you would not apply your agricultural production proposition to a city like New York or Philadelphia, or Chicago. That would be out in the outlying districts?

Mr. WHITE. We have a lot of land lying within the corporate limits of the city of Chicago which has heretofore produced wheat.

Mr. MOORE. It would be a negligible quantity, however, compared with the production outside?

Mr. WHITE. Yes. But that policy carried to the furthest possible development, that is, to make it unprofitable to hold valuable land out of use anywhere, would bring the production of wealth, wheat or whatever it might be, to the highest possible point.

Mr. MOORE. The question is whether that will help us very much now. I assume you are here to help us.

Mr. WHITE. You have here a source of revenue from which nothing is being derived, and from which a revenue can be derived right now.

Mr. MOORE. Let us see if you understand correctly our problem. We were obliged to raise \$12,000,000,000 for the year 1918. For the fiscal year ending June 30, 1919, the President has indicated that we need twenty-four billions, of which eight billion is to be raised by taxation. Those are the figures set by the Secretary of the Treasury, and our particular duty here to-day is to devise ways and means of raising that \$8,000,000,000, which is twice as much as we had to raise last year, from the body of the people. Now if your purpose is to help us—and I assume it is—just how, within the limits of the time, and considering the necessities of the war, are you to help us with this proposition of yours?

Mr. WHITE. The land value of the United States is half of the whole value—that is, of the whole property—according to ordinary reports. The United States Government directly is deriving no revenue from that source at all. There is part of its revenue that comes from that source through the income tax, but it does not touch vacant land. Vacant land gives no income.

That vacant land which constituted over half of the area, ordinarily, of the American city, is a source from which you can draw revenue.

Mr. MOORE. You will have to admit that the single tax, whether we agree with it or do not, is a revolutionary tax system, and it would require time to put it into operation.

Mr. WHITE. It requires some time—

Mr. MOORE. I do not mean revolutionary in a harsh sense. It would require a complete change of taxing conditions.

Mr. WHITE. No; I have not proposed that you alter your other property tax. If I were advocating the single tax—

Mr. MOORE. It would require a readjustment of the whole tax question as between the Federal Government and the States, which now tax real estate. All that would have to be taken into consideration.

Mr. WHITE. No; the legal gentlemen have pointed out repeatedly that there is a distinction between the privilege of ownership and the fact of ownership.

Mr. MOORE. Our problem being an immediate problem, and this problem of raising \$24,000,000 by taxation being urgent, owing to the fact of our boys being in the trenches, how could we get the time to put into operation the whole or part of the single-tax proposition, to be available for general use?

Mr. WHITE. I do not imagine it would be a difficult matter at all. In a great many of our States lands are separated from improvements on the assessment books. Take Colorado, Indiana, and New York as examples. In Rhode Island they separate real and personalty, intangible personalty, as well as assessment on lands.

Mr. MOORE. Would you now have this committee seriously recommend to Congress a Federal land tax—that is, for this war emergency?

Mr. WHITE. A Federal land tax based on the value of the privilege of land ownership, with a reasonable minimum exemption.

Mr. MOORE. Do you think that could be done, considering the constitutional rights of the States and other questions involved, in time to help us on our immediate problem?

Mr. WHITE. I think that the constitutional question is obviated by the presentation that Mr. Olmstead (?) made here the other day.

Mr. MOORE. Henry George is easily within the recollection of men now living.

Mr. WHITE. I knew him personally.

Mr. MOORE. The agitation of his theories has been going on for a number of years—several decades—now. It is not a new problem. Our problem is a new one, and a very urgent one. Now, can we stop at the present time to take over any concrete proposition that you might make that would be effective for the purpose of the war?

Mr. WHITE. The fact of the war is the only excuse for my being here. If this was peace times, I would say that until our idea had arrived at a considerable degree of local acceptance it had no place here.

Mr. MOORE. If we were going to start all over again in the United States and had a clean bill of health, a new piece of ground and no improvements upon it, I should say that we could possibly start out with the single-tax idea and make it operative; but in view of the improvements the hand of man has placed upon the land, I am not prepared now to state that you could make to us a suggestion which

would harmonize all these conditions so that we might get money out of the proposition so as to be of service during this war; but if you could do that, or if you could suggest in concrete form any amendment to the revenue bill, I would like you to do it, because I am interested in the single tax-proposition.

Mr. WHITE. Small holdings it would not be worth while to tax.

Mr. MOORE. Have you and the other gentlemen with you prepared any concrete proposition to submit to this committee in the nature of an amendment to the existing bill?

Mr. WHITE. I have not prepared such a proposition, because to do so would be useless unless we discovered some desire on the part of the committee to consider a detailed proposition.

Mr. MOORE. Backing up your theory with your argument, you make a strong argument; but the question is, Have you a practical suggestion to make that will be of use to us?

Mr. WHITE. We do not wish to afflict the committee with our lumber at all, but if the argument is at all acceptable we will be glad to present the matter.

Mr. MOORE. We have been here for three weeks trying to find out where we can get money.

Mr. WHITE. Yes.

Mr. MOORE. If you have got some money we can decently get from you for the purposes of the war, we are after it; that is stating it bluntly and coldly.

Mr. WHITE. That is right.

Mr. MOORE. How are we going to get this money by your system or by existing systems? If you can tell us——

Mr. WHITE. I have some vacant land in the city of Chicago. It has some value. I have been offered cash for its possession and the title. I am paying no tax to the Federal Government on that land.

Mr. TREADWAY. You are paying tax to the State, are you not?

Mr. WHITE. I am paying to the State.

Mr. TREADWAY. Does not that come right back to the constitutional question that Mr. Moore brought up? Can we include a Federal tax on land, in conformity with State rights?

Mr. WHITE. I do not know why not. The Constitution says no direct tax shall be levied unless it be distributed among the States according to population. That is the only limitation the Constitution places upon Congress in that direction.

Mr. MOORE. I wish your would write on a single sheet of paper an amendment to the existing law that would embody your ideas put in practice.

Mr. WHITE. I can attempt to do that if the committee desires anything of the sort.

Mr. MOORE. That is what the committee is here for.

Mr. WHITE. Now I am calling attention to the fact that I own vacant land in the city of Chicago and the Federal Government is getting no tax from it. I am getting no income from it. It is vacant. And what is true of my land is true of over half of the area of the city of Chicago.

Mr. STERLING. The Federal Government is not getting any tax from that which is not vacant, is it, either?

Mr. WHITE. No; except as it gets it through the income tax. The United States has property as much as all real property combined; according to the estimates.

Mr. MOORE. That is another matter. We hear constantly that our wealth in this country is \$250,000,000,000.

What we need now is not only to make up the \$12,000,000,000 we have already spent or provided for, but to make ready the \$24,000,000,000 we need next year, and, as I say, our floating money does not amount to more than six billions of dollars. I would like somebody to point out how we can lay our hands on this two hundred and fifty billions. This is too theoretical for our immediate necessities. This includes land, which is not wealth at all.

Mr. SLOAN. This land you speak about, unoccupied, is kept very largely for the purpose of sale and keeping in activity gentlemen who transfer real estate, is it not?

Mr. WHITE. Yes. I say I own some of it myself, and I bought it so that I could avoid activity.

Mr. SLOAN. Whenever that is sold it comes in to the Government, does it not, to some extent, in tax on profits—I am speaking of our general plan now—for every piece of that unoccupied land that is sold?

Mr. WHITE. Oh, yes; there is some slight tax in that case, on the transfer, you know.

Mr. SLOAN. Yes.

Mr. WHITE. But that is trivial. Here is half of the property of the whole country that is untaxed.

Mr. SLOAN. You mean half the area?

Mr. WHITE. I say that half of the entire property of the American people is land.

Mr. SLOAN. Oh; I thought you meant—

Mr. WHITE. But that land does not require industry in its production. Its value is the result of instituting private property in land. It is the result of a legal enactment. It is a necessary result of that.

Mr. SLOAN. Yes; and of the labor that has been put on it?

Mr. WHITE. The labor that has been put on it exists as improvements, not as land value.

Mr. SLOAN (continuing). By those who saw fit to go out and produce that others might live; and now the consumers in this country would like very much to turn the tax upon those who created it as producers.

Mr. WHITE. The value of land is not the result of production. The value of land is the result of two or more people wanting a piece of land, and thereby giving it an added value.

Mr. SLOAN. I assume if you were to buy it you would figure out how much was produced on it the year before or the year before that?

Mr. WHITE. I know land in the city of Chicago that so far as I know never produced anything. We know what the value of land is.

Mr. SLOAN. You pay taxes on it?

Mr. WHITE. I am paying taxes.

Mr. SLOAN. And you keep it for purposes of improving it?

Mr. WHITE. I keep it until the price goes up and I can sell it for more than I paid for it.

Mr. SLOAN. You have land in the city where a large percentage of the places with buildings are vacant? You have all the buildings needed in Chicago?

Mr. WHITE. Sometimes we have and sometimes we are short. We are building more every year.



Mr. SLOAN. A great deal of it is vacant now?

Mr. WHITE. Nothing around my part of the city is vacant.

Mr. SLOAN. One matter I want to call your attention to. Speaking about wheat values, from the Yearbook of the Department of Agriculture handed me by the clerk, I have the figures for seven years prior to 1914, the year that the European war broke out.

Mr. WHITE. Yes.

Mr. SLOAN. And the average price of wheat on the farm was 85½ cents a bushel for those seven years.

Mr. WHITE. Yes; and if you will go back to 1879 or 1880—along there—for the same number of years you may find a less value.

Mr. SLOAN. Well, in different places—I have not got it back that far, but it varies somewhat.

Mr. WHITE. The only point I wish to make in that is that while there was a decrease in the labor cost of production there was an increase of price. That fact requires an explanation, and the explanation is evidenced at once in the increased value of land; but, gentlemen, I did not wish to get into a discussion—

Mr. DIXON. Mr. Moore asked you about preparing suggestions for the bill in writing. Have you read Mr. Crosser's bill?

Mr. WHITE. I have read Crosser's bill.

Mr. DIXON. Does that meet your ideas?

Mr. WHITE. I hardly think that that is a wise plan, on account of the psychological attitude that it necessarily encounters, as that proposed by Mr. Ralston.

Mr. DIXON. It does not express your views fully?

Mr. WHITE. Not fully; no, sir.

Mr. CRISP. Is this your position, that we should levy a tax on unused and unimproved lands?

Mr. WHITE. If they will do that. I do not wish to limit my suggestions to that. I wish to say that if the committee considers that in this situation that is the better plan, we will be very much pleased to have them adopt any way of getting a tax on vacant land. I think it would be better to levy a tax on all lands above \$5,000 or \$10,000 holdings.

Mr. CRISP. From your argument I did not understand whether you were urging levying a tax on all lands or only on unused land, so as to make it get into production.

Mr. WHITE. That is the particular matter. But when you say "used land," I call your attention to the fact that half of that, taken in the city of Chicago, which is improved, is very poorly improved. You know if you will go and stand where Broadway opens on Battery Park in New York, on the westward there is one modern building, 14 stories high. On the east side of the street there are two blocks of little red brick buildings, two and two and a half stories high, about a hundred years old. You can say, technically, that that is improvement. The improvement is so slight that it is next door to being unused, and for that reason I think it would be better to levy a tax on the value of all lands above a certain small limit of holdings.

Mr. HAWLEY. Have you made any investigation as to how much could be raised for the Treasury under this plan?

Mr. WHITE. How much could be raised?

Mr. HAWLEY. Yes.

Mr. WHITE. I have not any definite plan, because it would depend on what rate the committee saw fit to impose. I would suggest the advisability of beginning with a small rate and advancing it, just as was proposed under the British budget—under the famous Lloyd-George budget. There they started with a low rate and raised the rate as circumstances seemed to warrant.

Mr. HAWLEY. I thought you possibly had in mind some initial rate.

Mr. WHITE. I would put on a rate of about one-half of 1 per cent on the valuation.

Mr. HAWLEY. And at the rate of one-half of 1 per cent on the valuation, how much would that raise for the Treasury?

Mr. WHITE. You could not tell with any definiteness about that until we had made a much more exhaustive examination than has been made anywhere.

Mr. SLOAN. If you have not made estimates on this, I think I have seen estimates of about how much the value of unoccupied land is in this country and the assessment talked about and discussed.

Mr. WHITE. I have seen a good many estimates. Thomas G. Sherman used to make estimates, and he is probably about as good an analytical statistician as we have ever had. He made certain estimates from the taxation of the State of Missouri, quoting the State auditor's report. I went through the tax records of the State of Missouri pretty exhaustively, personally, and I found that in reality those State auditor's figures would be subject to a considerable correction before they could be definitely used.

Mr. MOORE. A good many of us would not want to be governed by Missouri rules, anyway?

Mr. WHITE. Missouri is a very fine State. You have to show the members things down there, of course.

Mr. MOORE. You have been talking about land in Chicago which is held for investment and which might properly be taxed so that it would force its use, so as to be more productive. There are large tracts of land and holdings everywhere around about large cities that are so heavily taxed now that many of the holders would be glad to get rid of them, almost, to avoid the taxes. I have wondered whether you have given consideration to the fact that where you might place additional taxes on certain desirable pieces of property, there is so much undesirable property that it would not get anything.

Mr. WHITE. I have never examined the tax record of any city yet that I did not find certain parcels which were overtaxed. But although those facts exist, those facts are the exceptions and are not at all typical. Now, the point that I make from that is this, that our present process forces our people away from our valuable land to less valuable lands where they can not produce so much, and that decreases our social power, and the decrease is enormous. But as to your proposition of submitting a draft of some kind, if it is thought at all desirable on the part of the committee I shall be more than happy to comply.

Mr. MOORE. I thought it would strengthen your proposition, because while most of us have followed the Henry George theory for years and have watched such progress as has been made, there is nothing to show the committee in concrete form, that will show the

committee that by using this system or applying it in any way we can get more by it.

Mr. WHITE. We simply call attention to the fact that these values exist and are not being taxed. I have property, and the Government could tax it, and there is no reason that I know of why it should not. As my property is situated so is that of others. I give you a certain concrete illustration of the Spokane wheat man. I could give you a great many, but I wish to avoid wasting time.

Mr. FAIRCHILD. Have you ever been through any of the agricultural regions of the States?

Mr. WHITE. I have been in all the agricultural States except Florida.

Mr. FAIRCHILD. You know, then, that in New York State and Massachusetts and New Hampshire there are thousands of abandoned farms?

Mr. WHITE. Yes.

Mr. FAIRCHILD. Which have been left by their owners because those people were unable to get a livelihood from them?

Mr. WHITE. Yes; I have been through those regions, and examined them to some extent.

Mr. FAIRCHILD. How would this help those properties?

Mr. WHITE. The land assessed in New York amounts to ten times as much as the farm lands in the State of New York. Now, I did not limit my inquiry to farm lands. I wish to put in vogue practice of using the most valuable land there is, whether it is city or country. What people will do in actual production will depend entirely upon the demand of the country. If they want wheat, they will produce it, or whatever is wanted; if the opportunity is open to production, people will produce it; and the most valuable land we have is where the people ought to be because it is the most valuable and they can produce most at that point.

So far as the abandoned farms are concerned, I was down through the agricultural regions in Rhode Island, and the farmers told me right and left, "If we had a good electric line here so that we could get out what we produce without the enormous cost of hauling it over these hills by team, this land would be cultivated." That was the common language among those people.

Mr. STERLING. Why is this land vacant? Why is it not being cultivated now?

Mr. WHITE. I tried to explain that. I buy land in the city of Chicago and hold it a little above the market, for a rise.

Mr. STERLING. It is not cultivated because it does not pay to cultivate it?

Mr. WHITE. Exactly.

Mr. STERLING. Yes. Now, would you compel a man to cultivate land that does not pay?

Mr. WHITE. No; I would make it profitable for him to cultivate it. I would make it pay.

Mr. STERLING. By putting a tax on it?

Mr. WHITE. By making it unprofitable to hold it out of use.

Mr. STERLING. By taxing it?

Mr. WHITE. Yes.

Mr. STERLING. So that you would try to compel him to cultivate land on which he could not make any money, by putting a tax on it that would make him want to dispose of it, would you not?

Mr. WHITE. That statement, I think, does not cover all of the facts. The land that it does not pay to cultivate now it would pay to cultivate under a higher tax.

Mr. STERLING. How could he make any profit out of land by having a tax placed on it? Could he raise any more on it than he could before?

Mr. WHITE. Yes, he would raise more on it than before.

Mr. STERLING. Could you raise any more after you put this tax on it, than avoiding the tax, without any tax on it?

Mr. WHITE. If you permit a city to grow, its growth brings fuller cooperation, and—

Mr. STERLING. Why do you confine it to city land?

Mr. WHITE. Because that is where the matter pinches. You have the same situation elsewhere.

Mr. STERLING. You use that simply as an illustration?

Mr. WHITE. That illustrates the idea.

Mr. STERLING. You do not use that for the advantage of getting vacant town lots under cultivation?

Mr. WHITE. No; I want—

Mr. STERLING. You mean this land in the country that is not being cultivated?

Mr. WHITE. I mean all land in city and country that is not used.

Mr. STERLING. You agree that it is not being used because it does not pay to use it?

Mr. WHITE. Yes; under present conditions.

Mr. STERLING. What do you mean by "present conditions"?

Mr. WHITE. The present distribution of population and the present taxing system.

Mr. STERLING. How is it possible that the use of the land will not pay now, and if you would put an extra tax on that that is not being used, you would then get a man to go on it and make any money out of it?

Mr. WHITE. Here is a man that wants to rent my land in Chicago and use it for a truck garden. He wants an eight-year lease. I will not give him an eight-year lease because in the meantime I may want to sell it to a manufacturer or to a man who wants to put up residences; and I will not let a little truck-garden lease stand in the way of a sale. Now, if you put your tax high enough I will rent it, because that rent will pay my taxes, and so that land will be brought into use and made profitable. I can use it at a profit now, but the profit is so small that I would rather hold it out of use with the chance of making a larger profit.

Mr. STERLING. That might occur once in a million times; but is anyone wanting this unoccupied land in New York and in Chicago and in Virginia on eight-year leases?

Mr. WHITE. I do not know. I can not get acquainted with real estate affairs in every township on the United States.

Mr. STERLING. They would not take it for any length of time at any price, would they, simply because it will not pay to farm it? Now, do you not think that your proposition to make a man go on land and farm it when it would not pay him to do so, by imposing a tax on the land, is a perfectly ridiculous proposition?

Mr. WHITE. No; I think it is the only rational proposition in taxation relations; and I wish to emphasize that by calling your attention to this fact, that outside of British Columbia, British Columbia being the mountain Province, and the other three Provinces of Canada being prairie Provinces, the farmers pay nothing except on land valuation. They pay nothing in the way of taxes on their buildings, their stock, their tools, and all the rest of it; and they have had this tax in operation for years, and will not consent to a change back to the ancient system. Now, the people who have the most acquaintance with it from their familiarity with it, from its use among themselves, are its strongest advocates.

Mr. FAIRCHILD. I have a piece of property in the city of Buffalo, N. Y., of about 50 acres. That property is devoted to truck gardens. I lease it from year to year. The taxes are about three times what I get from it. How could I help that property of mine by increasing taxation?

Mr. WHITE. I would have to go into Buffalo as a whole in order to answer that. Your property may be peculiar. I have property in Chicago where I am paying taxes twice as much as I did 10 years ago, and the property is not worth as much as it was 10 years ago. Instances of that kind occur.

Mr. FAIRCHILD. This property of mine will not sell for half as much as it would 25 years ago.

Mr. WHITE. You find property, lots of it, in most cities, in that condition, but it is not typical of the whole town.

Mr. FAIRCHILD. But you are making a general rule that it must apply to all property.

Mr. WHITE. I am making a general rule. If it would not sell for half as much as it would 25 years ago, its assessed value would not be so much.

But, Mr. Chairman, I did not wish to use so much of the time of the committee, and if we had not tried to discuss theories so much, and if we had confined ourselves to the taxation proposition, we would not have occupied so much time.

Mr. RAINEY. Outside of Washington here there is a 250-acre tract purchased by George Washington and his associates upon the theory that it was going to increase in value, and it has been vacant ever since, and it is not worth now as much as George Washington paid for it.

Mr. WHITE. Yes; I can find lots of property in Chicago that will not sell for one-fourth what it was worth 35 or 40 years ago.

Mr. RAINEY. But that is not typical of the city. Just outside of the city of Washington I can find abundant farms, with railroads, the best in the country, running through there, and the best wagon roads, the best public highways, as good as any we have anywhere in the country, and electric roads running right through by them, that 100 years ago raised splendid crops, and those farms now have been taxed higher in order to build these beautiful highways, as fine as any in the land, and that land is not worth as much as it was in George Washington's day.

Mr. WHITE. Sure; I can find instances of that kind in every city in the country.

Mr. RAINEY. It always seemed to me that what that needed was to put more fertilizer on it rather than to make it pay more taxes.

Mr. MOORE. That land is right near a market, too.

Mr. WHITE. You know what happens to land. For instance, in Colorado they are assessing improvements at 15 per cent and land at 100 per cent, and as a consequence there is an increased amount of building operations. We have all kinds of illustrations. But detailed illustrations do not give us a fair view of the general situation. That is the objection to that line of investigation. I wish to thank you.

(At 12.40 o'clock p. m. the committee took a recess until 2.15 o'clock p. m.)

## AFTER RECESS.

Mr. RAINEY. Mr. Martin, do you desire to present someone to the committee?

Mr. MARTIN. Yes, sir.

**STATEMENT OF EDWARD B. MARTIN, VICE PRESIDENT OF THE UNITED BUSINESS MEN'S ASSOCIATION, PHILADELPHIA, PA.**

Mr. MOORE. You are an attorney at law?

Mr. MARTIN. I am also an attorney; but I want to introduce our attorney in this matter, Mr. C. Oscar Beasley, who will speak on the subject. I might say to the chairman that Mr. Beasley is conversant with the subject and won't take a very long period of time.

Mr. RAINEY. Thank you, Mr. Martin. Mr. Beasley.

**STATEMENT OF MR. C. OSCAR BEASLEY, ATTORNEY FOR THE UNITED BUSINESS MEN'S ASSOCIATION, PHILADELPHIA, PA.**

Mr. RAINEY. State your name and residence.

Mr. BEASLEY. C. Oscar Beasley, attorney at law, 1141 North Sixty-third Street, Philadelphia.

Mr. MOORE. You are acting in this instance for the United Business Men's Association?

Mr. BEASLEY. For the United Business Men's Association. Mr. Chairman and gentlemen of the committee, we have a peculiar situation in Philadelphia in regard to our transit problems, and perhaps that situation may obtain in other cities of the country. But in view of the very pressing character of the conditions that we are in in regard to this matter of taxation we thought it wise to ask the honor and privilege of appearing before you to suggest an amendment to this bill for our relief.

The United Businessmen's Association of Philadelphia is an association composed of 73 neighborhood and business associations scattered all over the city of Philadelphia. It is composed of merchants, manufacturers, business and professional men, and is entirely disinterested in the matter financially. We simply represent the interests of the citizens of Philadelphia and of the whole people of the city.

The city of Philadelphia recently voted to increase its indebtedness by \$63,000,000 for the purpose of constructing a high-speed

system of elevated railroads and subways, and also high-speed surface cars, in order to relieve the almost unspeakable congestion of traffic which we now have in the city, owing to the increase of industries and the increase of population resulting from that increase of industries in our city. There is now pending before the public service commission of Pennsylvania a lease between the city of Philadelphia and the Philadelphia Rapid Transit Co. for the operation of these new high-speed lines to be built and constructed and equipped by the city of Philadelphia. It has been generally admitted that a uniform system of operation would be better for our people than two opposing systems, and to that end offers were made to procure a lease between the city of Philadelphia and the Philadelphia Rapid Transit Co., which operates all the lines in our city under various leaseholds with underlying companies.

This lease now pending provides, among other things, that—

All taxes levied upon the capital stock, property, or franchises, or its debt and the interest thereon, its exercise of its franchise, gross receipts, net incomes, profits or dividends paid, and all taxes, licenses, assessments, and charges imposed upon any company whose property is owned by the company or is leased to or operated by it and which under the terms of its lease or operating agreement therefor the company is required to pay, and any and all contributions, however styled, which the company may at any time be lawfully required to contribute to any governmental agency except taxes due to the city on dividends, provision for which is made under item ( hereof.

In other words, any excess profits, war tax, or other tax imposed by the Federal Government upon any of the underlying companies of the Philadelphia Rapid Transit Co., or upon the Rapid Transit Co. itself, is, under this pending lease, assumed by the unified system; that is, practically by the city of Philadelphia.

Mr. MOORE. Has this lease been consummated?

Mr. BEASLEY. No, sir; it is now pending. There is great opposition to it, and we do not know whether the public service commission will approve it or disapprove it. We hope they will disapprove it, but, of course, they may approve it, as there are strong influences in favor of this lease. If it is approved, the city of Philadelphia would be in a position where it would be required to pay the taxes that under the present law are levied on these underlying companies. The reason for it is that the Philadelphia Rapid Transit Co., under its lease, assumes all taxes that may be levied in the future upon the lessor companies; that is to say, the lessor companies get their rental net, free of taxes, and therefore if this tax should be levied upon the underlying companies, as it is by this bill, and then should have to be paid by the Philadelphia Rapid Transit Co., the only result would be they would ask the public service commission to increase car fares in order to pay this excessive tax, which amounts to \$1,100,000 a year.

The ultimate proposition which we beg leave to present to your honorable committee is that; that it was the purpose of this revenue act to make the man who gets the revenue pay the tax. Unfortunately, probably 25 or 30 years ago the Philadelphia Rapid Transit Co., being in extremis, in order to get the lease of these underlying companies, and wipe out opposition in the city and secure the monopoly of transportation, for the purpose largely of efficiency of transportation as well as profit, made an agreement with all the then existing companies that had the franchises to operate the streets,

not only to pay them a fixed rate per annum which should not vary no matter how great or how small the business of the lessee company might be.

This rental or dividend to the underlying companies was fixed, and in addition to fixing that dividend, as stated a moment ago, the lease provided that the P. R. T. Co., the lessee company, should pay any taxes which should be levied in the future upon these underlying companies by any governmental agency whatever, and under this proposed lease now pending, and which we fear will be adopted, it provides that car fares in the city of Philadelphia shall be raised to pay all fixed charges and all taxes which may exist or be imposed upon the P. R. T. Co., or underlying companies, and therefore the people of Philadelphia have a vital interest in this taxation, because if it is imposed upon this company in the way it is provided for in the law the result would be that these underlying companies, who receive the income, would shove the tax on to somebody else, and that somebody else would shove it on to innocent people of Philadelphia by raising their car fares in order that these underlying companies may escape the taxation which your honorable Congress has imposed upon everybody else in the United States.

I know of no other instance where anybody in the United States has been able to escape the income tax and the excess-profits tax by contract, except in the case that we now have before you, and we are here to ask you to so amend this act that this tax will fall upon those underlying companies who receive the income, and not upon the P. R. T. Co.

Mr. RAINEY. We sympathize very much with the proposition, but the trouble is you made a contract with the original owners of these franchises, by which you agree to pay the taxes.

Mr. BEASLEY. Yes, sir.

Mr. RAINEY. And the language used, as has been brought out in these hearings, is very broad.

Mr. BEASLEY. That is exactly why we are here to offer an amendment.

Mr. RAINEY. We would be glad to hear it, as far as that is concerned. I would like to do what you want us to do if there is a constitutional provision.

Mr. BEASLEY. We understand that the question of abrogating a contract is a very delicate one, but in the last 10 or 12 years the Supreme Court of the United States, as well as supreme courts of the various States, have been holding that contracts relating to the public highways, which do not belong to the companies, and which are only allowed to be used by the State, and wherein the companies are only allowed by the State the usufruct for a public purpose, and not for private purposes, that those contracts are not the kind that are protected by the constitution. In this particular instance I have a very high authority which I wish to lay before the committee to show that an agreement by one party to pay the taxes of another is against public policy, and has been declared void for that reason by the appellate courts of several States. The particular case I have which is very much in point, is the case of *Dean v. Clark*, 80 Hun (New York Reports), page 80, decided in 1894 by the Court of Appeals of the State of New York. This case declared an agreement between parties by which one covenanted to pay the taxes that



might be levied upon the other void. The town of New Lebanon, Columbia County, N. Y., had under consideration voting to authorize a loan of \$100,000 to aid a railroad enterprise about to be constructed. The agreement between Dean and Clark read as follows:

Whereas, the said William A. Dean fears a tax may be levied upon the property appearing upon the said roll to pay the interest that shall fall due upon the town bonds, as well as the principal of the same:

Now, therefore, the condition of this obligation is such that if the said obligors shall save harmless and indemnify the said Dean from all payments he may make on account of any taxes levied upon the property appearing upon said assessment roll in any year, then this obligation shall be void, otherwise to remain in full force and effect.

Mr. RAINEY. In that connection is it your position that this line of authorities apply to such contracts as are made, and that the contracts are void?

Mr. BEASLEY. It is on the ground that any contract by one person to pay the taxes of another is against public policy.

Mr. RAINEY. And is void?

Mr. BEASLEY. Yes.

Mr. RAINEY. Then, if it is void, you need not ask us to do anything?

Mr. BEASLEY. We do not want you to put an unlawful thing in the act.

Mr. RAINEY. If you made a contract that is void, and it is not binding on either, your remedy is in the courts.

Mr. BEASLEY. We do not think if Congress recognizes that some of the courts have held them void that it should put an unlawful act in the tax.

Mr. RAINEY. We can not hold them void.

Mr. BEASLEY. We do not want you to, but want to word it so that the fellow who gets the income shall pay the tax. It really would be monstrous for the Congress of the United States to so word its law that anybody could escape it and pass it on to some one else. The whole theory is that a man who receives an excess income should part with some of it.

Mr. RAINEY. If your contract is void, that is what is going to happen, exactly.

Mr. BEASLEY. We do not think you ought to jeopardize the people of Philadelphia and put them to the trouble of going to the courts. That is what the Court of Appeals of New York has said, and that is what is in the books on taxation, that it is against public policy for one corporation to assume the public taxes of another.

Mr. GREEN. Did the court of appeals affirm that decision? That citation was from an inferior court.

Mr. BEASLEY. I am reading from the court of appeals.

Mr. GREEN. Hun. is not the court of appeals.

Mr. BEASLEY. It says "Court of Appeals, 80 Hun." I am quite sure it was the court of appeals.

Mr. GREEN. You know in New York the highest court is not the supreme court.

Mr. BEASLEY. I understand that.

Mr. GREEN. Hun. is a citation from the Supreme Court, but often those cases have gone to the court of appeals and have been affirmed without any further decision.

Mr. BEASLEY. I got this from an encyclopedia, and my impression was that it was the court of appeals.

Mr. GREEN. The probability is that the court of appeals has affirmed it, without writing a new opinion.

Mr. BEASLEY. Perhaps that may have been the case, sir.

Mr. RAINEY. Have you ever tested this in the courts of Pennsylvania?

Mr. BEASLEY. Unfortunately, our public service commission has only been in existence since 1913.

Mr. RAINEY. That would not keep you from testing it in the courts.

Mr. BEASLEY. Unless some concrete example should come up, or some actual attempt made to do something, you can not go into a court in our State, a taxpayer could not go into a court under our law, and test facts under our law. Only the city solicitor under our government can go into court on something that might affect the city. We have no way of getting at these directly, unless some concrete case arises.

Mr. RAINEY. You say a taxpayer can not complain in Pennsylvania?

Mr. BEASLEY. Not as to the legality of any contract. We could as between the city and the corporation.

Mr. RAINEY. This is between two corporations?

Mr. BEASLEY. Yes, sir.

Mr. GREEN. You could pay this tax, and then sue the other party to recover it, but I can see why you don't want to do that.

Mr. RAINEY. Suppose you refuse to pay the tax, and let the other parties go to court?

Mr. BEASLEY. That is the situation. The underlying companies paid the tax and intend to sue the P. R. T. Co. to recover the tax, but the people of Philadelphia do not want to be led to the decision of the courts in the matter of this kind, when we think we can get immediate relief.

Mr. MOORE. What are the facts as to the payment of the tax?

Mr. BEASLEY. Take the Union Traction, for instance.

Mr. MOORE. There are seven underlying companies?

Mr. BEASLEY. Twenty-seven of them.

Mr. MOORE. Twenty-seven?

Mr. BEASLEY. Yes, sir.

Mr. MOORE. Well, the firm of Prichard, Saul, Bayard, & Evans represent seven of them, apparently.

Mr. BEASLEY. Yes, sir. Now, the Citizens' Passenger Railway Co., gets 72.9 per cent per annum under this lease. That is the capital it is paid on.

Mr. RAINEY. You made a very bad contract.

Mr. BEASLEY. The Citizens' Passenger Railway Co. leased for 999 years without any provision for amortization.

Mr. RAINEY. That is worse.

Mr. BEASLEY. And this is fastened upon this new lease for 999 years, and in addition to that, Congress comes along and says that we must pay a tax.

Mr. RAINEY. That isn't our fault.

Mr. BEASLEY. This was done before the present Congress was in existence.

Ridge Avenue 42.8 per cent, and so on. In other words it is a monstrous situation to perpetuate, and we feel this way about it, to give you some idea—

Mr. MOORE (interposing). Before you do that, I want to get in at this point the facts with regard to the payment of the taxes for the last year. Did the underlying companies make that payment or the Philadelphia Traction Co.?

Mr. BEASLEY. The underlying companies made the payments.

Mr. MOORE. Made them direct to the revenue collector?

Mr. BEASLEY. Yes, sir.

Mr. MOORE. What was the total, do you remember, of all the companies?

Mr. BEASLEY. Well, it is \$1,100,000 per annum. It must have been something about, the Philadelphia Rapid Transit Co. pays \$230,000 and it must have been about \$700,000.

Mr. MOORE. I do not want to interfere with your argument at all, but the committee is fairly familiar with the situation, in view of the statement made here by Mr. Ballard. He was here on June 11, and made a statement and submitted two amendments. Subsequent to that Mr. Frank P. Prichard, whom you know very well, of the firm of Prichard, Saul, Bayard & Evans, filed a brief in the form of a letter, which is a part of the record, and I want to ask whether you have familiarized yourself with Mr. Ballard's argument and Mr. Prichard's letter?

Mr. BEASLEY. I have not seen Mr. Prichard's letter, but I know Mr. Ballard's argument is that the underlying companies distribute the tax on the Philadelphia Rapid Transit Co., and that is an onerous thing to put on the Philadelphia Rapid Transit Co., especially as it was not in existence when the contract was made.

Mr. MOORE. Who drew these leases?

Mr. BEASLEY. I think Mr. John G. Johnson.

Mr. MOORE. And they were drawn at a time when there was a grouping together of all the independent traction companies of Philadelphia with a view to perfecting a line looking toward efficiency?

Mr. BEASLEY. And getting a power to make extensions.

Mr. MOORE. And to give us a good service and a low fare?

Mr. BEASLEY. Yes, sir.

Mr. MOORE. And those contracts were made at that time in good faith so far as the contracting parties were concerned, and they did not apprehend that there would be a war and the Federal Government would impose taxes as we are imposing under the last revenue bill?

Mr. BEASLEY. No, sir.

Mr. MOORE. And the point is now to obtain relief if possible in the holding company of all these underlying companies who apparently are the beneficiaries of a law which was intended really to raise a tax. That is correct, isn't it?

Mr. BEASLEY. Absolutely correct.

Mr. GREEN. Before we go any further, I want to revise my statement a little when I said that you could pay this tax and then sue the other parties to recover it. I would want to reflect on that. That might be a position from which you can not escape. I will not say that that is a correct statement.

Mr. BEASLEY. We feel that it is a very complicated matter, and I will read an amendment suggesting a way out of it by amending this law.

Now, I want to say to the committee, that in addition to this rental of \$7,250,000 flat which goes to these underlying companies, the P. R. T. Co. assumed all their debts and the interest thereon, and in addition to that assumed all their municipal demands, so that the P. R. T. Co. pays in addition to assuming \$81,000,000 of the debt of these companies, this rental of \$7,250,000 a year, and their municipal charges which makes it \$10,000,000 a year.

Mr. MOORE. The P. R. T. Co. wanted that property, didn't they?

Mr. BEASLEY. They did, indeed; and it was somewhat of a squeeze as against the P. R. T. Co. at that time, but since then the population of the city has increased and the population in the last two years has paid some dividends, notwithstanding all these rents.

Mr. LONGWORTH. I do not know whether you stated it or not, but if you did not, what was the total capitalization—invested capital?

Mr. BEASLEY. It is \$53,000,000 to the underlying companies, out of which they get \$10,000,000 rent.

Mr. LONGWORTH. That is 20 per cent, practically?

Mr. BEASLEY. Yes, sir.

Mr. LONGWORTH. Now, did you say that there were some for which the rental was as high as 70 per cent?

Mr. BEASLEY. Yes, sir. The Citizens' Passenger Railway Co., 72.9 per cent per annum on the amount paid; the Thirteenth and Fifteenth Streets Passenger Railway Co., 71.7 per cent; the Ridge Avenue, 42.8 per cent; Green and Coates Streets, Philadelphia Passenger Railway Co., 40 per cent; and on down the list to the Philadelphia & Gray's Ferry Passenger Railway Co., 16 per cent. That is on the capital paid in.

Mr. LONGWORTH. That is the capital on which the tax is figured?

Mr. BEASLEY. Yes, sir.

Mr. LONGWORTH. That is what I mean, the invested capital in the definition of this act.

Mr. BEASLEY. I hold no brief for the Philadelphia Rapid Transit Co, but I have their report here, and it shows that they have squeezed out 5 per cent on the actual capital invested for the last two years, and if they have to pay the tax after paying 72 per cent to some of the underlying companies, it is hard, and it is harder, if you reflect that that tax will go back on the people of Philadelphia in the shape of higher car fares which must be imposed to meet these fixed charges.

Mr. LONGWORTH. What is the car fare?

Mr. BEASLEY. Five cents, with 8 cents for transfers at certain points. It averages a little more than 6 cents. We have an exchange ticket costing 8 cents.

Mr. MOORE. The discussion is on now for a 6-cent fare.

Mr. BEASLEY. An application has been made to raise it to a 6-cent flat fare.

Mr. RAINEY. They are raising it to 6 cents in many cities.

Mr. MOORE. Before you go on, this is perfectly fair—we are from the same city—

Mr. BEASLEY. Fortunately for me.

Mr. MOORE (continuing). Mr. Ballard was here representing the Philadelphia Traction Co. You are here representing the Volunteer Businessmen's Association of Philadelphia, and are not connected with either of the companies?

Mr. BEASLEY. No, sir.

Mr. MOORE. Mr. Prichard represented the underlying companies, or the leading companies, and in his letter he states this—I want to say this, because you ought to be in a position to answer it—

In every case the operating company assumed all obligations of the underlying company, which went out of business for every purpose except the mere maintenance of a corporate existence, the expenses of maintaining which were paid by the operating company.

I won't read the rest, except that he said that the stocks of these underlying companies have gone into estates and charitable organizations, and are held by individual investors as permanent and safe investments. Then he adds this: "In any amendment of the tax laws"—and we are here only to raise revenue—"the burden of paying the tax should not be imposed on the underlying companies in relief of the Philadelphia Rapid Transit Co." This would be to interfere with the contract between the underlying companies and the Philadelphia Rapid Transit Co., which Congress could not do. The true remedy is to so frame the law that there should not be double taxation on the same business. The stockholders of the underlying companies should, of course, pay an income tax on their receipts, and this they would do in any event under the income-tax law.

I thought it was fair to Mr. Prichard, and also to you to read that much of the Prichard letter, so that you would understand what his position is.

Mr. BEASLEY. I have this to say about that. In the first place those underlying companies hold the franchises for the streets, to operate cars on those streets, by charter rights from the State of Pennsylvania.

Mr. MOORE. But they still hold those franchises.

Mr. BEASLEY. They still hold them, and the Union Traction Co. and the Philadelphia Rapid Transit Co. operate those cars by reason of the charter they are still holding from the State of Pennsylvania.

Mr. MOORE. Take the Tenth and Eleventh Street line, which is the old Charles Ellis line, or the Lombard South or the Electric and Peoples. The franchises, the property itself incident to the franchise, is still with the underlying company?

Mr. BEASLEY. Unquestionably, through the public service commission, par excellence, of our city, The P. R. T. Co. could not operate a mile.

Mr. MOORE. Suppose the Philadelphia Rapid Transit Co., the holding company, should fail and go out of business.

Mr. BEASLEY. It would revert to them.

Mr. MOORE. They would simply resume; the property would be theirs?

Mr. BEASLEY. Yes; together with all the improvements that the P. R. T. has put upon it.

Mr. MOORE. That would revert to the underlying companies?

Mr. BEASLEY. That would revert to the underlying companies, the rolling stock, everything, including the Market Street elevated, which has been built by the P. R. T. Co. since this lease. The lease provided that it turns over a monopoly, and that a monopoly should be returned, which would include the subway, which cost \$22,000,000 out of its own capital, but under this lease if the P. R. T. Co. should be so overloaded by taxation or otherwise that it should fail in paying this excessive rental, all that property would revert to the underlying

companies. They are in a position of double-seated velvet. They are in the position of getting a contract for the purpose of choking us, and in the city of Philadelphia to perpetuate a piratical bargain wrung out of the circumstances and disasters of the time.

Mr. GREEN. They want their pound of flesh.

Mr. BEASLEY. Not only that but the knife and scales and the jury and executioner.

Mr. MOORE. They have got the bond.

Mr. BEASLEY. Shylock did not succeed with his bond. They found a way out, and I rejoice that there is still left, I think, for this Congress a way out.

Mr. RAINEY. You have got the active sympathy of this committee, and if you are the Portia of the occasion, go on.

Mr. BEASLEY. I do not know as I could do it as effectively as Portia, but I think I can open the door by which we can get justice.

Mr. LONGWORTH. Do I understand that in the failure of the leasing company to pay this rent to these systems, properties acquired since the lease, would go to the underlying companies?

Mr. BEASLEY. Yes, sir.

Mr. LONGWORTH. Do they share in relative proportion, or how is that done?

Mr. BEASLEY. They do say anything about that. They thought they could manage to eat after they got around the table.

Mr. LONGWORTH. They just get it.

Mr. BEASLEY. They just get it; it reverts as they call it in order to avoid this question of this contract between these companies. It does not concern Congress. Congress is concerned with somebody paying this tax, and concerned with levying the tax in such a way that it does not fall exclusively upon any portion of the population. You are concerned in levying it in such a way that it will not destroy any segment of the population. These are the only limitations upon you, as I understand it.

If you levy the tax on the underlying companies, you will bring the question of the contract up between the two companies, but if you levy this upon the individual stockholders of these underlying companies you will then escape the difficulty and let us out of the difficulty we are in in trying to do away with this contract. The lease that is now pending between the city and these companies describes the situation exactly when it says "that the operating company is to pay any and all contributions however styled, which the company may at any time be lawfully required to contribute to any Government agency"; so if a tax is levied so that it does not fall upon the underlying corporations as corporations, but upon the individual stockholders direct, the individual stockholders have no standing to come in under that contract; that contract is between two corporations. Therefore I have suggested this amendment and leave it with the wisdom of the committee.

Mr. RAINEY. Do you deduct as an expense in ascertaining the income the amount paid the underlying companies as a reimbursement for the taxes they are going to pay or have paid?

Mr. BEASLEY. Oh, yes; the P. R. T. Co., the present lessee must deduct all those expenses before they have any net profits. Their last report, which I have in my hand, says that after they had paid the expenses of operation—that is, wages, and deducting 15 per cent

for betterment and renewals—out of gross receipts, they had, on a 5-cent fare, \$12,000,000 net profit. Out of this, these underlying companies, with \$50,000,000 of capital, got nine-twelfths, and the P. R. T., with its \$48,000,000 capital, got three-twelfths. That is the way the income from operation is now divided under this lease, and I suggest that instead of levying this tax upon those underlying corporations that they be used as a yardstick only, and that the tax be actually paid as it were by the stockholders personally, and I beg to submit the following amendment:

Whenever any individual corporation or partnership—

Mr. LONGWORTH. Where does that amend?

Mr. BEASLEY. Section 205 of the act of October 3, 1917—

Whenever any individual, corporation, or partnership has, during or prior to the prewar period, leased its, his, or her property to or contracted with another individual, corporation, or partnership to carry or operate its trade or business, receiving under such lease or contract a fixed sum or a fixed percentage of the result of such operation, the tax herein imposed as well as the tax imposed under Title I of this act, shall be levied upon and paid by each stockholder of such corporation or member of such partnership or such individual so leasing or contracting its business, in the proportion that the holding or interest of such stockholder or member bears to the total tax herein levied and which is paid under said lease or agreement as hereinbefore set forth.

I do not know whether I have expressed it correctly or not. It is hastily written, but it embodies my thought that if the P. R. T. Co. should under this lease pay a million dollars of the taxes for these underlying companies and the stockholder of these underlying companies receives one-one hundredth of the total rent, he should pay one-one hundredth of the tax.

Mr. LONGWORTH. I do not think that would work out. I would have to digest that a little. You are amending the excess-profits tax law?

Mr. BEASLEY. Yes, sir.

Mr. LONGWORTH. You are not taking into account there all the return on capital invested of the individual stockholder.

Mr. BEASLEY. Well, I intended this to be in addition to whatever else he pays.

Mr. LONGWORTH. You are amending, as I say, the excess-profits tax section but you are amending it in a way that it will not work out under the system based on invested capital. You are imposing a flat income tax on the stockholder.

Mr. GREEN. If you will permit me a word there. While Mr. Longworth's objection is logical, so far as the constitutionality of the matter and power is concerned I do not think it would affect it at all. For example, we have now in the present act under the excess profits tax an 8 per cent tax on salaries of Congressmen. Some of them are not making any profit at all.

Mr. MOORE. I understand Mr. Beasley to be trying to apply it to these particular stockholders.

Mr. GREEN. So far as the constitutionality is concerned or the power of Congress to levy the tax it is all right.

Mr. LONGWORTH. Would not that make a substantial reduction in revenue?

Mr. BEASLEY. The idea is that the revenue shall remain the same, but instead of having the corporation as a corporation pay this tax in a lump, you will levy it on the stockholders as individuals.

Mr. LONGWORTH. One of those companies gets 70 per cent return?

Mr. BEASLEY. The Citizens Passenger Railway Co. gets 72.9 per cent.

Mr. LONGWORTH. Now, you get a deduction of 9 per cent, we will call it, and that leaves 63 per cent on which the tax is to be paid. Your theory is that as it is done now that tax paid by the underlying company is passed on to the leasing corporation?

Mr. BEASLEY. Yes, sir.

Mr. LONGWORTH. In your case it would be paid by the corporation and then assessed against the stockholders in the proportion in which they hold stock?

Mr. BEASLEY. You could have the underlying company as the source, and deduct it before the money goes to the stockholder.

Mr. LONGWORTH. Yes, under your theory you would collect the same amount of revenue.

Mr. BEASLEY. Yes.

Mr. FAIRCHILD. This would affect many corporations; this principle you complain of is involved in a great many holding companies.

Mr. BEASLEY. Only those companies that agree to pay somebody else's tax. I have tried to show where it would only apply to those cases where copartnerships or individuals or corporations make a lease of their whole business.

Mr. FAIRCHILD. But I know of industrial corporations that are operating minor corporations where they have been unable to acquire all of the stock and where the capitalization of all the minor companies would be almost below the annual earning capacities, and these corporations would have to pay a large tax because they could not get all the stock of the corporations.

Mr. BEASLEY. Do they contract to pay somebody else's taxes?

Mr. FAIRCHILD. They had to.

Mr. BEASLEY. You mean individuals?

Mr. FAIRCHILD. These holding companies own the minor companies except as to the stock interests which they are not able to get. Therefore, they can not eliminate the shares of those companies and have to pay taxes. There has been a great deal of complaint on the part of holding companies as to the injustice of what is apparently double taxation, and my idea was that the complaint that you Philadelphia people make would apply with equal force to a great many corporations.

Mr. MOORE. There is no double taxation here. It is the question of the enforcement of a contract which it is contended is against public policy.

Mr. FAIRCHILD. It is a question whether a stockholder of a minor corporation is getting a large profit.

Mr. MOORE. This is an entirely different situation. It is a case where taxes are being paid by underlying corporations, but are being refunded by the operating company under leases made a long time ago, and before any war conditions were thought of.

Mr. LONGWORTH. The real difficulty would be that Congress would amend that contract.

Mr. BEASLEY. That is just exactly what I hoped I would avoid. The contract is technically between the two corporations as corporate entities. Now, the stockholders of a corporation I need not tell you and the other members of this committee who are members of the



bar here, are not the corporation, and you can tax an individual stockholder without taxing the corporation as such.

Mr. LONGWORTH. But now, as the law stands to-day, the lessee company is paying the tax?

Mr. BEASLEY. The lessee company is paying the tax of the other companies; yes, sir.

Mr. LONGWORTH. Now, the effect of this would be to transfer that tax to the stockholders of the underlying companies?

Mr. BEASLEY. Where it ought to be.

Mr. LONGWORTH. Precisely, but it is a case of the Congress amending the contract.

Mr. BEASLEY. It is a case of the devil getting around the stump in an easy way, and that is what we want to do, because it is not the intention, as I understand it, of Congress to double-tax anyone, and that fact is that it was intended that the tax should be levied on the income of the underlying companies. I call your attention, if I may be allowed, to the way you have worded section 201 of the act of 1917:

SEC. 201. That in addition to the taxes under existing law and under this act, there shall be levied, assessed, collected, and paid for each taxable year on the income of every corporation, partnership, or individual, a tax, etc.

You word that tax as if you intended it to be paid by every corporation, and here is a situation where one corporation escapes, and you put a double tax upon the other corporation. That is not your intention as expressed in the act itself that any corporation should escape, and if you find through private contract or otherwise that somebody is trying to defeat the purpose of Congress by passing that tax along, why, I think it is your duty to interfere, and it does seem to me that if you tax a corporation, its business, you have a right to say that the tax so levied shall be paid by the individual and not by the corporation.

Mr. MOORE. If you read the second amendment proposed by Mr. Ballard, he incorporates an idea somewhat similar to that.

And the taxes assessed hereunder, as well as income taxes assessed under section 1 of Title I of this act, shall be deemed as not issuing out of any given property, but shall be assessed as a personal tax against persons and corporations liable therefor, computed upon the results of their total gains, profits, and income, less deductions, as provided for herein, and in reduction of the amount of surplus or undivided profits which the said person or corporation would otherwise have for said current year.

Mr. BEASLEY. The trouble about that amendment is that it puts the tax upon the corporation and it brings it under the lease. My amendment assesses the tax on the individual and thus does not bring it under the lease.

Mr. MOORE. That brings up the question of the number of stockholders. How many stockholders are there in the Philadelphia Rapid Transit Co.—the holding company?

Mr. BEASLEY. That seems to be in the box. We can not find out about that.

Mr. MOORE. How many stockholders would there be in one of the underlying companies like the Tenth and Eleventh?

Mr. BEASLEY. I saw a statement where there were 3,000 or 4,000 of them.

Mr. MOORE. Mr. Ballard said he estimated about 3,500 stockholders in the Philadelphia Rapid Transit Co. That is not a very large number, but if your plan was adopted and the taxes were to be put

upon the stockholders, it would be interesting at this time to know how many there were of them, if the stock was closely held.

Mr. BEASLEY. It is closely held. The trust companies hold a great deal of it for the original estates, some of the first people that started these roads. But even if they do hold them, they can not complain of paying the tax where they are getting a profit of 72 per cent.

Mr. MOORE. I am not arguing Mr. Prichard's case. He further says:

The stock of these underlying companies became practically securities in the nature of bonds or ground rent, having no element of business risk, and no possibility of assessment or diminution of income, and as such they have been for many years dealt with on the market, and are now held by estates, charities, and individual investors as permanent and safe investments.

Mr. BEASLEY. They had these for 999 years and they were all right as long as the cow stood there and there weren't too many milkers and the milk held out.

Mr. MOORE. How many were there of them?

Mr. BEASLEY. I think I can find that out for the committee. I imagine that there are not very many of them because the theory was this—we will take the Union Traction Co.

Mr. LONGWORTH. That lease was made by a lawyer who did not anticipate such taxes, but that contract was made and entered into by everybody with their eyes open. To do as you ask would let the Philadelphia Transit Co. out of its bargain.

Mr. BEASLEY. It is as fair to defeat these companies as it is for these companies to defeat Congress. These companies are defeating the purpose of this act.

Mr. LONGWORTH. We are getting the revenue.

Mr. BEASLEY. Well, yes; you are getting it, but you are not getting it in the way you intended to get it, and you are not getting it in the way you levied it. Are you going to allow a private subterfuge to defeat the public purpose of Congress?

Mr. LONGWORTH. Is it a private subterfuge when it is a contract made by two corporations?

Mr. BEASLEY. Yes; because it was intended to pass a public tax on to a part where the public authorities did not put it. I have just read you here from the Court of Appeals of New York a case where they declared such a contract to be against public policy.

Mr. LONGWORTH. Now, if the Pennsylvania courts had so held, there would be no necessity for Congress doing that.

Mr. BEASLEY. I assume that the courts do, but it is not always certain what the courts will do in our State at times.

Mr. LONGWORTH. If the courts do not act, you are asking Congress to act.

Mr. BEASLEY. We are asking you to put a tax on the man that gets the revenue. Surely, that is not wrong. We are asking you that you make the facts square with the intention of the act of Congress. The act of Congress says that corporations shall pay the tax, every corporation.

Mr. LONGWORTH. The corporation is paying the tax.

Mr. BEASLEY. No; only in appearance. We have come now, as I understand it, Mr. Chairman, to a time when we must deal with the real things of life. This camouflage and screen of the real thing

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is passing away, and no more so than in the American Congress. You are doing now real things, and humanity is coming to its own, and we think that in a case like Philadelphia where there are 2,000,000 of people being preyed upon through the contracts of stock gamblers of 30 years ago, when we had no public service corporations to restrain them, and had no one to protect the people from their ravagings, you should help us, and we ask you to so change the law that we will be protected.

Mr. LONGWORTH. I will admit that Congress is a much more virtuous body than before.

Mr. MOORE. You want to modify that a little.

Mr. LONGWORTH. Since you came in?

Mr. MOORE. Yes.

Mr. LONGWORTH. But it is our function to relieve people of their bargains?

Mr. BEASLEY. I think it is your function to give relief to grievances. I think when Congress can do things to relieve people, and square things for them, you should do it. We present a square proposition which every man on the committee is satisfied is square and right.

Mr. LONGWORTH. Yes; but it is not the contract that was made.

Mr. BEASLEY. You speak about the contract, and we say it is against public policy, and we do not ask you to fight the contract, we ask you to make the individual stockholders pay the tax out of the profits they are getting.

Mr. GREEN. You think an excess profits tax should be paid by the party that gets the profits?

Mr. BEASLEY. Unquestionably.

Mr. GREEN. And if we impose it so that somebody who is not making anything out of it pays it it would be doing something quite contrary to the intent of Congress, and not in the best interests of the public.

Mr. BEASLEY. That is exactly what I think, and I think that the committee—I regret that I had to draw that amendment in such haste, that it is not in very good form.

Mr. GREEN. A little further right there. You gave a citation of a case, but you do not state what the argument was which was presented by the court's decision. But whatever it may have been, it seems to me that this part might well be urged that it ought not to be permitted to anyone by private contract to take away from the Government the power which the Government inherently has to place its tax where it can best be borne. Otherwise, if we carried this matter to extremes, we would probably find that contracts could be made so that the greater portion of the community would not have any taxes whatever imposed upon them.

Mr. BEASLEY. That is correct, sir.

Mr. GREEN. And another portion of the community, notwithstanding the wish of the Government to distribute these burdens equally and fairly, would have to pay the whole thing.

Mr. BEASLEY. That is the idea, and by putting a double tax on the other individual or corporation, you might ultimately take that corporation and thus lose one corporation from which you might have had a tax if you had been a little more fair and equitable.

Mr. GREEN. In this case there is no desire to place the tax upon the people of Philadelphia who use the street car system, although you claim that that will be the effect of it.

Mr. BEASLEY. Yes, sir.

Mr. GREEN. That was far from our intention.

Mr. BEASLEY. That is the reason we came here to have you relieve us of an apparent injustice, which is an injustice to the Philadelphia Rapid Transit Co. We do not wish that company destroyed, because it is the only transportation that we can rely upon for street car service.

Mr. LONGWORTH. Wouldn't the trouble be just as it is if we passed this legislation. We would be to that extent increasing the value of the stock of the Philadelphia Rapid Transit Co. We would buy their stock for them because they would be relieved of the payment of this tax?

Mr. BEASLEY. We have expected to have to pay that.

Mr. LONGWORTH. They agreed to pay that?

Mr. BEASLEY. Of course, they did; they signed the lease.

Mr. LONGWORTH. You buy one stock and bear the other.

Mr. BEASLEY. The Philadelphia Rapid Transit Co. needs a little buying, because it has 50 paid in and is selling at 26, and they need a little help because for 11 years they have had no dividends at all. It has only been for the last 2 years that they have paid even 5 per cent, and if they are burdened with this tax we fear that the property may be a loss.

Mr. LONGWORTH. That is controlled by the Widener-Ellis syndicate.

Mr. BEASLEY. Yes, sir; very largely.

Mr. OLDFIELD. Where is the public getting any benefit out of this?

Mr. BEASLEY. They will raise the street car fares.

Mr. OLDFIELD. We have no power to prevent the raising of the fare.

Mr. BEASLEY. But you have power to prevent exactions.

Mr. OLDFIELD. You have a public-service corporation that will prevent it.

Mr. BEASLEY. This lease that is now pending provides that car fare shall be raised in proportion to the taxes charged.

Mr. OLDFIELD. They will raise the car fare any time the public will stand for it.

Mr. BEASLEY. They may do so, but the car fare has to be raised.

Mr. OLDFIELD. Isn't it a contest between the two corporations?

Mr. BEASLEY. Between the Rapid Transit Co. and a number of underlying companies and the people.

Mr. OLDFIELD. One corporation has a contract with several other corporations.

Mr. BEASLEY. It is not a contest. There are existing contracts which provide that the lessee company is to pay the taxes of the underlying companies.

Mr. OLDFIELD. When was it written?

Mr. BEASLEY. About 15 years ago.

Mr. OLDFIELD. Have the Pennsylvania courts ever held—you spoke of the New York courts—ever held the contract void on account of being against public policy?

Mr. BEASLEY. It has never been before our courts. We have no cases on it. Of course, there have been contracts before the courts, but nothing of a public nature like this.

Mr. OLDFIELD. You have not had any lawsuits in the courts of Pennsylvania with regard to the validity of this contract?

Mr. BEASLEY. There were two decisions about taxation that were opposite in their character, but they did not involve this point, the point of one corporation agreeing to pay the taxes of another. In the case at bar here, we have one company getting the income and another paying the income tax, and all we are asking you to do is to make those people who are getting the excess profits pay the excess-profits tax, and our suggestion is that you will tax it so that the individual stockholders of the underlying companies will pay this tax. That lets out the corporation tax.

If you burden the corporation, then the Philadelphia Rapid Transit Co. would have to pay it, and we would get back just where we are now. That is the effect of Mr. Ballard's amendment. I fear if it is put in as he wants it, it would not relieve us.

I would like to leave with the committee some of these cards containing the amount of the dividends.

Mr. RAINEY. Has the Philadelphia Rapid Transit Co. paid the tax as yet?

Mr. BEASLEY. No, sir.

Mr. RAINEY. What is the status?

Mr. BEASLEY. I understand that the underlying companies are about to start a suit in the United States court to compel the Philadelphia Rapid Transit Co. to refund the taxes they have paid.

I want to thank the committee for your courtesy.

#### STATEMENT OF MR. H. L. SEAY, OF DALLAS, TEX.

Mr. RAINEY. Please state your name and whom you represent.

Mr. SEAY. H. L. Seay, of Dallas, Tex., and I represent the American Life Convention, an association of 111 life insurance companies in the United States. I happen to be president of that organization. The companies are mostly the younger companies in the East, and the companies of the West and South.

On the 12th of June the insurance interests were represented here by Mr. Dunham and Mr. Blackburn. At that hearing the one question presented was whether or not the reserves of the legal reserve life insurance companies should be regarded as invested capital. But during the discussion, while Mr. Blackburn was talking, he was requested to suggest some method of taxation that would iron out the angles that the argument showed existed in the present method of taxing insurance. I was here with Mr. Blackburn at that time, but inasmuch as I had nothing to offer, I did not appear personally, but immediately called a meeting of the executive committee of the American Life Convention to be held in St. Louis on the 22d of June. We held that meeting and after going into the question of the taxation of life insurance companies, it was decided to ask Congress to base that tax upon premium income. I immediately came to Washington and have been here several days awaiting an opportunity to present our view to your honorable committee. I would not have come had I not thought I had something constructive, and simply to

present to you something that would let you produce the income you desire from insurance companies in a very simple manner.

Mr. COLLIER. I believe your plan collects \$2 from insurance companies where one was collected last year.

Mr. SEAY. Under my plan, Mr. Collier, you could just figure what the insurance ought to be, then take the premium income and apply the percentage to that income and get what you think it ought to be. If you think it ought to be twice as much, then you can apply the higher percentage. Mr. Blackburn estimated that insurance companies paid during 1917 \$4,900,000, that is the life reserve life insurance companies.

Mr. LONGWORTH. The total income from all taxes from all insurance companies is only about \$6,000,000. We have had a great many hearings, and it seems to be all these insurance people speak about is the burdensome taxes. I observe that there are \$27,000,000,000 of life insurance now in force, and the total amount of taxes paid the Government is only \$6,000,000 a year, much lighter than in any other form of business.

Mr. SEAY. That is the liabilities of the insurance companies, not the assets.

Mr. LONGWORTH. It is the business.

Mr. SEAY. It is the business that we owe, what we have to pay in case of death, not the total assets of those companies. They have something like \$6,000,000,000. That money has to be loaned out, invested.

Mr. LONGWORTH. That is only one-tenth of 1 per cent of that amount; that is all the insurance companies pay.

Mr. SEAY. If you will look at the second item on the list that I have handed around you will find that the total premium income is \$985,000,000.

Mr. LONGWORTH. The total taxes from all insurance, life, fire, marine, and everything else, is the total sum of \$6,000,000.

Mr. SEAY. I thought it would be more, because we figured that last year there was about \$4,000,000,000 of ordinary life insurance written. The 8-cent tax on that would be \$3,200,000. If you take the 8 cents in that tax, it will be \$3,200,000, not taking anything at all for the income. We figured that the amount of income tax that should be received is something like \$1,500,000.

Mr. LONGWORTH. The total would be, according to the Treasury report, from all kinds of insurance under the present law, a trifle over \$6,000,000. It is the lowest tax, by all odds, of any industry in the United States.

Mr. SEAY. Understand I am not contending here, Mr. Longworth, that the taxes on insurance last year were excessive. My idea is that I want a simple method of computing the tax. If you will take the memorandum which I have furnished you, you will notice insurance companies are effected under the different sections of the law at present, and lawyers and accountants are necessary to make returns. It is very confusing. For instance, we are taxing a corporation under section 2, Title I. We figure that we ought to produce about \$1,500,000 a year, and we have a capital stock of 50 cents per one hundred thousand that is in excess of \$99,000, the same that all other corporations bear. Then we have the so-called excess-profits tax, but insurance really can have no excess profits. We will do well if



we get through this war without having our capital impaired. When the death losses come in from the front you are going to have a large number of companies that are not going to make any money, and a tax on them is going to be a gratuity on their part, rather than something that should be forced.

Mr. OLDFIELD. Haven't you increased rates on people who go to the front?

Mr. SEAY. On business going to the front, or business before the war you can not increase.

Mr. OLDFIELD. But since the war.

Mr. SEAY. Yes; but think of the enormous amount of business that is subject to this mortality already in force.

Mr. OLDFIELD. The Government is going to take that.

Mr. SEAY. They are taking all the new business, but none of the old business lapses, none whatever.

Mr. OLDFIELD. Are you compelling them to increase their premium?

Mr. SEAY. No; we have got to keep it under the same premium they have always carried it.

Mr. OLDFIELD. What percentage of the policies of life insurance companies did not have any war clause in them?

Mr. SEAY. I should say about 80 per cent did not have any war clause at all.

Mr. OLDFIELD. What percentage of those are of military age?

Mr. SEAY. It would be quite a good many of military age. Those that have the military clause waived it. I do not know of any company that has insisted on the old war clause. They are not writing business on new men going into the war, but on old policyholders they have waived the old war clause and are not asking additional premiums. In other words, the companies are carrying billions of dollars on men in the Army and in concentration camps without any extra premiums, and the mortality rate will be multiplied many times.

Mr. OLDFIELD. Do you know how many millions?

Mr. SEAY. No.

Mr. OLDFIELD. Those fellows that have gone are between 21 and 31, and most of those persons that have gone to war did not take out insurance at the time they were 21.

Mr. SEAY. A man increases his life insurance as he nears 30, that is true. He takes out the small policy at the younger age, and gradually increases. We have no way of knowing anything, because lots of times the parent may send in the premium and we do not know whether the boy is at home or where. He may be in the Army, in France, but if a soldier never went to France, the mortality of life insurance companies would be materially increased because of the anxiety produced, the worry they go through, the troubles that are produced by financial conditions which the war always affects. For instance, we have suicides through financial losses growing out of the war, suicides due to worry, and things of that sort.

Mr. OLDFIELD. But the Government has assumed the greater part of that burden?

Mr. SEAY. The Government has assumed the greater part of it, but it has not to a large extent relieved the companies from the millions it already had.

Mr. OLDFIELD. It is small expense to the policyholder.

Mr. SEAY. Yes, the Government takes into consideration no overhead expense, and if the premium is not sufficient to meet the mortality which the war will produce, it has a way of raising it by taxation. The companies have no such method, so we have got to conduct our business so that this \$27,000,000,000 of insurance in force will be met, and if it is not met, our resources are impaired, and the companies have got to boost up their resources. If it is a stock company, they have got to get in new capital to make up losses, and while the figures are big, imposing, the insurance companies are in a rather precarious condition if the mortality on the western front in Europe anywhere hits them very hard. While the figures are stupendous, at the same time there is an obligation behind us that we have got to meet, and those figures have been arrived at through a mathematical calculation to give us an income to meet normal demands.

Mr. HAWLEY. That was based on normal peace conditions?

Mr. SEAY. On normal peace conditions. In figuring out policy forms, making up tables of values, and rates, we did not think of the country being in war, or we would have put in a war clause. But I should say that about two-thirds now have no war clause.

Mr. OLDFIELD. When did you begin to put that in.

Mr. SEAY. Only when war was declared between the United States and Germany.

Mr. OLDFIELD. Not before that?

Mr. SEAY. No, sir. Some few companies already had it, and that, of course, applies only to those 21 to 31. A good many still write those in the limited classes 4 and 5, but none will write those in class 1. The Government has it all, all the new insurance on class 1.

Mr. OLDFIELD. Do you know the companies who had that clause in when the war broke out?

Mr. SEAY. No, sir; I can not give those, but I understand they all waived it. By my proposition in my appearance here is to call your attention to the fact that there is a lot of confusion and uncertainty about what the taxes of insurance companies are, and that no two companies make the same return, no two insurance counsel will advise the companies how to make the returns alike, and when the Government attempts to check up insurance companies's returns, they have got to have an expert accountant and a lawyer to go in together and work it out. I really believe that a tax based on the premium income is so simple that a child can calculate it and most any accountant can check it.

If you will look at the second item, you will see that the total premium income would be \$965,000.

Mr. LONGWORTH. On that one-half of 1 per cent we would raise as much as now on all the insurance together.

Mr. SEAY. That is just the proposition that I put up to you. If you want to raise the same amount in 1918 as in 1917, if you will look on page 3 you will see the whole matter tabulated out there. If you want to raise a greater income in 1918 than in 1917, placing the estimated premium income at \$1,000,000,000, one-half of 1 per cent would produce \$5,000,000,000; three-fourths of 1 per cent would produce \$7,500,000, and 1 per cent would produce \$10,000,000, and, gentlemen, I want to say that the insurance companies, I think, would be willing to see their taxes doubled, and would cheerfully

bear that enormous demand that is made upon them from this increased mortality. I can not see how they could stand a greater tax on their premium income than 1 per cent, which would produce \$10,000.

Mr. LONGWORTH. Why should a life insurance company object to that?

Mr. SEAY. I can not conceive of a company that would.

You now have a tax of 8 cents on the first \$100 of the first year's business. The bulk of the tax that you produce from insurance the first year is small. The insurance agent has an average commission of 55 per cent of the first year's business. You have got to pay your medical examination fee, which is never less than \$5, and an inspection report of \$1 to \$2. All this must come out of the first premium. If the first premium is \$100, you take out \$55 to the agent, \$10 to the doctor, and you take out \$2 for your inspection fee; then there is other expense you have got to charge off, some overhead on each policy, and you take away from the companies on this first year's business so much that you make them go in debt, or at least no more than come out even on it.

Mr. OLDFIELD. Would you rather have it 1 per cent than the way it is?

Mr. SEAY. That would bring in twice the revenue that you have been getting, and it would make it much simpler for us. We do not know whether we have filed correct reports, and the Government does not know. There is no other feature of this revenue act that is shrouded in the confusion that the insurance sections are. You have got so many different classes of business here, my suggestion is that you give the insurance a separate section. The way you have them now they are mixed up with every other kind of commercial endeavor, but if you give them a separate section and figure what may be called a flat premium income tax on a certain percentage, it will produce the revenue.

I have here an amendment that I would like to suggest, that you eliminate all reference to insurance companies and make a separate chapter. The amount of tax would be readily determined and mathematically correct, reading about as follows:

There shall be levied, assessed, and collected from each and every insurance and indemnity company, association, and society a tax of ——— per centum upon the gross premiums and assessments and installments thereof collected by such insurance and indemnity company, association, or society from its policyholders, members, or coinsurers during the calendar year beginning with the first day of January, nineteen hundred and eighteen, and ending December thirty-first, nineteen hundred and eighteen, and every year thereafter during the period within which war taxes are levied, assessed, and collected. This tax shall be in lieu of any and all other Federal tax paid by such insurance companies, indemnity companies, associations, and societies, and they shall not be required to pay taxes under any other section of this or any other act. Each company, association, and society shall make a return on or before the fifteenth day of each and every month of the gross amount of premiums and assessments received by it in cash, notes, or other obligations to pay during the month preceding, and with such return shall remit to the collector of internal revenue of the district in which the company, association, or society shall maintain its home or general office ——— per centum of the face amount of said premiums and assessments without any deduction whatsoever, excepting for policies or certificates canceled by the policyholders or by the company: *Provided, however,* That there shall be deducted from the tax payable hereunder all sums paid by said companies on the tax of 8 cents per hundred on all new business issued.

Mr. LONGWORTH. Repeal all the others?

Mr. SEAY. Yes.

Mr. LONGWORTH. Do you think that would be satisfactory?

Mr. SEAY. I think that would be satisfactory to all. I can not conceive of any company objecting to it.

Mr. LONGWORTH. I may be wrong, but I think that some companies objected very strongly to putting a tax on their annual premium. Don't you remember that?

Mr. COLLIER. How about endowment insurance, or insurance of great value?

Mr. SEAY. I do not know that that would make any difference. For instance, you take an 8-cent tax. You can see the inequitableness of that if you will take some companies that write almost exclusively what we term "term" business; that is, a policy running from 5 to 10 years. Now, the premium on that policy will average about \$12 a thousand, \$11 or \$12 a thousand. You take on a \$1,000 policy. You would pay 80 cents, then you take a company that is writing almost exclusively an endowment business, where the premium will be \$40 a thousand, that company is paying about 2 per cent this year, whereas another company that is writing term business is paying 7 or 8 per cent.

Mr. LONGWORTH. It sounds like a very simple effective plan, but my impression is that many insurance companies would not favor it.

Mr. SEAY. Why can they object to it?

Mr. LONGWORTH. I do not know enough about it to say.

Mr. SEAY. It puts everybody on the same basis. As it is now, the term companies are at a great disadvantage against a company writing endowment.

Mr. COLLIER. Let me ask you a question. How many companies do you represent?

Mr. SEAY. One hundred and eleven.

Mr. COLLIER. And you say they are confined largely to certain sections?

Mr. SEAY. In all sections, the younger companies of the East and the companies of the West and South. We have probably 4 or 5 in Texas, 11 or 12 in Nebraska, and Ohio, and we have got 5 or 6 in Ohio, 2 in Mississippi, and Dr. Simmons, vice president of the Pan American of New Orleans.

Mr. COLLIER. You have some in the East?

Mr. SEAY. Yes; four or five in Pennsylvania, and we have one in New York.

Mr. COLLIER. You do not represent all the old line companies?

Mr. SEAY. None of the New York companies. They are in what is known as the Presidents' Association. I do not know that I have ever talked with any official of any of those companies. I do not know how they would regard this, but I can not see where they could have any objection if they want to bear their just proportion of the taxes.

Mr. COLLIER. Your association is composed of companies doing all kinds of business?

Mr. SEAY. Yes, sir; every class, endowment or limited payment, or industrial, and everything else. There is no form of insurance they do not represent.

Mr. COLLIER. Your companies write the expensive as well as the term, the cheap insurance?

Mr. RAINEY. You have 20 minutes, and we have eight more gentlemen here, and we want to close up the hearings, and do not want to shut anybody out. Have you anything there that you could print?

Mr. SEAY. I would like to have this published that I have put in. I would like to read this resolution.

Mr. RAINEY. Then you can print the rest.

Mr. SEAY. (Reading:)

The executive committee of the American Life Convention, representing 111 legal reserve life insurance companies with home offices in 33 different States, hereby expresses its appreciation of the vigorous efforts of the Government to win the war with Germany and wishes to cooperate with the Government in every possible way for the accomplishment of the most complete military victory and for the establishment of a permanent peace.

The committee respectfully represents to the Government that in the matter of providing the necessary and extraordinary revenue required by the Government in meeting the expenses of the war, the companies representing the American Life Convention are ready and willing to accept their full share of the extra burdens of taxation made necessary by the exigencies of the war and stand ready to cooperate fully with any and all efforts of the Government in devising necessary revenue measures.

We venture the suggestion that taxes on life-insurance companies should be so levied as to insure the least trouble and expense to the Government in collecting the same, and the least confusion and difficulty to the companies in paying the same.

We further respectfully suggest that in lieu of all other Federal taxes on life-insurance companies there be levied a tax of a certain per cent on total annual premium income and that that said tax, instead of being made payable in one sum for one year, be made payable monthly as said premium income is received.

The secretary of the convention is hereby directed to furnish a copy of this action to the Ways and Means Committee of the House of Representatives, to the Finance Committee of the Senate, and to the Secretary of the Treasury.

Mr. HAWLEY. Do you mean to have your amendment apply to fraternal societies?

Mr. SEAY. I do not represent the fraternal on that. That is a matter purely with the committee.

Mr. HAWLEY. You have nothing of that in mind?

Mr. SEAY. I have nothing of that sort to offer. I do not know just how the fraternal are taxed on their assessment now. It seems to me that the fraternal are in this position that the assessment companies can always raise their rates. They provide in their contracts that if any unusual burden hits them, they can raise their rates. We have a level premium in our business, and if we have a heavy mortality, we have no way of meeting that except by putting new money into the business.

Mr. HAWLEY. It works out that when the fraternal raise their rates they lose new business. That would operate the same with them as with you.

Mr. SEAY. Yes, sir; if it gets to where we can not stand it, we have to raise rates on new business, but on business already in, we are helpless. On the other hand, if a fraternal company has a policy that has been running 10 years, they may jump it any time.

Mr. HAWLEY. But they would lose many members, and their income is lost?

Mr. SEAY. But take it in the case of policies that have been running a long time, if they raised the rates they make money by doing it.

Mr. HAWLEY. But the men who have paid for a long time will pay the increased rates, but the new ones will not pay the increased rates.

Mr. SEAY. I do not know that they have so much trouble with the new ones. You take a man that starts in with a fraternal society or any other society about 40 or 50 years of age, by the time he gets up to 60 his ability to earn money to meet his premium has probably been decreased, and, of course, the premium rates on the old men have been advanced.

Mr. HAWLEY. But he will not drop out.

Mr. SEAY. Yes; I think the experience has shown that he will.

Mr. HAWLEY. You are wrong in that. The experience has been that the older members who have reached a nonearning age remain and the young members drop out.

Mr. SEAY. In the Knights of Pythias, to which I belonged, they put men of 65 and above in a certain class and the old men dropped out.

Mr. HAWLEY. I have had experience of 24 years, and that has not been my experience.

Mr. SEAY. I do not know much about fraternal companies. I was a member of the Knights of Pythias, and I do know something of that experience.

I wish to thank you gentlemen for your patience and the courtesy you have extended me, and I wish to assure you that the insurance companies are not in any way trying to lessen the taxes that they will have to pay. We come with the proposition that we are willing to pay more, but we do ask you to relieve us of the uncertainty and the confusion that now attends the fixing of this tax, and put it on a premium income basis. I know that you gentlemen want us to pay, but let us pay it in a way that we can compute it easily, and so that the Government can check it up easily.

I thank you.

(The statement referred to is as follows:)

*Suggestions of taxation of life insurance companies presented to the Ways and Means Committee by Harry L. Seay, President of the American Life Convention.*

From figures furnished by the Spectator and the American Underwriter we have gathered the following statistics on 227 legal reserve life insurance companies in the United States on December 31, 1917, 227 being practically all the companies doing business in the United States:

Whole amount insurance in force.....	\$27, 973, 057, 673
Total premium income.....	965, 545, 988
New ordinary business written in 1917.....	3, 981, 347, 336

Life insurance companies are subject to the following Federal taxes:

1. As corporations, upon net income, section 10, title 1, act of September 8, 1916, and section 130, present act. The sum received from this source will approximate \$1,500,000.
2. A capital tax of 50 cents per \$1,000 of fair value of capital and surplus and undivided profits, excluding reserves and in excess of \$99,000. The sum received from this source will approximate \$200,000.
3. The so-called excess-profits tax, section 200, act of March 3, 1917. As there can only be war losses and no excess profits for insurance companies during the war, and as this section will have to be construed by the courts before companies can know their status thereunder, nothing has been received from this source.
4. A tax of 8 cents on each \$100 and fraction thereof of amount for which any life is insured after the passage of the present act. The sum received from this source will approximate \$3,200,000.
5. Tax of 10 per cent upon any surplus not distributed within six months. Impossible to ascertain what this will bring, but it will be very small. The total amount received from life insurance companies per annum under existing laws will approximate \$4,900,000.

Life insurance companies also have to bear the burden of added expenses produced by—

1. War stamp taxes.
2. Increase of postal rates.

The amount received from the last two items is large, but as the burden falls alike upon all, we offer no suggestions as to them.

Mr. RAINEY. We are compelled to close these hearings to-night, in order to get to work on this bill. It will take us several weeks to draw it. I want to find out how much time you gentlemen want. We are going to hear all of you.

We will hear first from any of these gentlemen who have any plans by which we can collect some money. [Laughter.]

**STATEMENT OF MR. J. WELLER LONG, SECRETARY-TREASURER OF THE AMERICAN SOCIETY OF EQUITY, THE NATIONAL UNION, MADISON, WIS.**

Mr. RAINEY. Give your residence and business, and what interests you represent, Mr. Long.

Mr. LONG. My name is J. Weller Long; residence, Madison, Wis.; secretary-treasurer of the American Society of Equity, the National Union, an organization of farmers.

In regard to raising income, I wish you would imagine yourselves off on the farm, where the farmers are working early and late, trying to produce enough food to supply our country here as well as the allies; that they are buying Liberty bonds, and savings stamps, and so on, sacrificing a great deal in the way of hard work and doing without things they would like very much to have. And, now, when it comes to loyalty, we do not believe there is anybody in this country more loyal than the farmers are, and that when we are asked we are responding to the call to buy Liberty bonds and to produce food, we want incomes taxed and profits taxed so as to meet their proportionate share of carrying on the expense of the war.

When we are sacrificing even more than a good living, we do not see why any loyal company, corporation or individual should have a large income over and above what they are living upon, and when it comes to equality among us Americans, why should anybody want an income in such a crisis as this?

Some of us believe in going so far as to tax incomes, the profits, 100 per cent. But our organization does not say that. Our organization says, "Tax over and above \$50,000." From the standpoint of patriotism, why should a man have \$50,000 income in such a crisis as this?

We do not want any corporation, company, or individual taxed so that it is going to interfere with the carrying on of his business, and if he has to invest \$25,000, or \$150,000, or \$500,000 to equip a plant that will be of no use to him after this war is over, we do not want him to lose that, but we do want the incomes and the profits taxed to help pay this war in preference to having men and women go hungry.

This organization stands for those principles. That is all I have to say.

Mr. RAINEY. We will now hear Mr. Star.

• STATEMENT OF MR. WESTERN STAR, FARMER, BALTIMORE, MD.

Mr. RAINEY. State your full name, residence, and occupation, Mr. Star.

Mr. STAR. My name is Western Star, and I am a farmer; Baltimore, Md.

My understanding is that this committee is sitting for the purpose of finding ways of getting revenue.

Mr. RAINEY. You are right. We have not found very many, however, yet.

Mr. STAR. If I could show you a way whereby you could get \$4,000,000,000 of annually increased revenue, without laying an additional penny of the burden upon production or consumption, I do not know whether this august body would snap at it or not.

Mr. LONGWORTH. We would.

Mr. STAR. But I have been told by the governors of more than one State that if I could show them how to raise a million more they would be glad to do it.

I want to state in a preliminary way one or two very simple fundamentals in order that my thought may be made clear and the philosophy on which I present my case may be understood.

As was told to you this morning by Mr. White, we have the highest of authority and conservative opinion for the belief that there are only two possible sources of public revenue: One is by taxing land and, as Hamilton stated, the other was "taxing commerce." I translate the word "commerce" into the word "labor," and those are the two only possible sources from which public revenue can be derived—land, which is opportunity; and labor, which is energy expended upon opportunity.

I see no objection in a time of emergency and stress to taxing both and getting all possible revenue from both. But our course in the past has been to take it almost entirely from the products of labor. Our taxation system, our entire revenue system, has been adapted for the protection of the monopolistic landowner, for the man who controls opportunity, without laying the burden at all upon him and taking practically all of our revenues from the products of labor.

There are two policies always at work in every nation: One is public policy and the other is private policy; and those two policies are in constant conflict with each other; and public policy seems to have been a kind of a composite photograph of conflicting private policy, and private policy, which seemed to be predominant, had its way.

You want some concrete propositions, and this morning my friend and colleague, Mr. White, was asked if he had any definite, concrete suggestions to make. You have had two bills pending before Congress, and whether they have been presented before this committee except in one instance, I am not prepared to say. There was one of them presented the other day. Either one of those will suit me, or a modification of either one of them will suit me. The claim is made that the Constitution, which requires that direct taxes should be laid in proportion to the population in the several States, is completely met by either one of those bills, because the values of land make naked opportunity in this country, and in all countries, a direct reflection of



the pressure of population, a direct reflection of the numerical population of the districts where the land exists. The land which we are holding out of use is opportunity. We want that opportunity brought into production. The highest test of the civilization of any country is its capacity to produce, and we, following older examples, have simply suppressed production; we have premiumized lack of production by penalizing production. There can be no production without access to opportunity. We propose to open opportunity.

The total annual production of wealth in the Republic to-day, the net increment of all annual production in the country has been estimated all the way from twenty-five to forty billion dollars a year. One-half of that production goes to-day into the hands of the man who collects the rent, because, roughly speaking, while it may differ and vary in different sections of the country, the value of the improvements upon land are not equal to the value of the land. The improvements in New York City do not begin to compare in value with the land on which they stand, and it does not make any difference whether it is a city or a vacant area owned by a railroad company along a land grant, or a strip of land reaching from New York City to Chicago, the man who has the right to control the use of that land has the right to determine the terms and conditions upon which the man who lives upon the land is there. I, as a farmer, when a man comes to me and asks me for a job, say, "Yes; I can give you a job; I can put you to work." And the first question is, "What are you going to pay me?" I have been in the habit of paying one-third of what he could earn. Of course, I say, "I will pay you the going wages of the community," which, up to four or five years ago, in my section, were \$25 a month, and I would not have a man on the place who could not earn \$60 for me, out of which I could pay him the \$25. I am operating a farm that is altogether too big for any one man to operate. Five hundred acres is more than any one man can cultivate. But not a man could work on that land and cultivate it except on my terms; and when I rented out my land and said, "You pay me one-half of all you can produce before you begin to enjoy the other half," I was simply enjoying and taking to my own profit the landlord's rights. And that applies to city lots, or strips of rights of way as well as to farm areas.

You, of course, are well aware that more than half the actual operating farmers and cultivators of the soil are tenant farmers or hired men—men who have not and can not get opportunity for themselves, under their own control, and they have to give away more than half of what they produce in order to enjoy the residuum of what is left.

Out of this annual increment of wealth checks in the form of rent are put into the pockets of the landlord. I do not propose now at this time to say we are going to take it all. But we will take such a proportion of it as can be an initiation of the program, and I want to say to you gentlemen that it is my confident and candid belief that there will not be one single penny of the enormous mass of the war debts that are being piled up in the world to-day ever paid unless you pay it out of this fund that I am speaking of.

This will result in satisfying every complaint that has been made before this body from the time it began to sit to this session. I have sat here day after day, and I have heard the automobile men and the

moving-picture men, and the insurance men, and the dry goods jobbers, and the coal men, and the representatives of almost every class of industry that is represented in our Republic come here and say, "We are willing for you to do just what you are doing now, but we can not stand any more."

The suggestion I make to you will relieve all those men, because they are operating industries in production. We will not lay a penny of tax on production; we take it off of production in so far as we establish this system. That is what we want to do, and we show you where that lies and where you can get it. The machinery to do that is already in existence; you do not have to change more than two letters in the law.

There are assessors in every county, in almost every town. Every piece of real estate in the country that is privately owned is reported, and it is in the books, and all you have got to do is to go there and accept it. You can make out of every collector in the United States a deputy Federal officer to report to the Secretary of the Treasury. We know what the rent is. The question of determination of what is the value of the piece of property is determined automatically by what anybody would be willing to pay for the right to use it for a period of time. We do not want anything that the man produces with his own labor. We simply want what the monopolist takes out of what he produces and puts in his pocket.

When the chairman of this committee raised on the floor of the House a year ago and said that they had "raked the country with a fine-toothed comb," or substantially that, to find possible sources of additional revenue, I smiled. He simply stepped over great big fat sheaves of bursting grain to pick up three or four rotten straw on the other side.

Here is this fund, which is the natural fund, created by the community, and, I believe, belonging to the community, and instead of taking the part of it that you need, you are going into the pockets of the washerwoman and the street car motorman and conductor and making him cough up out of his meager earnings.

I think that expresses my position. I think you get my point of view.

Mr. OLDFIELD. What would be the rate of levy of the tax?

Mr. STAR. Whatever you propose. If you want 2 per cent, or 10 per cent, say what you want, and take it.

Mr. OLDFIELD. What will 1 per cent yield?

Mr. STAR. One per cent will produce \$400,000,000.

Mr. OLDFIELD. And 10 per cent will produce \$4,000,000,000.

Mr. STAR. Yes. One point this committee wants to remember. That there is an identity between the political, the economic, and the ethical phases of this whole proposition, and no proposition can be politically sound that is morally wrong; no position can be economically true that is ethically false. I just want that understood, because that has got to be the key to the whole solution of this problem.

Mr. RAINEY. We will now hear Mr. Gores.

**STATEMENT OF MR. GUIDO GORES, ATTORNEY REPRESENTING  
STARR PIANO CO., CINCINNATI, OHIO.**

Mr. RAINEY. State your full name, whom you represent, and address.

Mr. GORES. My name is Guido Gores; I am attorney representing the Starr Piano Co., of Richmond, Ind.; address, Cincinnati, Ohio.

I want to take but a moment to speak regarding section 600 of the war excise tax act, which imposes 3 per cent tax upon sales of articles by manufacturers. I realize the time is very short, and I will come to the point immediately.

There is no idea of protesting against taxation, and the point is raised at this time rather in anticipation of increased taxes under this head, rather than the idea of an abolishment.

I wish to point out merely on behalf of the manufacturers who not only manufacture but in the course of their enterprise follow out their activities by becoming retailers, that there is somewhat of a very unjust effect in this tax as it is here put forth. I speak purely from the point of view of the manufacturer who is also a retailer. This tax he must pay upon his product as he sells it. The manufacturer who is enterprising enough to create retail outlets, as, for instance, the particular firm which I represent, has established some 30, or 40, or 50 retail stores and is compelled to pay a tax on the retail price of its goods, whereas its competitors, such as have not seen fit to go into the retail sale business, pay a tax upon merely the wholesale price. That is, tersely stated, the point I want to bring up—that there is no objection to taxation at all; it is merely the desire to call attention of the committee that a few words might create more of an equality.

I will give a concrete example: I represent a firm that has lately gone into the phonograph business and into the phonograph record business.

Mr. MOORE. Is that the Starr Piano Co.?

Mr. GORES. Yes, the Starr Piano Co. If it were merely speaking for this one company, I would not presume to take your time. But there must be others in the same situation. But, we will state our example: The Victor Co. sells all of its products to wholesalers and it is only taxed on the wholesale price; and the American Graphophone Co., I believe, sells only to the graphophone companies and pays tax on the wholesale price. This is an industry which has practically grown up to be in the hands of but a few, and of late years there are some of the minor manufacturers who are fighting their way through, and they are coming forth with their factories and making phonographs and records. It has been a task of tremendous expense, and the capital has gone in, and now, as we are about getting into the position of selling our records, and they are becoming known on the market and other phonograph manufacturers' products are becoming known on the market, the Government is coming in and levying a tax, and these manufacturers, in order to create outlets for their products, have been compelled to go into the retail business, because the public did not know these phonographs and records, and their producers have to go out and create their own retail stores. We find at this moment, after we have spent all this money and have a very hard road to travel, that we are to be placed under this 3 per cent

tax on a basis that is just approximately 100 per cent more than the fellows who can very much better stand it have to pay; for instance, the Victor Co., which represents perhaps the most conspicuous example of the ones enjoying the wholesale figure.

Mr. MOORE. The Victor Co. does not retail?

Mr. GORES. The Victor Co. does not retail. I am not attacking the Victor Co.

Mr. MOORE. Are you really complaining of double taxation in a case like this?

Mr. GORES. Not at all. This is really intended to be a tax on manufacturers and not a tax upon retailers. The law expressly exempted retailers from taxation, and it has created a flat tax of 1½ per cent on the jobbers. It was meant to be particularly a manufacturers' tax. Where we complain is that as manufacturers we have got to pay about double the rate because of the fact that in order to find an outlet for their products they have found it important to go into the retail business.

Mr. MOORE. Is your point that where a manufacturer retails his own goods, paying all his taxes as a manufacturer—excess profits, etc.—that he should be relieved because he retails, of the 3 per cent tax?

Mr. GORES. Not at all. He should be allowed to pay the 3 per cent tax on the wholesale price rather than on a retail price. Take, for example, a phonograph that the Victor Co. sends out to the public at \$500. It sells to its jobber at \$250, and the Victor Co. pays 3 per cent on \$250. We make a phonograph which we sell at \$500 to the public. We have got to pay a retail tax on \$500, whereas the Victor Co. gives to the public an instrument of similar character and pays 3 per cent on \$250.

Mr. STERLING. Can you not avoid that by simply charging up to the stores what would be the manufacturers' taxes?

Mr. GORES. Precisely. But under the law we are not allowed to.

Mr. STERLING. The law is plain. It literally says "at the price at which they are sold."

Mr. GORES. That brings me to a point that I fought out here last January, when the position of the Revenue Department was that if these concerns were separately incorporated, if all these retail stores operated under separate charter, that in that case, naturally the sale being to a separate legal entity, that, therefore, we could only be taxed on the basis of our sale from the manufacturer to our retail store, which was the wholesale price.

Mr. STERLING. It would be easy to make them separate entities, would it not?

Mr. GORES. I am going to answer that in just a moment. The regulations of the Treasury, under date of May, 1918, have gone so far as to say that wherever they find that a manufacturer creates a corporation merely to evade this tax in the manner you have just obviously outlined, the department will not accept that. They will say that the separate corporation is simply the agent of the manufacturer, and therefore the 3 per cent must attach on the retail sale price.

Mr. STERLING. We have fought all that out. We have been at it since the law was passed. We have no effect. I think their positions have been logically sound, and our positions have been logically sound. We have no complaint. Their ruling is the law.

But we feel that just a few words inserted in the new bill will probably meet that exigency.

Mr. DIXON. What is the amendment you suggest?

Mr. GORES. My amendment would be precisely this—the gentleman already foreshadowed it:

That where the manufacturer is also a retailer, that this tax of 3 per cent be computed—where he makes his own sales as a retailer—on the basis at which he wholesales his product to the trade.

There is not any one of these manufacturers who retails who does not also sell to the jobbers and to retail dealers. In our case, we do. There is nothing to be concealed; there is no administrative difficulty. The auditors can go to the books and find the legitimate price at which it is sold to the trade, and all we ask is that the tax be computed on the basis to our own retail departments that we sell to the jobbers and to the other retailers, so that we stand on something like an equal footing with the other fellows who do not see fit to go into the retail business.

Mr. HAWLEY. Suppose you make a piano, the wholesale price of which is \$500, and your competitor makes a piano the wholesale price of which is \$500. You retail your piano through your own stores at \$750. Do you think you ought to be relieved of paying a tax on the excess of \$250, and pay the same tax that the other manufacturer does on the \$500 price to the retail trade?

Mr. GORES. That states the proposition nakedly.

Mr. STERLING. Are there many different places of business that meet this same difficulty, or is it confined largely to the music interests?

Mr. GORES. I should say that it has been the fashion to have subsidiary corporations in great measure. I think practically nowadays we have just gone through a period that when a man who had an idea in business started a company, and we have had the proposition up to subdivide our property into corporations. But it is my belief that there are a great many who finds it very desirable to hold their business under one charter, and I suppose we would prefer to pay the full tax rather than create separate corporations.

Mr. STERLING. There are a great many manufacturers of candies that retail their goods, and I think very properly there should be a tax put on candy. As they have construed the law, the candy manufacturer would have to pay the tax on what he sells at retail?

Mr. GORES. Yes.

Mr. STERLING. At the retail price?

Mr. GORES. Yes. That is perfectly all right. If the manufacturer who also retails could not show any basis of a wholesaling traffic, why, then it would not be applicable.

Mr. STERLING. Well, he could do this: Let him deduct from his retail price what he customarily allows the retailer before you compute the tax?

Mr. GORES. That would unquestionably be a simple process.

Mr. STERLING. But you mean to say that in your business the retailer gets one-half of the retail price?

Mr. GORES. I believe this—I am not stating anything that is not generally known—that the prices on phonographs to dealers by the Victor Co., and I think our company and practically all of the companies, is something like what they call 40 and 10, a discount of a cent

and 10 per cent from the list price, which it goes to the public—that is the price on which the retailer operates.

Mr. DIXON. The retailer is not allowed to rebate any on that commission or profit to purchasers?

Mr. GORES. There has been desperate effort to prevent it.

Mr. OLDFIELD. Have you succeeded in preventing that?

Mr. GORES. We might say we are such very small potatoes in the game—I can not state for the Victor—but simply speaking for one independent concern, there has been very little difficulty in upholding the phonograph prices. It seems that the public has gotten used to Victor prices, and if they buy the other article they will buy it at about the same price.

Mr. DIXON. They take the agency away in case they find the dealer violates the agreement?

Mr. GORES. I think that price proposition was settled in the Supreme Court not so long ago, when the decision was rendered that after the manufacturer made the sale and had no further prospects of royalty or profits—that was the Macy case—and it was held that the price control was “busted,” and so it is purely a matter of expediency as the dealers see their own interests.

Mr. OLDFIELD. Do you know whether they still have those contracts and try to enforce them on the retailers?

Mr. GORES. I really do not know, but it would seem to me the obvious answer would be that they can not attempt it after that decision.

Mr. OLDFIELD. I know they can not, legally.

Mr. RAINEY. We will now hear Mr. McCall.

**STATEMENT OF MR. GEORGE McCALL, REPRESENTING THE WESTMORELAND COAL CO., PHILADELPHIA, PA.**

Mr. McCALL. I just want to say a few words in regard to the method of assessment of the excess-profits tax, and chiefly with regard to the method by which you deduct the cost of improvements or renewals, before you begin to compute the income. That has been the great source of dispute with all the tax collectors that come around: Whether something that you do to improve your property is an improvement or is merely a renewal.

In anticipation that the excess-profits tax, when you do come to compute incomes, is going to be a great deal higher this year than last year and not leave so much money over to do anything with, I just want to call the attention of you gentlemen to the fact that the progress in the coal business, the improvement in the coal business—in the mining part of it—is almost entirely for two purposes: One is to conserve the number of men and make the number of men that you have there do as much work as possible, and the other is a matter of safety.

The only way in which the coal miner will possibly have any money to spend on improvements and extensions of this character is going to be out of earnings, because it is out of the question to raise any fresh money, and I merely wanted to draw to your attention the importance of allowing a deduction for improvements and betterments before you begin to figure income on which you have to pay the excess-profits tax.

But we feel that just a few words inserted in the new bill will probably meet that exigency.

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The only way in which the coal miner will possibly have any money to spend on improvements and extensions of this character is going to be out of earnings, because it is out of the question to raise any fresh money, and I merely wanted to draw to your attention the importance of allowing a deduction for improvements and betterments before you begin to figure income on which you have to pay excess-profits tax.



I will just cite you one instance: We have been, in our company, expending about \$300,000 a year every year in improvements—going over from compressed air to electricity and different things of that sort. We took two mines last year and we spent about \$115,000 to \$120,000 in having the steam plant concentrated at one mine, and at the other mine shutting down the boiler house and connecting it up with a central electrical station. We did away with three turns—since the eight-hour law went into effect—of about five firemen and water tenders corresponding. By the expenditure of that \$110,000, or \$120,000, we were enabled to take 18 men, who would have been working in that boiler house, and put them at something else. In fact, I do not know really how we would have kept the two boiler houses running, or the mines running, if we had not economized in the number of firemen necessary.

The whole question raised is—when you reach a point when you are going to take 40, or 50, or 60 per cent of what people earn in excess—unless you know you are going to have a certain amount of money to spend, you would not dare to go into a matter of that kind, in the first place; and then there is the dispute with the collector whether that is a new thing—and you can not deduct it from your expenses before you begin to figure income—or whether it is replacement of old things and you can deduct it from your income. For instance, we put up a central supply house for the economical conservation of our supplies. It was a small matter; it did not amount to much, but there was a case where the Government officials regarded it as a new thing and would not allow the expense of it to be deducted from our expenses before we began to figure income.

All I wanted to call you gentlemen's attention to was this, that if in the law it could be made pretty explicit about what is deductible, and what is not deductible—for it is one of the most disputed things in settlements with the income-tax collectors; and it is also, I think, proper that the improvement, the better utilization of your men, the better safety of your men, and the use to the best advantage of the men you have got, should be encouraged and not discouraged.

Mr. MOORE. Mr. McCall, would it interrupt you if I ask you one or two questions?

Mr. McCALL. I have said everything I want to say in regard to that.

Mr. MOORE. You said you made provision for the expenditure of \$300,000 for betterments last year?

Mr. McCALL. In that neighborhood; and we did also the year before that.

Mr. MOORE. Did that include the construction of cars?

Mr. McCALL. No; it was putting in new boilers, generally; it was another power plant that we built the year before—we have three mines now connected with one power plant and two mines connected with another power plant. The operations at these various mines are so connected that they only have boilers at the main stations.

Mr. MOORE. This was electrification?

Mr. McCALL. It was electrification; yes.

Mr. MOORE. Your mines are all in western Pennsylvania?

Mr. McCALL. They are all in Westmoreland County.

Mr. MOORE. And you produce bituminous coal?

Mr. McCALL. We produce gas coal. It is used in the gas works; it is used by the steel companies for making gas for melting steel and heating steel; and we sell some to the railways.

Mr. MOORE. That is your specialty?

Mr. McCALL. That is our specialty.

Mr. MOORE. I know you are large producers, and I want to ask you to what extent you use your own cars?

Mr. McCALL. We produce about three and a half to four million tons a year, normally. We have produced more than 4,000,000 tons a year. We have 2,000 individually owned railroad cars, and we own a line of barges—nine barges, I think, we have—that run, in capacity, from 2,800 tons to 2,600 tons, and some 1,600 tons.

Mr. MOORE. Do you supply the New England trade?

Mr. McCALL. We very largely supply the New England trade.

Mr. MOORE. How does your coal get there—in what proportion does it get there by rail and by boat?

Mr. McCALL. Part of it goes by rail; most of it goes by boat; some of it goes from Perth Amboy and some from Greenwich and Philadelphia.

Mr. MOORE. It goes by rail from your mines to the tidewater ports?

Mr. McCALL. Either one of the tidewater points.

Mr. MOORE. Do they ship much out of the Delaware River?

Mr. McCALL. Oh, yes; we shipped 32,000 tons last month out of the Delaware.

Mr. MOORE. A great deal of it goes in your own cars?

Mr. McCALL. Yes; in the 2,000 cars we own; and we try to keep those as much as possible on the mines back and forth between Pittsburgh and Philadelphia.

Mr. MOORE. Are you producing as much this year as you did last year?

Mr. McCALL. Not quite.

Mr. MOORE. You are not up to normal?

Mr. McCALL. No.

Mr. MOORE. What could you say to us about the prospects of having an ample coal supply to meet the conditions?

Mr. McCALL. Mr. Moore, it is the transportation question. We have man power. We are producing now about 11,000 tons a day, and we have man power to carry that on.

Mr. MOORE. Were you here when Mr. Dawson, of West Virginia, spoke?

Mr. McCALL. I heard him.

Mr. MOORE. He made the statement, in answer to one or two of my questions, that they were able to produce the coal, but the difficulty in the matter of distribution was due to transportation.

Mr. McCALL. I think you could say as a fair proposition that most of the mines in the country have a man power of about 75 per cent of their theoretical capacity, and they can produce that coal if they get the cars to put it in.

Mr. MOORE. You use your own cars to a large extent?

Mr. McCALL. We have 2,000 cars, as I have said.

Mr. MOORE. Do you them exclusively?

Mr. McCALL. Oh, no.

Mr. MOORE. You have to depend upon the railroad companies?

Mr. McCALL. We have to depend upon the railroad companies, too.

Mr. MOORE. I want to ask you just what the arrangement is between you and the railroads as regards the use of your cars?

Mr. McCALL. That has been a very discouraging feature of the privately owned cars. We got 6 mills a mile for cars, and we get the same price now for cars that are 50-ton capacity; we get paid by the railroad the same price that we used to get paid for 20-ton cars; we get the same price for cars that now cost \$1,000 that used to cost—I will not say now, because they cost \$2,700, and they have cost \$3,000, but in normal times the cost of these 50-ton steel cars is \$1,000, whereas the old wooden cars, when these rates were put into effect, were 20-ton capacity and the cost about \$400. We have never gotten an advance in rate.

Mr. MOORE. This helps in the matter of revenue, but it is very important in its bearing on the success of our industries?

Mr. McCALL. Yes.

Mr. MOORE. And I was very anxious to get Mr. Dawson's statement, and I would like to get something from you, if you will bear with me for a minute, and the committee will. Your price for coal has been fixed, has it not?

Mr. McCALL. Oh, yes. We sell all our coal under Government regulations, except two or three old contracts that are much lower.

Mr. MOORE. That does not make you very cheerful as to your own prospects; is that the idea?

Mr. McCALL. Which?

Mr. MOORE. The fact that the Government has fixed your price.

Mr. McCALL. I tell you what it is, Mr. Moore, there is no particular kick coming on the fixed price if we could get cars to continue our production. But, for instance, you take February and March. The normal movement last year of our cars for February and March was 850 miles a month per car; last February and March it was 352 miles in one month, and 325 miles in March. That was the lowest month we had. The railroads were just simply down and out. Our cars moved not much over one-third of what they had moved in the same month of the two years previous.

Mr. MOORE. Would you mind telling what the relation is between you and the railroads as to compensation for your cars?

Mr. McCALL. We have no relation except they give us 6 mills a mile.

Mr. MOORE. Six mills a ton-mile?

Mr. McCALL. No; 6 mills a mile.

Mr. MOORE. What change has been made since the railroad rates went up?

Mr. McCALL. There has not been been any change in 20 years; they pay the same old rate. We really give them the cars for nothing.

Mr. MOORE. Let us get that right, in fairness to you and in fairness to the Railroad Administration. You got for a small car, a 20-ton car—

Mr. McCALL (interposing). They were 40,000 ton cars, it was 20 tons really.

Mr. MOORE. You got six-tenths?

Mr. McCALL. Just the same as we do now.

Mr. MOORE. What do you get for the larger cars?

Mr. McCALL. Just the same.

Mr. MOORE. What would that car carry?

Mr. McCALL. It would carry 50 tons and cost over twice as much.

Mr. MOORE. The railroad rates have been going up—freight rates and passenger rates.

Mr. McCALL. Yes.

Mr. MOORE. We have been making appropriations to aid the railroads. They have been giving you no consideration, is that the point?

Mr. McCALL. Not the slightest. In fact, the private car owner has been looked upon with suspicion. Our company would have had instead of 2,000 cars, 4,000 cars in the field to-day if we had had decent treatment, but we were not paid enough to keep the cars in repair, let alone get any return on the money put into them.

Mr. MOORE. If you felt safe enough, from a business point of view, to make an investment, putting 2,000 more cars in the field, to what extent would that relieve the coal shortage next winter?

Mr. McCALL. You could not really go and buy 2,000 cars now, I believe. The price of cars is so terrific that a car normally worth \$1,000 is to-day worth \$2,500 or \$2,600.

Mr. MOORE. Do you mean to say it would not pay you as a business venture to purchase any more cars?

Mr. McCALL. Oh, no.

Mr. MOORE. Has the Government now operating the railroads sufficient cars to enable you to work to your full capacity?

Mr. McCALL. I could not tell whether it is the cars or movement. Cars are pretty good now, I will say that. But last winter it was awful.

Mr. MOORE. You did not get service to meet your capacity last winter?

Mr. McCALL. Oh, no; we could not.

Mr. MOORE. Now that the winter is gone and we are in fair weather, have you been working to capacity?

Mr. McCALL. We have been working pretty fairly up to our man capacity. We generally load about all the cars every day that we get. I think it is very seldom we have a surplus over at night.

Mr. GREEN. Speaking now of the cost of mining, do the operators file anywhere a statement showing the cost?

Mr. McCALL. Why, the most elaborate cost schedules go down to the Federal Trade; we send them down every month; our costs down to a cent.

Mr. GREEN. But those are not made public?

Mr. McCALL. Oh, no.

Mr. STERLING. They are open to inspection?

Mr. McCALL. Yes; I imagine so. They are all there.

Mr. GREEN. No; they are not open to inspection.

Mr. McCALL. Well, they are all there.

Mr. GREEN. In fact, when I went to Dr. Garfield to inquire about the cost of coal in my own State of Iowa, I found that while he had these elaborate statements from the Federal Trade Commission, they were not treating it as public.

Mr. McCALL. I know nothing about that part of it, but I know we send them down every month.

Mr. GREEN. I don't myself see any objection to that being subject to public inspection; do you know of any?

Mr. McCALL. I don't suppose these different people want everybody to know just what the mining costs. But the people are getting used to pretty searching questions these days.

Mr. GREEN. A public-service corporation like a railroad, we have long ago agreed their costs should be made public.

Mr. McCALL. They have about recovered from their attack of biliousness, although they had a hard time giving up that information in the beginning. I want to make one statement in regard to 60 per cent of the cost of coal being labor. I don't know what you call labor, but the officials and all have to work. I think about 90 per cent of the cost is labor, if you include the clerks and the officials that have to be there to get the coal on the market. I don't know why you mark off the band of labor a man that doesn't go out with a pick and shovel. He has to be there, and work, too.

Mr. STERLING. They are only paying about 3½ cents a ton royalty?

Mr. McCALL. Oh, no; 10 cents a ton is the lowest I ever knew in Virginia, and it has run to 25 cents.

Mr. STERLING. I am speaking of Illinois.

Mr. McCALL. I don't know anything about that. But 10 cents is the lowest I ever heard of in Virginia, and West Virginia, and I have known it as high as 25 cents around Pittsburgh, and that is as high as I have known.

**STATEMENT BY HENRY L. DAUGHERTY, REPRESENTING  
THE HENRY L. DAUGHERTY CO., OF NEW YORK CITY.**

Mr. DAUGHERTY. Mr. Chairman, and gentlemen of the committee, I represent the Henry L. Daugherty Co., of New York, who are operators of public utility, natural gas, and oil properties. I wanted particularly to call the attention of the committee to the situation regarding natural gas and the effect of taxation on the supply of natural gas. It is not generally recognized the extent in some parts of the country—natural gas is so little known that many of us do not know to what extent it flows, and what part it plays in the domestic and industrial affairs of the balance of the country.

Of the cities, villages, and communities supplied with gas in the United States, 55 per cent, or over 50 per cent—I don't want to attempt to be too exact—are supplied with natural gas.

This natural gas is secured by drilling after the fields have been located by the oil drillers. In other words, nobody ever does what we term wildcatting for natural gas, but we depend on the wildcatting of the oil companies to locate our natural gas for us.

Our particular concern is the control of natural gas; the principal operations are in New York, Canada, Ohio, and the midcontinental field, supplying probably 300,000 customers. Since the passage of the last revenue bill there has been a noticeable falling off in the exploration for oil, the tendency to wildcat, as we term it, in oil operation. Prior to the passage of the last revenue bill there was going on what might be termed a gaining process all over the country to find oil. Since the revenue bill was passed there has been a gradual falling off in wildcatting operations, and where it is carried on at all, it is only in the very promising districts. The oil men are not yet conscious of the situation the present revenue bill leaves them in; and because of this, and because they do not realize what the situation will be, they are abandoning, in some cases, operations that have been actually started.

The tendency is for natural gas to be in demand more and more; the excessive demand for fuel has made itself felt in the demand for natural gas; in the past winter, in many cases, there was a tax on the natural gas mains that it was hard to supply, due in large measure to the lack of coal and fuel in certain localities.

Mr. GREEN. I might say, Mr. Daugherty, that some of the oil operators, or explorers, have realized this condition, of which you speak, because we have had some of them here to present their case, and they want to be set aside in a separate classification for the purpose of excess-profits tax, so that it will not be so hard on them. We have heard several parties on that line.

Mr. DAUGHERTY. Well; I don't want to take up the time of the committee with old things. I didn't know anybody had taken up the natural gas situation with the committee.

Mr. GREEN. No; not the natural gas situation, but the oil situation.

Mr. DAUGHERTY. We are dependent, as I said, on the oil man to explore the field. Special consideration should be given to the natural gas situation, because we feel that more and more users of fuel will call on natural gas for their supply.

I am an oil man, and am generally familiar with what the oil men are doing. In the first place, the natural gas is confined to a very few people in this country, and so far as I know, they have not felt any particular interest in the revenue bill, aside from what an ordinary business man would feel, and they have made no special representations to the committee; and I feel that you men would like to know what the effect would be of this taxation. I am especially anxious that there should be no discouragement of the wild-cattling operations. I am not here with any solution as to how you are going to prevent discouraging wild-cattling operations, but that is the thing that I am especially concerned about.

Mr. LONGWORTH. Are you a member of the company that supplies Cincinnati?

Mr. DAUGHERTY. No; I am not, but I know something about it.

Mr. LONGWORTH. They had a very bad season there this past year, because of the lack of pressure; was there any reason for that?

Mr. DAUGHERTY. Yes; if you take out too much gas out of the mains, the consumer is always complaining of poor pressure. That is another way of saying that there is an inadequate supply of gas.

Mr. LONGWORTH. The supply is not exhausted there, is it?

Mr. DAUGHERTY. Last winter, in many cases, where the people had depended on coal for fuel, and couldn't get it, they made inordinate demands on us. We couldn't curtail it to them, because they could use it if anybody had gas; they had the connections, and they could use the gas if anybody had it. It was very critical last year, and it will become very critical next year, because our consumers have the means to draw on us, and if they have the power to draw it they will draw it when they need it. And for that reason we think we will have trouble next year, with the gas supply. You will always have trouble in houses where there is a gas connection and where there is a pilot light on the connection, when the pressure becomes low the pilot light will go out, and then when the pressure comes up the gas will escape and in heaters located in cellars and closed rooms it will form a mixture of gases that may cause very serious trouble.

Mr. LONGWORTH. The situation was serious last winter in Cincinnati.

Mr. DAUGHERTY. It was not as serious there as in some places in the country.

Mr. LONGWORTH. I understood it was as bad there as any place.

Mr. DAUGHERTY. No; it was not.

Mr. LONGWORTH. The cold weather itself does not have any effect on the gas pressure, does it?

Mr. DAUGHERTY. No; you can transmit a little more gas in cold weather than you can in warm weather.

The wildcatting operations in oil have, as I have said, fallen off at a very rapid rate. Heretofore, the producing of oil was in this way, describing it roughly; the larger companies, when they had to draw on their stock, when they were not producing as much as they were consuming, they would raise the price, and kept on raising it, until it caused a great demand for oil, and then the wildcatters would explore and produce oil in large quantities, and then they would decrease the price of oil as the production increased.

Now, in the wildcatting operations, one well in a hundred is a success; the other 99 are failures. The wildcatter has to take his loss if he secures no oil. Heretofore if he got oil he could take 100 per cent profit. As the law now stands, he will always have to pay an excess-profits tax, because in a successful oil operation, it is practically all profits. He may bore ninety-nine wells, at a cost of \$2,500,000, and that will be his loss if he does not have a success; and then he may make one success, and produce oil, and perhaps develop a field that is worth \$2,500,000 or more. His success in that one well will represent practically all profits, so far as that one well is concerned, and therefore becomes an income on which he must pay an excess-profits tax and pay practically all of it over in taxes.

Mr. LONGWORTH. Don't you think if we gave that class of men a larger exemption, it would stimulate production?

Mr. DAUGHERTY. No, I do not. If you want to encourage wildcatting, you must put them in a special class by themselves.

Mr. GREEN. You will find in the hearings a statement made by Judge Shea, and others, and Judge-Shea also promised to furnish the committee a concrete plan.

Mr. DAUGHERTY. I don't know whether that is in the record, or not. So far as I know, no man has tried to view this from the standpoint of natural gas production.

Mr. LONGWORTH. I wish you could make us a concrete suggestion, because I understand there is a pretty serious situation with reference to the prospect for natural gas. I didn't know you depended on the production of oil for it.

Mr. DAUGHERTY. Yes, sir; I am somewhat embarrassed because I have already taken too much time, and I don't want to trespass on anybody else's time.

Mr. RAINEY (presiding). You are not trespassing on anybody else's time; when the committee asks you questions you are on the committee's time.

Mr. DAUGHERTY. I can see no solution of it, except putting it in a classification by itself. As you can see, by working out an example, a man puts in \$25,000 and gets a \$3,000,000 well. He may have had 99 failures prior to that, but when he gets his \$3,000,000 well, he has to pay practically all of it in taxes. Take it in gold mining, economists say that more money is lost than is made in gold mining. It is the

success of the one man that encourages everybody to try gold mining. Out in Denver, Colo., where I used to live, practically everybody is grubstaking some man, who is up in the mountains, trying to find gold. If he finds his mine, the Government will say to him, "You will have to pay practically all of that over in taxes."

Mr. LONGWORTH. It is invariable that when they have a profit it is excess profit.

Mr. DAUGHERTY. It is in the nature of the business, that if a man makes a success at all, and makes a profit, it is an excess profit, in the oil business; it is the natural order of things.

Mr. LONGWORTH. We need all the oil we can get.

Mr. DAUGHERTY. Yes; it is away short. I might call your attention to another thing that might be of value to you. It is a serious thing with those of us who have to seek capital when you provide that borrowed capital shall not be regarded as capital. I am an oil man. I think all the capital ought to be used for producing new industry; we ought not to call in any of the money, but we ought to encourage the use of all the capital possible.

Mr. LONGWORTH. Speaking of the general situation, what do you think of a shortage of gasoline?

Mr. DAUGHERTY. I don't think there is any danger of a shortage of gasoline. Last winter there was an accumulation of gasoline. We take a crude product out of the field; the crude oils recently have been high in gasoline content. We distill the crude product we take from the field into the different commodities it will produce, and the crude oils have been recently, as I said, high in gasoline content.

Another feature of your revenue bill that makes me tremble is the talk of a heavy tax on gasoline. Whenever we take out the product out of the ground we will have to make it up into all the distillations we can in order to make the largest amount of profits. Just now we are short on fuel oils. In the spring of the year we are usually long on gasoline, and in the fall we are shorter on gasoline—not always short, but shorter. I look for a continuance of a heavy production of gasoline from now on.

Mr. LONGWORTH. That is encouraging.

Mr. DAUGHERTY. It won't be gasoline we will be short on, in my judgment; it will be fuel oil.

Mr. GREEN. Then you think natural gas should be in a classification by itself; and then would you have the rates lower, or would you have some system whereby they would have a larger allowance for capitalization?

Mr. DAUGHERTY. I know of no way to do it, except to make a larger allowance for capitalization. I would not advocate putting all branches of the oil business in a separate classification, except as you men might think it wise on account of the hazard involved.

Mr. GREEN. That is the thing I had in mind, the hazard.

Mr. DAUGHERTY. Let me put it this way. Some branches are safe, and some unsafe. The piping of oil is not considered a highly hazardous business, but the production of oil is a business by itself. I see no way to bring the wildcatting in oil production back to its normal condition without special inducement; and we need abnormal wildcatting.



There are two or three things that I did not cover, which I would like to present to the committee; and, if I may, I would like to file a written memorandum on them.

Mr. RAINY (presiding). Without objection, you may do so.

**STATEMENT OF MR. THEODORE G. ROBINSON, MANUFACTURER OF PEARL BUTTONS, AND PRESIDENT OF THE OCEAN PEARL BUTTON MANUFACTURERS' ASSOCIATION.**

Mr. ROBINSON. Mr. Chairman and gentlemen, I represent two organizations composed of manufacturers of small buttons made from ocean pearl shell, the Ocean Pearl Button Manufacturers' Association and the Mother of Pearl Industry Association, together with 15 other manufacturers. We appear in answer to the announcement of your committee that you will give careful consideration to all suggestions with reference to sources of revenue.

Before I start on my direct subject, may I say a few words about the work of the United States Tariff Commission? During the past year the commission has made an investigation of the button industry. Its investigation has been completed, and their report has just come from the press. I understand it is not to be released until next Monday, July 8, but the commission has allowed copies to be supplied to the members of this committee to-day for confidential use, in view of our appearance at this time. This work contains the latest data as well as the most comprehensive treatment on buttons of which I know. I think we are particularly fortunate to have it now, so that you can easily supplement any facts we draw to your attention and verify them in an authoritative way.

We do not appear to argue for a tariff on buttons in the usual sense with the proper protection of our industry uppermost in our mind. For such protection we firmly adhere to the belief that our industry requires a specific or combination specific and ad valorem duty. But now we propose for your consideration a large increase in the present ad valorem rate of import duty for the purpose of securing a large increase in revenue from the imports of pearl buttons as well, possibly, as larger tax returns from the industry in this country. We believe that such action will not lessen imports below what they would be otherwise.

Although the manufacture of pearl buttons is of comparatively recent development in Japan, she started under the old tariff of 1½ cents per line and 15 per cent ad valorem to export buttons to this country and under the new tariff her exports to America have increased tremendously. (In addition to the recorded exports from Japan under the old duty, it is well known that other Japanese buttons were imported into this country from France, whose exporters found that they could buy Japanese buttons and take care of their United States customers to better advantage than her own manufacturers could furnish them.) In the four years between 1912 and 1916, Japan increased her exports of pearl buttons to this country over 2800 per cent.

During the same time her exports to the rest of the world increased more than three times. One suggestion we wish to emphasize is that there is no indication that Japan has at any time felt the need of competitive struggle for business. Her sales have kept pace with

her power to produce and her capacity for production has been increasing at a prodigious rate. We therefore conclude that Japanese production would absorb a much higher import tax, no matter how levied, before it would reduce its exports to this country.

We are thoroughly of the opinion that an increase in the rate of ad valorem duty on pearl buttons will increase the revenue derived from their import duties practically in direct proportion to the increase in the rate; that is, if the rate of duty is doubled the amount of revenue will be practically doubled, and this will be true even in the face of much more extensive increase than thus suggested.

Mr. STERLING. Are you reading now from the Tariff Commission's Report?

Mr. ROBINSON. No, sir; this is a production of our own.

Mr. STERLING. Are you in harmony with them?

Mr. ROBINSON. I have not consulted with them. We have had our own industry uppermost in mind, and we have investigated the matter from our viewpoint, and we believe it would be preferable to have a combination of a specific and ad valorem duty; that is, specifically for the purpose of raising revenue.

If the rate of duty is doubled, the amount of revenue will be practically doubled, and this will be true even in the face of a much more extensive increase than thus suggested.

In other words, we do not believe that a change in ad valorem duty will have any appreciable effect on the amount of imports of pearl buttons.

We are of the opinion, further, that such an increase in the ad valorem duty may modify the character and average value of pearl button imports to such an extent as to allow domestic manufacturers to produce buttons more naturally and therefore to better advantage in this manner larger aggregate profits will accrue properly from the industry in this country on which higher income taxes will of course be paid to the Government. By making the production more naturally, I mean that manufacturers would be under less obligation to take unusual measures to increase the percentage of high value buttons above what would normally result from efficient manufacture. Such measures are necessary at the present time owing to the disastrous oriental competition, which is progressively intense the cheaper the buttons imported.

Mr. MOORE. Will you hold up there just a minute? Will you state what the tariff is you propose?

Mr. ROBINSON. We are advocating a combination of specific and ad valorem duty. The specific duty is 45 per cent on all buttons of 26 lines or over. All under that bear an ad valorem rate of 25 per cent.

Mr. MOORE. That is lower than the Payne rate.

Mr. ROBINSON. The Payne rate was a 25 per cent rate, together with a 15 per cent ad valorem.

Mr. MOORE. It is higher than the Underwood rate!

Mr. ROBINSON. The two are hardly comparable. The duty tends to change the character of the buttons coming in, as entirely different from the ad valorem rate.

Mr. MOORE. That is the reason I stopped you there. I think that needs an explanation.

Mr. ROBINSON. I think that will probably be cleared up if you allow me to proceed further.

Mr. FAIRCHILD. Are you able, too, to make a statement of the cost of labor?

Mr. ROBINSON. Yes, sir.

Mr. MOORE. You stated that the Japanese labor had increased?

Mr. ROBINSON. Yes, sir.

Mr. MOORE. And you are going on to give the rate.

Mr. ROBINSON. As I understand it, you want to understand how the income or imports under the prior or ad valorem rates of duty is different, and why they can't be properly compared.

Mr. MOORE. I wanted to know what the difference was as between the two laws.

Mr. GREEN. We understand perfectly the two theories, but I wanted to know, at least, and I think Mr. Moore did, in working out the Underwood law and the Payne law, which one worked the more advantageously to the manufacturers in this country?

Mr. ROBINSON. The Payne law, without a question. It is a duty which is a combination of specific and ad valorem, and it more definitely equalizes the labor, as I think will appear.

Mr. MOORE. The imports of pearl buttons to this country has increased considerably?

Mr. ROBINSON. They have increased 2,800 per cent; that is, between 1912 and 1916.

Mr. MOORE. Before you go any further—I don't think this will throw you off your track. Pearls are gathered in this country, are they not?

Mr. ROBINSON. You mean pearl shells?

Mr. MOORE. Pearl shells used for pearl buttons.

Mr. ROBINSON. Some are gathered in this country; the fresh-water pearl shells. Others are gathered in Australia.

Mr. MOORE. We have a heavy demand in this country for buttons now, due to the demand for Army clothes, do we not?

Mr. ROBINSON. Yes, sir.

Mr. MOORE. Are there enough pearl shells in this country to supply the demand?

Mr. ROBINSON. I don't think there is any question about it.

Mr. MOORE. You think the American pearl shells would be sufficient, if there were encouragement of the industry, to meet every demand?

Mr. ROBINSON. I mean to supply the manufacturers of this country. There are two branches of the industry in this country. Those manufacturers we represent are the ocean-pearl button makers. They make a crude button.

Mr. RAINEY (presiding). The more expensive buttons?

Mr. ROBINSON. Yes, sir.

Mr. MOORE. What kind are used for the manufacture of soldiers' clothing?

Mr. ROBINSON. I don't know that there are any specifications.

Mr. MOORE. I understood this class of buttons were used.

Mr. ROBINSON. It may be that they are, by some of the subcontractors; I don't think they are specified by the War Department.

Mr. RAINEY. The sweetwater pearls are disappearing?

Mr. ROBINSON. Oh, no.

Mr. RAINEY. That is true along the Mississippi and Illinois Rivers; I know, because I live out there myself.

Mr. ROBINSON. The source of supply is being changed; the sweet-water beds are found now in different rivers; new beds have been found and the Government is taking very serious steps to conserve the supply.

Mr. MOORE. Where are the buttons manufactured principally in the United States?

Mr. ROBINSON. The pearl buttons are manufactured chiefly in Iowa, and I think in Indiana, one factory.

Mr. RAINEY. They just make the blanks.

Mr. ROBINSON. Possibly. Those western concerns make largely the fresh-water pearl buttons. The eastern concerns are largely ocean pearl button manufacturers.

Mr. STERLING. What proportion of the button supply are fresh-water pearl buttons?

Mr. ROBINSON. In dollars and cents I should say about 60 per cent.

Mr. STERLING. How many men are employed in the business?

Mr. ROBINSON. In the entire business, the fresh-water people estimate about 20,000. And in our business we have no definite figures that I can estimate them on. The labor is higher in our work. In the ocean pearl button work the cost of the material is so much higher that we must conserve the labor in our product; we must get everything out of the material, which means that we must save time and labor. We can't afford to waste labor.

Mr. DIXON. Do you represent the manufacturers?

Mr. ROBINSON. Yes; the ocean-pearl-button manufacturers.

Mr. DIXON. And the raw material for them is all imported?

Mr. ROBINSON. It is all imported; it is all taken out of the ocean.

Mr. STERLING. Is there a duty now on the raw material?

Mr. ROBINSON. No, there is not; there is no duty on raw material.

I think your question will be answered, Mr. Green, somewhat as we go along, in showing the difference between specific and ad valorem rates. If I may go back just a little, by making the production more naturally, I mean, that manufacturers would be under less obligation to take unusual measures to increase the percentage of high-value buttons above what would normally result from efficient manufacture. Such measures are necessary at the present time, owing to the disastrous oriental competition, which is progressively intense, the cheaper the buttons imported. The likelihood of this result will appear without separate discussion in connection with the points we desire to call to your attention affecting the increase of gross import revenue from an increased rate of ad valorem duty.

We took considerable care in the matter we prepared for the United States Tariff Commission to explain the peculiar complexities in the manufacture of pearl buttons. On account of such conditions the percentage of labor costs has no consistent relation to the market value or selling prices of the different grades of pearl buttons. Consequently, an import duty based solely on selling price, such as an ad valorem duty, would not increase in amount with an increase in the percentage of labor costs. As a matter of fact, in the case of pearl buttons, a directly contrary relation is the result; that is, the duty is progressively lower the higher the percentage of labor cost is to market value. Inasmuch as labor cost for the various grades of buttons

varies only within comparatively narrow limits for the same operations, labor cost bears an increasingly higher percentage to selling price as the buttons approach the cheaper end of the range of grades. An ad valorem duty, thus, becomes nominal on the cheapest buttons where the percentage of labor cost to the selling price is highest. The result of this is particularly evident where some cheap pearl buttons made in Japan have been sold in this country carded, material and labor, profit and duty included, for 5 cents per gross, or at a price less than the cost of carding and boxing alone in this country.

As the value of the buttons rises this disproportion of labor costs to selling price gradually becomes reduced, then reverses itself, and if you go high enough the point is reached whereat an ad valorem duty changes in its effect and becomes prohibitive. Thus under an ad valorem duty the anomaly occurs that our labor is progressively underequalized where it needs equalization most—that is, where its percentage to the selling price is highest—and it is progressively more than equalized where it needs equalization least; that is, where its percentage to the selling price is lowest. My point in emphasizing this feature at this time is to show that while an increase in the present rate of ad valorem duty—doubling it, or increasing it to a greater extent—may reduce the point where equalization of labor changes, still the only effect of this would be to lower somewhat the cost per gross of the buttons which can be imported to advantage. Since our experience has been that the range of imports from the Orient has been advancing continuously to include buttons of higher and higher price, and since, so far as we can perceive, Japan has never been called upon to manifest her competitive ability, but her exports have been limited only by her power to produce, it is our firm opinion that while the character of her exports to this country may change to include quantities of cheaper buttons, still there will be no reduction in quantity.

In the matter we prepared for the Tariff Commission American and Japanese labor costs for a number of operations were compared carefully, and their effect in making a quantity of 100 gross of buttons was shown when shell of two different values was used. We took particular pains in preparing the matter we presented to the Tariff Commission to compare carefully the labor cost between the American and Japanese production. There are conditions which operate at all times and unavoidably involve the manufacture of pearl buttons in multiform variations. The chief of these are:

- (1) The manufacturing necessity of making a number of grades of pearl buttons widely varying in market value when one grade is made.
- (2) The practically identical labor cost per gross of making all grades.
- (3) The impracticability of selling the whole fall of seconds and low grades in one class (regarding them as an inconsiderable loss, as is done in many lines) on account of the large proportion and wide difference in quality of these low grades; this makes it necessary to classify them into a number of grades of different values and to modify the prices on first-quality buttons according to the income received from their sales.
- (4) The impossibility of selecting the poor-value buttons prior to investing enough labor expense in them to necessitate finishing them.

A comparison of the manufacture of two lots of buttons made from two different grades of the same species of shell will illustrate graphically the wide variation in results:

Material used in one illustration cost 16 cents per pound and the material in the other illustration cost 45 cents per pound. The cost of the American labor operations figured \$42.45, and the corresponding Japanese operations figured \$9.96. The cost of the 100 gross of buttons made from the 16-cent shell laid down ready for business in the United States with duty paid on those from Japan would be \$38.21 in the case of Japan and \$65.34 in the case of America. From the 45-cent shell the two costs would be \$76.06 in the case of Japan and \$91.44 in the case of America. With the 16-cent shell it would be necessary to increase the duty to 148 per cent to make its cost equivalent to that of the same product in America. With the 45-cent shell it would be necessary only to increase the duty to 74 per cent to equalize it. But it is obvious that no foreign manufacturer would choose to use 45-cent shell when such opportunities are open as lie with the 16-cent shell.

These illustrations show the wide variation possible in resulting pearl-button value from the same labor and also that a very high increase in ad valorem duty would not discourage importation even if it were necessary to import all grades of buttons which it is necessary to make in making a single grade of button. But in fact the latitude is much broader than this indicates, for a foreign manufacturer not only can select the cheapest material from which to make buttons for the United States so that the percentage of labor cost will be highest and the amount of duty lowest but he can also select for export to this country only the cheaper buttons in the range of grades it is necessary to make in making one grade from a given material. Consequently, in many buttons that are sold the value of the material is negligible, and in fact some of our buttons in this country are sold and have been sold for years, due to domestic competitive conditions, at as low a selling price as 20 per cent of the labor alone invested in them. It is our firm opinion that an ad valorem duty will not keep out all imports of such an article as pearl buttons from another country where there is an extreme difference in labor cost until the ad valorem rate approximates the difference in labor cost between the two countries. In the most accurate figures we have been able to obtain, those referred to above, our American labor cost is more than 420 per cent of the Japanese labor cost.

Mr. GREEN. From what you said about the buttons being brought in from Japan, I think the rate might be increased without hurting the consumer; for instance, the cost of the buttons on a shirt would make so little difference on the cost that it would not be noticeable; or on a suit of clothes.

Mr. ROBINSON. The consumer would never know it; he would never know anything about the increase made along the line of our suggestion here. I don't think the consumer would hear anything about it at all.

Mr. GREEN. The increase to the consumer, you think, would be negligible?

Mr. ROBINSON. I don't think there would be any increase to the consumer. He might use one button instead of another. To-day, for example, we can't make buttons out of certain portions of our

shell, because of the character of buttons we get out of them; that is, I mean, because of the selling value. We can't compete with the Japanese buttons that come in here. They have cheap labor and cheap material, and they come in here cheaper than we can afford to turn out our buttons. Now, if the ad valorem duty were raised so that we could make the scrap into buttons, we could afford to pay our labor to do it, and the consumer here could get his buttons at home instead of an imported button. We could use our material to better advantage, and we could afford to pay larger income taxes, and we could get more out of it, and it would not be coming out of anybody's pocket.

In the matter we prepared for the Tariff Commission, on pages 114 and 115 of the pamphlet that has been given to you, you will notice the illustration of the difference in cost of manufacture.

We have tried to show that the ad valorem duty segregates a range of values of buttons that can be imported to advantage at the cheaper end and definitely prohibits the importation of buttons of higher values at the other end. Consequently, if a higher ad valorem duty is placed on pearl buttons it may reduce the value of the buttons which will be imported, and thus allow domestic manufacturers to choose more freely what combination of grades of buttons they can manufacture most efficiently, and therefore make better aggregate profits in the manufacturing process itself. On these, of course, they will pay their larger domestic income taxes.

In connection with the articles on imports of which an embargo has been placed to conserve shipping space, the Shipping Board has communicated with us regarding pearl buttons. We have understood that restrictions on their import have been under consideration. If they are put on the embargo list, or if their import is restricted, such situation will emphasize the assurance with which increased duties may be expected in proportion to any increase in ad valorem rate. Whether such restrictions are put into effect or not, in our opinion there is little question but that all the buttons which were not restricted would come into this country so long as this amount does not exceed the power of the Japanese to produce, and that this situation would come about no matter what the ad valorem rate of duty might be. It seems to us that it is especially appropriate to have these imports pay a tax as high as they will stand at this time, when all domestic business is being taxed to the limit of its ability to pay. It is conceivable that the purpose of restricting imports for conserving shipping space might be served to better advantage and with less chance of international friction by imposing a higher duty on pearl buttons which would apply to all nations rather than by arbitrary action which would not be so general in its application.

Our purpose has been simply to bring a few matters to your attention, bearing on this subject, for the consideration which you think they deserve. We hope, very respectfully, that you will examine the report of the Tariff Commission at as early a date as possible, and are confident that you will give full consideration to the facts it presents. If there are any further questions on which your committee would like fuller information, I am sure the interests I represent would be glad to furnish them to you at any time.

In closing, will you please allow me to emphasize the fact that in suggesting only an increase in ad valorem duty on pearl buttons, we

have been actuated by a realization that present conditions are urgent and abnormal and that an increase in revenue is your chief object. We should not want our recommendations at this time to be regarded as an expression of our opinion that any possible ad valorem duty could adequately conserve the interests of the country so far as they depend upon our industry, or in fact allow our industry to continue to exist in the United States, under normal conditions, unless such an ad valorem duty should be so high as to be unthinkable.

Mr. SLOAN. Mr. Robinson, you are presenting to this committee a means of raising more money for the country?

Mr. ROBINSON. In our belief, we do.

Mr. SLOAN. Not many men who have come before this committee have come with that idea; we think the idea is very commendable, this idea of presenting the means of obtaining more money.

Mr. ROBINSON. I thank you very much.

Mr. SLOAN. I think this is true; nearly every product that is produced in other countries, and that is coming in here now is flooding our market; I think we are bringing in more goods now than we ever did in the history of the country.

Mr. ROBINSON. I think that is true.

Mr. SLOAN. And with less revenue.

Mr. ROBINSON. We wanted to feel that you will help us to pay larger taxes in this country.

Mr. SLOAN. In other words, you want us to have the foreigner pay it?

Mr. ROBINSON. We want the foreigner to pay it, and we want you to help us pay it. There are two methods of securing more revenue. One is a revenue from a higher ad valorem duty on the buttons actually imported, and then we believe a higher rate of duty might lower the flow of buttons into the country so that we can manufacture much more efficiently in this country, and consequently be able to pay higher taxes ourselves.

Mr. DIXON. Has the price of raw material greatly increased?

Mr. ROBINSON. No; our raw material is practically the same as it was.

Mr. DIXON. Do you do any exporting?

Mr. ROBINSON. No; we do no exporting at all. There are some classes of buttons which have been exported, the larger ones. The larger the size of the button the lower is the proportion of the labor going into the output of the button, consequently the large button has been exported in rather large numbers, especially since the beginning of the war.

Mr. DIXON. I notice the exportation of buttons has increased since the war began 100 per cent.

Mr. ROBINSON. That is in the larger buttons. In the small-sized buttons there has not been any increase. The manufacture of the small-sized buttons is practically a separate branch of the industry. We make them in quantity fashion, if you might call it that way, whereas the manufacturers of large buttons pay more particular attention to the material because of the value of the buttons.

Mr. RAINEY (presiding). We have a statement by the Manufacturing Perfumers' Association of the United States; a letter by Hon.



Edward E. Robbins, Representative from the twenty-second district of Pennsylvania; a statement by Warren Worth Bailey, editor of the Daily Democrat, of Johnstown, Pa., prepared on behalf of the Single Tax Association of the United States; a brief prepared by the National Cigar Leaf Tobacco Association; a letter addressed to me by Hon. Thomas Rees, editor of the Illinois State Register, at Springfield, Ill.; and a statement from the National Board of Fire Underwriters; and without objection, all of these will be printed in the record.

(The matter above referred to is as follows:)

THE MANUFACTURING PERFUMERS' ASSOCIATION OF THE UNITED STATES.

NEW YORK, June 28, 1918.

TO THE WAYS AND MEANS COMMITTEE,  
*House of Representatives.*

On behalf of the Manufacturing Perfumers' Association, I desire to lay before your committee certain facts and to point to certain considerations which we trust you will bear in mind should you contemplate any increase in the taxes imposed by existing law on the products of our industry. While we are without information as to the particular objects of taxation which the committee has in view, we feel it to be our duty to bring these matters to your attention in order that you may fully understand the present industrial and financial position of our industry before you take up the work of framing the important measure which Congress is now preparing to enact. Increased revenue can be obtained from our products if scientific methods of raising it are employed, with due regard to the distribution of the burden between manufacturers and consumers, following the general principles underlying the recently enacted French law of March 22, 1918.

BULK OF OUR PRODUCTS NOT LUXURIES.

We have no information that would induce us to surmise that Congress intends further to tax our products other than the published announcement that additional levies are to be made upon so-called luxuries, a classification which a costly experience has taught us has been applied to the products of our industry in connection with previous revenue legislation. As a matter of fact, however, only a very small proportion of the goods produced by our trade are in any sense luxuries, especially in view of the progress made in recent years in the departments of State and National hygiene and sanitation. The great bulk of the articles manufactured by us are to-day properly rated necessities of life, the use of which is recommended by medical authorities everywhere as important in the preservation of health.

It is true that we manufacture perfumery and toilet waters which, for the sake of argument, may be conceded to be luxuries; but these products constitute an almost negligible proportion of our output and there are, especially at the present time, controlling reasons chiefly relating to the revenue so vital to a nation engaged in war why the output of these goods, which is insignificant from any but a revenue standpoint, should be stimulated rather than discouraged. More than three-fourths of the products of our industry, however, are soaps, tooth and mouth washes, dentifrices, tooth pastes, talcum powders, and other similar goods. The use of these articles, each in its own sphere, is absolutely essential to the preservation of health, and the recognition of this fact by the Federal Public Health Service and by State and municipal boards of health is now so universal that it would be a waste of time to argue the matter here.

In this connection I would emphasize the importance of our products in sustaining the morale of our people, especially our women. Physical comfort, cleanliness, being mentally and physically fit, and a general sense of well-being contribute greatly to efficiency, and it has already been amply demonstrated in this great war that this is true of both our military forces and our civilian population.

USE OF DENTIFRICES ESSENTIAL TO HEALTH.

I would especially emphasize the importance of the position of dentifrices and tooth washes in the preservation of health. The nutrition of the body depends primarily upon the proper functioning of the digestive apparatus and this in turn is chiefly predicated upon sound and clean teeth. A national propaganda in the interest of the care of the teeth has been urged upon the public for more than a dozen years, and

to-day even the public schools are employed as channels through which to disseminate this knowledge. Every year witnesses some new discovery concerning the origin of disease, indicating that neglected and unsound teeth are the origin of disorders the real causes of which had not been previously suspected. Within a few days the announcement has been made on high authority that the surgeons with the allied armies have traced to unsound teeth a peculiar disease suffered by the soldiers in the trenches, and steps have been taken to prevent this disorder by the observance of the utmost cleanliness in the care of the teeth. For several years, however, the Surgeons General of the Army and Navy have been fully alive to the importance of the care of the soldiers' and sailors' teeth, and Congress has recently enacted laws creating dental corps in both branches of the service, one of the prime duties of which is to urge the importance of the regular use of reliable dentifrices. It is safe to say that among the American soldiers now going to France all but a negligible number carry a tube of tooth paste in their kits, and the furnishing of a regular supply of this essential article is an important duty fully recognized by the military authorities.

It has been said of late that France has been "bled white." This we believe to be an exaggeration, but no one will deny that France is reduced to revenue-raising expedients not yet approached in the United States. Nevertheless, in the carefully considered statute to which I have referred—which has just gone into effect and which was framed for the avowed purpose of taxing so-called luxuries—dentifrices are specially exempted from tax, unless they exceed a price at which standard goods can be sold.

#### ON WHAT THEORY ARE SOAPS TAXED?

We are at a loss to understand the theory upon which standard toilet soaps were taxed by the provisions of the act of October 3, 1917. It is certainly significant that soaps were not mentioned in the Spanish war revenue act or in the act of 1914 and that no attempt was made to bring them within the purview of those acts except in isolated cases where in advertising literature of one form or another the manufacturers claimed that the products in question were "good for the skin" or "beneficial to the complexion," claims which, fairly construed, we contend were merely equivalent to the assertion that they were pure soaps containing no injurious ingredients and that the regular use thereof would contribute to the health of the skin. It is certainly an extraordinary fact to which we trust Congress will give due weight that in finding a precedent in American legislative history for taxing soaps it was necessary to hark back more than half a century to the antiquated revenue act of 1862. It is inconceivable that in these enlightened days the Congress of the United States should tax soap as an article of luxury, unless its price clearly stamps it as such. Legislation contributing to its cheapness would be more in line with the world-wide movement for improved hygiene and better sanitation.

Concerning the taxation of soaps, France has again set us an example. Low-priced soaps, though intended for bathing and toilet purposes, are free of tax under the new law I have referred to, and only costly articles are burdened with an impost.

One of the most important products of our industry is talcum powder, an article upon which the existing law imposes a tax as a toilet powder. Neither in the statute nor the regulations thereunder has any attempt been made to differentiate talcum powder from face powders or other articles used for a purely cosmetic purpose. Yet it is safe to say that 90 per cent of the annual output of this article is employed in the nursery, where its use is absolutely essential to the care of every infant from the day of its birth, and in the hospitals, where it is employed in many ways for the relief of suffering humanity. A very considerable proportion of the talcum powder now sold is more or less medicated, and a hundred minor ills and discomforts suffered by men, women, and children yield to its use. Pulverized talc or talcum is also largely used in the manufacture of foot powders which the Government is purchasing in large quantities for our soldiers, who find it of the greatest possible value in keeping their feet in condition. It certainly requires a stretch of the imagination to regard an article of this kind, so clearly differentiated from a cosmetic and contributing so universally to the alleviation of suffering and to increased efficiency, as a luxury to be singled out for specific taxation by Congress.

#### PERFUMERY A RELATIVELY LARGE REVENUE PRODUCER.

I will now ask your attention to the item of perfumery, including toilet waters, concerning which Congress appears to have absorbed the impression that it is a dominating factor in our trade and a typical example of the products of our industry. The truth is that perfumery and toilet waters constitute a very small proportion of our

output, but to the extent that they are manufactured they yield an enormous proportionate revenue to the Government, which we believe it can not afford to ignore in this emergency. As a matter of fact, the interest of the Treasury in our sales of these goods is vastly greater than our own, for the taxes imposed by existing law upon their ingredients are far in excess of any profits we could hope to make from these articles under the most favorable circumstances.

Medium-grade toilet waters and extracts sell at from \$8 to \$10 per gallon and contain approximately 80 per cent of alcohol. Because of the doubling of the spirit tax, provided by the act of October 3, 1917, every gallon of these goods will pay to the Government a restrictive tax on the alcoholic content thereof amounting to about \$3.40. To impose a manufacturers' tax upon the sale of an article nearly one-half the price of which goes into the Treasury of the United States is certainly of doubtful economic value and we are unwilling to believe that as men familiar with the business problems incident to taxation this committee is prepared to recommend an oppressive increase in the manufacturers' tax which would simply place a greater obstacle in the way of the sale of these goods, thereby reducing the revenue from the alcohol employed in their production to a much greater extent than the revenue would be increased by adding to the manufacturers' tax. In this connection I can give you a graphic illustration of the relation of these two forms of tax that will give special point to our contention. Under the act of 1914 one of our members paid a stamp tax under Schedule B amounting to \$12,000 per annum, while he paid a spirit tax of no less than \$30,000, which under the present rate imposed on alcohol would have been \$60,000. It will thus be seen that by imposing a tax of \$12,000 on this manufacturer under the terms of Schedule B Congress imperiled revenue which to-day would amount to \$60,000.

#### TAX SHOULD BE PAID BY CONSUMER AT TIME OF RETAIL SALE.

The French law, enacted March 22, 1918, and which is serving as a model for an English statute of the same general character, is also notable in that the taxes imposed are not paid by the manufacturer, as are the taxes levied by our war revenue act of October 3, 1917, but are collected by the retailer from the consumer at the time of sale. This is as it should be, for the manufacturer merely employs American capital and labor, as does any other producer, and the real beneficiary of a luxury is the consumer.

As manufacturers we stand ready to contribute our full share of the cost of carrying on this righteous war for human liberty; but we submit that our contribution, under an economically sound law, should be taken from our profits and not from our gross receipts, which may or may not represent net gains. A flat manufacturers' tax on products operates most unjustly, bearing but lightly on the large and prosperous producer while affecting ruinously his small and struggling rival. It is also subject to manipulation resulting in unfair competition, as where a very large manufacturer may absorb the tax to obtain an advantage over his small competitors who can not afford to do so.

We would emphasize the fact that we clearly differentiate the manufacturers' tax from the war tax paid by the consumer, as under the French law. If the manufacturers' tax is added to the price of an article, the buyer, not readily distinguishing the tax, is exceedingly reluctant to pay the increased price, while he will cheerfully pay an added sum if he recognizes it as a contribution by him to the war funds of the Nation. The restrictive effect of the manufacturers' tax is thus made apparent.

#### RATES SHOULD BE ADJUSTED AT SCIENTIFIC REVENUE POINT.

We assume that in any increases which are made in existing taxes the primary object of Congress will be to seek the scientific revenue point; that is to say, the rate at which the industry can be made to produce the maximum amount of taxes. We trust that this principle will be kept constantly in view in the consideration of our schedule, and in this connection we would invite your attention to certain facts of the greatest possible importance. You are well aware that an active campaign is now on foot throughout the country in the interest of national economy. If the use of any of the articles manufactured by us can be dispensed with—that is to say, if they are in fact luxuries—the war crisis is already operating to restrict sales and cripple the manufacturers, and the movement referred to will operate progressively in this direction. It is therefore obvious that, even without an additional burden of direct taxation, we shall be obliged to contend with influences the natural effect of which will be to reduce our output and therefore the revenue which the Government will derive, both from any manufacturers' tax imposed upon our products and from the alcohol used in their production, as well as from the customs duties collected on certain of our essential raw

materials. This consideration should certainly be kept in mind in the framing of your bill, for our recent experiences have convinced us that it will be a comparatively easy matter for Congress to kill an industry that is providing a substantial amount of revenue.

Another adverse influence under which we have been laboring during the past year and which is daily becoming more acute is the rapid increase in our costs of production. Labor, such as is obtainable, is 100 per cent higher than two years ago. Glass bottles have risen from 100 to 300 per cent. Cartons and labels cost us an average of 100 per cent more to-day than in 1916. Our raw materials are higher by from 100 to 3,500 per cent and some of the most important of them can not be had at any price. What this cumulative movement will lead to we dread to contemplate.

#### PERPLEXITIES OUR TRADE IS NOW FACING.

Still another menace now hanging over us, the force of which we are beginning to feel very acutely, is the governmental discrimination against our industry on the ground that it does not contribute directly to the winning of the war. Without entering upon any discussion as to the justice or injustice of any classification that may be made of our products, we are face to face with the inescapable fact that in point of fuel supply and the transportation of our raw materials and finished products we are excluded from preferential treatment, which is only another way of saying that we are heavily discriminated against.

The shortage in the supply of tin has already caused our trade serious embarrassment. The tin-plate mills, acting under instructions from the War Industries Board, are booking no more orders for tin plate for containers for other food than purposes, and certain can manufacturers are refusing to make us any more cans for soap powders, talcum, etc. Collapsible tin tubes will soon no longer be available for certain uses to which we are now putting them, and we are at a loss to know where we shall turn for substitutes.

The necessity for conserving shipping space has also induced the Government to restrict imports of some of our most important raw materials, and the future of this movement is shrouded in great uncertainty. What the effect of these discriminations may be as the strain upon the country's resources increases can hardly be imagined, but that it will tax our ingenuity and our financial strength to the utmost is clear to all of us and must be obvious to your committee.

The view entertained quite generally that ours is a very profitable industry is wholly erroneous. It is a business of infinite detail, and our product units are very small. The records of one house in our trade having a reputation for high-priced goods show that in 1917 it sold 949,941 pieces retailing at 25 cents or less, 945,529 pieces at more than 25 cents but not more than 50 cents, 738,430 pieces at more than 50 cents and not more than \$1, and only 103,859 pieces at more than \$1 each. Another house handling less expensive goods made the following sales record in 1917: 10-cent packages, 8,297,701; 25-cent packages, 144,065; 50-cent packages, 13,912; \$1 packages, 17,290; and \$1.25 packages, 1,443. The selling costs of both of these houses were very heavy.

#### WILL CHEERFULLY CONTRIBUTE PROFITS.

I know I do not need to remind you that the men engaged in our industry are paying their full share of every tax which rests upon the people at large, on incomes, on excess profits—if we have any—and on transportation, which has recently been heavily increased, both in the item of freight rates and in the expenses of traveling salesmen. These burdens we bear cheerfully, and we stand ready to make any contribution of our profits which Congress can ask; but we urgently appeal to you not to destroy our industry but to so legislate in this crisis as to increase rather than diminish the revenues we may be able to pay into the Public Treasury.

In conclusion, we ask you to visualize the position of our small industry. Its supplies of raw material are dwindling; its costs of production are mounting rapidly; it is the object of propaganda intended to limit the consumption of many of our products; it is denied priority or preferential treatment in fuel and transportation, and it is slowly but steadily being driven into a cul de sac from which we now see no means of extricating it. Our burden of direct taxation is all we can bear, in fact is so great as to materially restrict the volume of our output, and we are confident that any increase in the direct load will spell widespread disaster to our entire industry and will diminish rather than increase the net revenues derivable by the Government from the manufacture and sale of our goods.

We ask for no special consideration; and, as I have stated, we stand prepared to contribute of our profits whatever proportion Congress may demand; but we earnestly

appeal to you not to single us out for a further special burden imposed in such a way as to destroy a small but legitimate industry and which will cost the Government a large part of the revenue which we can supply under a well-considered scheme of taxation.  
Respectfully submitted.

MANUFACTURING PERFUMERS' ASSOCIATION,  
G. A. PFEIFFER, *President.*

HOUSE OF REPRESENTATIVES,  
*Washington, D. C., July 2, 1918.*

HON. CLAUDE KITCHIN,  
*Chairman Ways and Means Committee.*

DEAR SIR: I wish to bring to your attention the question of a special consideration of the bituminous coal industry, so far as the matter of taxation for war purposes is concerned.

1. A bituminous coal mine when worked to exhaustion results in a complete disappearance of the capital invested.

2. It is therefore necessary during the progress of the mining to have sufficient funds set aside to replace capital in addition to the amount allowed for operating expenses, taxation, and fair return as profits.

3. A mining proposition from the time of its commencement to the time of its completion is one requiring constant outlay for extensions, improvements, replacements for wear and tear, and the expense of machinery, equipment, and supplies, which is extraordinarily high.

4. In order to bring about this result there should be allowed in addition to the amount deducted from net earnings as profits for unfair return of interest on the investment a certain sum not less than 10 per cent as an additional amount above capital to pay for these above extraordinary deductions in a mining proposition.

5. To illustrate just what I mean by a concrete example, say a coal proposition of 1,000 acres of bituminous coal lying in any region of Pennsylvania, West Virginia, or Ohio. It must be opened up by a large outlay as to railroad tracks, houses, tipples, engines, pumps, mine cars, and machinery.

All of these are worn out more rapidly in the mining business than any other. The machinery is quickly eaten up by sulphur water in a mining proposition, but if a coking proposition, by the sulphur fumes from the ovens as well as mine water. The expenditure for rails, cars, tracks, and inside equipment is extraordinarily large from the start, because it must precede the actual development from which coal is produced.

These mines are generally located away from the centers of population and require a store, amusement hall, ball park, and a number of large boarding houses, and a large outlay, much more so than in ordinary industrial improvement that can be located at a center of population and within reach of larger centers. The mining town is generally located on a branch railroad that has no passenger service, and in order to keep the population contented all these accessories must be provided at a greater or less cost.

The maintenance and repair of the mining houses, stable, and machinery is all extraordinarily expensive because of the character of the population who are indifferent and careless as to the care of company property and who frequently burn it down during strikes, and maliciously destroy it during hard times, regarding their employer as an enemy rather than as their friend.

The production of coal is dependent on transportation facilities, which are hard to control and thereby unnecessarily expensive.

The price of supplies of mines have, during 1916, 1917, and down to the present time, been extraordinarily high. A few of the items will illustrate this situation:

Steel rails, 32 pounds per ton, used in mines, usually selling from \$28 to \$30 per ton, average from \$90 to \$110 per ton.

Pit posts, formerly selling at 1 cent per foot, 6-foot posts, now sell at 25 cents per post.

Pit rails, usually selling at \$24 per thousand, now sell at \$50 to \$60.

Oats, usually selling at 40 cents per bushel, now sell at 80 cents.

Hay, usually selling at \$15 per ton, now sells at \$25 or \$30.

Mules, usually \$150, now \$300.

Powder increased four times.

Oil increased three times, etc.

It therefore seems to me that a fair treatment of the coal industry would require 10 per cent additional over and above the 8 per cent deduction allowed as a proper element or proportion net income set aside to protect these extraordinary expenses.

I am not now discussing the inequalities in taxation produced by taxation of capital as distinguished from taxation on the actual value of coal properties. I am only directing the attention of the committee to the fact in equity and justice there should be a larger allowance for new extensions and additions not charged either against capital account or not usually considered as absolutely essential operating expenses and that this amount should be approximately 10 per cent.

Respectfully,

EDWARD E. ROBBINS.

STATEMENT OF WARREN WORTH BAILEY, EDITOR OF THE DAILY DEMOCRAT, JOHNSTOWN, PA., AND MEMBER OF THE NATIONAL COMMITTEE, SINGLE TAX ASSOCIATION OF THE UNITED STATES.

Mr. Chairman, I appear before your committee on behalf of the Single Tax Association of the United States. I am a member of its national committee. The measure in which we are interested is known as the Crosser bill (H. R. 4024) by which it is proposed to raise by a direct tax on land values the sum of \$2,000,000,000, to be apportioned among the several States on the basis of population as required by the Constitution.

This is the only revenue proposition which has been submitted that does not carry with it the objection that it penalizes thrift, obstructs industry, and burdens labor. The tax on land values would have a directly opposite effect. Such a tax will in fact stimulate industry all along the line. It will encourage capital. It will give added impetus to industry. It will tend to lighten the burdens of labor, at once tending to raise wages and cheapen the cost of living.

Every tax thus far laid by Congress in support of the war is subject to the criticism that it hampers business, retards industrial progress, adds to the cost of living, imposes hardships on capital and labor alike, and tends more or less definitely to lessen the Nation's ability to meet the heavy obligations imposed by war. All taxes that are now levied are discouraging in their character and many of them are of a nature which permits them to be shifted to the ultimate consumer. They fall with distressing weight upon the shoulders of those least able to bear the burden.

This, of course, is not true of the income tax or of the inheritance tax, nor is it true of the excess-profits tax. These are all direct and they are not easily susceptible to the shifting process. Yet none of these taxes actually tend to stimulate production. They certainly do not encourage thrift or invite to higher industrial activity. If we note great industrial expansion, it has come in spite of the burdens which have been laid upon it through taxation. It has come in the very face of pains and penalties that under other than war conditions would bring paralysis and that will bring paralysis ultimately in any case, for even a great rich nation can not forever pile burdens on the backs of its people without wasting their substance and crippling their energies.

The direct tax on land values proposed in the Crosser bill would have the very opposite effect from any of the other taxes now levied or that have been proposed. It would infallibly promote production. It would lend spurs to capital and to labor. It would impart a stimulus to industry of every legitimate nature. It would do the very thing we most desire at this critical time in our country's life. It would result in a greater production of food and fuel, since it would open opportunities now closed and place a premium on use, where now the premium goes to idleness or nonuse.

Food will win the war. If we can not feed our armies, they can not fight. An army, as Napoleon said, travels on its belly. It becomes mutinous when the food supply runs low. Nor can a country be kept in harmonious support of its men in the field if the women and children at home and the workers in the industries are poorly fed. We must have an abundant food supply if we are to make certain of our future in the great struggle which is now perhaps in its most critical stage. But agriculture is receiving no greater stimulus through present forms of taxation than industry in general. The farmer too is penalized for doing the very thing we most want him to do. His thrift is discouraged. The cost of everything he has to buy is enhanced by the taxes that are being imposed on general industry. If the farmer is prospering under the present conditions, it is in spite of all discouragements and all handicaps imposed by the fiscal policy of the Government.

Mr. Chairman, I would like to invite the attention of your committee to a most significant fact, namely, that vast bodies of productive land, lying in or near our cities and industrial centers, are practically, if not absolutely, idle, held out of use for speculation, for that certain enhancement in value which comes with increasing population and expanding industrial life. On investigation you will discover that food

production in large measure has been driven back and still farther back from New York, from Boston, from Chicago, from St. Louis, from San Francisco, and from every other place of any consequence in the country. It has been driven back farther and farther by the tightening of the speculative band which is thrown around every center of population. The effect of this can scarcely be appreciated at first blush, but it is serious, so serious that it should challenge your attention and the attention of the country, for these idle areas ought to be producing, they ought to be yielding their products to the markets, they ought to be relieving the pressure which every American now feels through the high cost of food.

I wish that time permitted, so that I might go into this phase of the subject with some attention to detail. I am certain that the figures I might lay before you would startle every member of this committee and perhaps most people whom they might reach. But I may say in passing that hundreds of thousands, perhaps millions, of acres of the best land in the country adjacent to our industrial centers are to-day practically out of use, yielding little, if anything, held solely for speculation.

The adoption of the Crosser plan would tend to cure this evil. It would tend to force idle land into use. It would discourage the speculator, but only him. It would impart a stimulus to every one else. It would raise the margin of cultivation, bringing it nearer to the center, to the market, to the point where the produce is required for consumption. And at the same time this direct tax on land values would stimulate building operations in towns and cities. In every center of population in America the vacant-lot industry is a flourishing one. Urban development is hampered by it. Cities do not grow in normal ways. They sometimes have to make wide jumps to clear an obstruction in the form of vacant spaces held out of use by speculators. And in consequence there is overcrowding on the one hand and relative isolation on the other, population being herded in the tenements and widely scattered in the suburbs. Every observer must have noted this fact. It is not so certain that everyone who has noted the fact has grasped its significance or understood the reason back of it. Cities ought to grow normally, like a tree grows, but as a matter of fact they grow sometimes in the very opposite direction from that expected, because the vacant lot held for speculation stands in the way, diverting growth and sometimes arresting it altogether.

The constitutionality of the Crosser proposition is hardly open to question. And it is not without precedent in the history of the Republic. Direct taxes have been laid and collected in the United States by the Federal Government at least three times; first in 1798, second in 1813, and third in 1861. But while the direct tax in these cases fell on land and its improvements, it is the purpose and the high merit of the Crosser bill to confine the tax to land values alone, improvements of whatever name or nature, to be entirely exempt. Were the tax to fall on improvements as well as on land values the effect would be the opposite of the one aimed at, since taxes on improvements tend to discourage them and they place a premium on holding valuable opportunities out of use or out of their best and fullest use.

I believe in President Wilson's policy of pay as you go. I do not look with favor on the blanketing of the future with bonds. We should pay for our own wars and let our children and their children's children pay for their wars if they shall not know how to avoid appeals to the sword. President Wilson has taken the right ground in this matter, but Congress has not seen how it could raise sufficient money to carry forward our great undertaking without resorting to a mortgage on the future. It has plainly perceived that it can not go indefinitely forward in piling burdens on business and on thrift and industry. It has been said before this committee and by the chairman himself, I think, that there is already some fear that the taxes under existing legislation may so operate as to lessen the ability of the country to meet its obligations next year.

The goose that lays the golden egg is perhaps being rendered unfit for future effort. And there is a grave prospect that this very thing may come to pass. No man who has really studied the subject of taxation can have failed to note how taxes in many cases tend and strongly tend to lessen production, to check enterprise, to discourage capital, to dishearten labor, and in general to obstruct social growth. This is the necessary tendency of every tax which falls on labor or on industry. But the very opposite tendency is observed where the tax falls on land values. The land value tax can not be shifted. It stays where it is put. I can not possibly be passed along. It is more easily assessed and collected than any other tax. It infallibly and unfaillingly encourages the use of the land affected. It tends to open opportunities to labor and capital which speculation sets itself to deny. It drives the dog out of the manger and gives

the ox a chance at the hay. It offers capital and labor alike a premium for engaging in production, offering no premium whatever for idleness or nonuse.

I feel profoundly certain that the adoption of the Crosser proposition in providing revenue for carrying on the war and for meeting the obligations of the Government would be enormously helpful to the Nation in more ways than I have time to point out here. The committee can not go into this subject, I believe, without becoming convinced that here is a resource which can be drawn upon without in the least hampering the Nation in its economic life, without offering even a temporary setback to capital, without injuring labor, without hindering industry, without penalizing thrift and without any of the evil effects which follow the taxation of labor and capital and the products thereof. It is my earnest hope that the committee may seriously consider the Crosser proposition. It is economically sound and morally unassailable. Through it and through it alone we may secure ample revenue to meet the stupendous cost of the war without crippling our industry or penalizing enterprise.

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THE NATIONAL CIGAR LEAF TOBACCO ASSOCIATION,  
New York, June 22, 1918.

HON. CLAUDE KITCHIN,  
Chairman Ways and Means Committee, Washington, D. C.

SIR: The National Cigar Leaf Tobacco Association desires to lay before your committee certain considerations which we trust will be borne in mind should it be deemed wise to make any changes in the schedules of the Underwood-Simmons Tariff Act. We have no official information that the committee contemplates any such changes, but we are aware that in the framing of the war revenue act of October 3, 1917, a flat increase in duties of 10 per cent ad valorem was recommended by the Ways and Means Committee, and our attention has recently been drawn to publications in the daily press to the effect that modifications of the existing tariff will be urged by certain members of the committee.

It is not our purpose to discuss in this connection the advisability of increasing the duties on leaf tobacco. We regard it as of the utmost importance, however, that the committee should be advised of the disastrous effects that will follow, both to the Government and to honest importers, should an increase be made in the form of an ad valorem surtax, as was proposed with reference to the war revenue act. There are controlling reasons why all duties assessed upon leaf tobacco should be specific rather than ad valorem and we would earnestly urge the committee to investigate this matter with great care and thoroughness and to take counsel with the customs officials of the Treasury Department before adopting ad valorem duties as applied to tobacco. We are confident that if the committee will consider this matter with due care it will unhesitatingly reject any proposition looking to the imposition of ad valorem rates on this important commodity.

Whatever may be said respecting the relative merits of specific and ad valorem duties from a theoretical standpoint it will certainly not be necessary to argue that the practicability of ad valorem rates depends upon the ability of importers and customs officials to determine the foreign market value of the merchandise in usual wholesale quantities on the date of purchase. If it is impossible or difficult to ascertain such foreign market value it will be correspondingly impossible or difficult to administer the law, and the opportunities for fraud upon the revenue will be so numerous as to put a heavy premium on dishonesty and to give the unscrupulous importer an advantage over his conscientious competitor that will speedily drive the honest merchant out of business and leave the industry in the hands of those who are willing to live by frauds perpetrated upon their rivals and upon the Government.

It is a practical impossibility to determine the foreign market value of any of the principal types of tobacco which are imported into the United States. Habana tobacco is purchased by American buyers largely in "vegas," or lots, at a round price for the vega and is afterwards subdivided and a part sold in Habana, while the remainder is brought to the United States. A vega will include numerous grades, and it is therefore absolutely impossible to set a hard and fast foreign market price on the portion shipped to this country, as such price must necessarily be arbitrarily fixed by the American buyer, who will have nothing to guide him but the average cost of the tobacco and the price which he believes he will be able to secure for it when resold in the United States, which price, of course, will depend upon many trade factors, including the special suitability of the tobacco for the particular factory for which it is finally purchased. It must be remembered that the individual requirements of the cigar manufacturer have much to do with the price of leaf tobacco, that which is greatly desired by one factory being almost valueless to another.



The situation with respect to Sumatra wrapper tobacco is similar and still further emphasizes the danger to the revenue and to the legitimate operations of the tobacco trade of an ad valorem duty. In normal times Sumatra tobacco is purchased almost exclusively at the auction sales held in Amsterdam. American buyers are able to sell in this country only certain grades of this leaf, but in order to obtain what they require it is frequently advantageous for them to purchase lots all of which are not available for use in the manufacture of cigars in the United States and a part of which are resold to other buyers and are finally consumed in the manufacture of cigars in other countries. The buyer of Sumatra tobacco, therefore, is frequently in the same position as the purchaser of Habana vegas in that he has no guide except his own judgment as to the value of the tobacco and no record of price except the average paid for the entire lot he has bought, which usually would be below the price he would pay if he had purchased only those grades suitable for consumption in the United States.

Under these conditions, which are typical of the great bulk of leaf tobacco importations; it will readily be seen that it is absolutely impossible to enforce the collection of an ad valorem duty on leaf tobacco. There is no class of merchandise imported into this country concerning the value of which there is at all times a greater diversity of opinion. The extraordinary "spread" between the rate of duty on filler tobacco, which is 35 cents, and that on wrapper, which is \$1.85, is emphasized by the fact that in some kinds of leaf tobacco, notably Havana, wrappers and fillers are mixed in the same bales, and when filler tobacco is mixed with more than 15 per cent of wrapper tobacco the entire bale becomes subject to the wrapper duty. In this connection it is a matter of record in the Customs Division of the Treasury Department that importations of tobacco appraised by six or eight different experts in the employ of the Government have been variously returned as containing all the way from 10 to 75 per cent of wrappers. This fact is cited merely to illustrate some of the difficulties that would be encountered in any attempt to fix the actual value of a bale of tobacco by so-called expert examination.

If, in the wisdom of your committee, it is absolutely essential that an import duty shall be levied upon leaf tobacco, which it is not our purpose to discuss at this time, we earnestly urge you to make the rate specific in order that honest importers and manufacturers may be guarded against the results of fraudulent invoicing. We would further draw attention to the fact that under normal conditions an increase in the specific duty amounting to any given percentage would produce considerably more revenue than an equivalent ad valorem increase.

We yield to no trade in patriotism or public spirit, and we beg to assure you that these representations are made, not for the purpose of avoiding the imposition of a burden, but rather in the interest of the revenue. We are absolutely sincere in the statement which we here solemnly make that any ad valorem increase in the customs duties on tobacco at this time will be fraught with the gravest consequence to our industry and to the revenue derived by the Government therefrom.

CHAS. FOX, *Chairman Legislative Committee.*  
W. L. CROUNSE, *Washington Representative.*

ILLINOIS STATE REGISTER,  
*Springfield, Ill., June 19, 1918.*

HON. HENRY T. RAINEY,  
*Washington, D. C.*

MY DEAR MR. RAINEY: In reply to your letter will say that we are to take up, with the local post office, the zone distribution of the State Register, commencing to-morrow. I am not able to give it to you at this time in exact figures but can do so approximately.

I will say for your information that the daily circulation of the State Register is now an average of 24,000 copies per day. This circulation is approximately one half inside the county and the other half outside the county. In other words, with a variation of only a few hundred copies, and which changes from day to day, there are 12,000 copies delivered within the county, about 8,000 of these being delivered by our carriers or sold on the street. The other half, or 12,000 copies, are distributed outside the county. Of the 12,000 copies distributed outside the county I would estimate that at least 11,000 copies are distributed within an average of 50 miles. The other 1,000 copies are carried into more remote zones.

A large amount of the 12,000 papers carried outside of the county are delivered in bulk on the platforms in the towns in which they are distributed.

To complete these 24,000 copies requires 1,200 tons of paper per year, or 100 tons per month. It is the aim of our paper, as is the rule of most publishers, to carry 50 per cent advertising and 50 per cent news and features. Owing to dull advertising business and the great pressure on our columns for war news, we hardly average these proportions at this time, but as a rule, a daily paper that does not carry at least 50 per cent advertising is in great danger financially.

The First Assistant Postmaster General stated before the Senate Post Office Committee, at the hearing given for the publishers on the 1st day of May, that the Post Office Department paid the railway companies 25 cents per hundred for carrying second-class mail 50 or 100 miles. It will be seen from these figures that we are already paying the Government \$1 per hundred for a service which costs them 25 cents per hundred on a considerable portion of our circulation.

My statements heretofore made, that if the new law continues for the next three years, and we have the least possible increase in circulation, at the end of that time it will cost the State Register, on account of that law if we use the postal service, about \$12,000 per year additional over what we would have to pay under the present law, are indicated by the estimates in this letter, while on most of our circulation we are already paying four times as much as it costs the Government for the service. Besides this, there will be the unmitigated nuisance connected with the classification of contents of the paper and zones of its distribution.

Yours, very respectfully,

THOMAS REESE, *Publisher.*

JUNE 26, 1918.

Mr. J. H. DOYLE,  
*National Board of Fire Underwriters,  
76 William Street, New York City.*

MY DEAR MR. DOYLE: We are engaged in framing, as you know, a very large revenue bill. It is necessary to find every possible source of taxation. I am advised that there are policies of transportation and marine insurance which were issued by companies having no place of business in the United States, and these companies, therefore, are not amenable to our taxing laws, neither National nor State. They are in direct competition with our domestic companies and are also in direct competition with those foreign insurance companies which have complied with our laws and which have a domicile in the United States, and which are subjected to the license requirements of our States and our State taxing systems, as well as our national income taxes, etc. I wish you would advise me as to the extent of this business.

Also, advise me as to the total amount of premiums which go abroad in insurance of this character. I understand the situation to be that vessels and their cargoes are to some considerable degree insured directly by the owners, who make their applications direct to a foreign country. I would like to know how much this amounts to. I am also advised that a good many foreign countries having a domicile in the United States and authorized to do business here sometimes refer business of this character to their home offices, and the business is conducted by mail or by cable between the home office and the person taking out insurance on a vessel or floating structure of some kind, or its contents, in this country. Do you think there is any foundation for a suspicion of this kind?

I will be very glad indeed to have any data you can send me as to the character of the insurance business I am discussing in this communication.

Very truly, yours,

HENRY T. RAINY.

THE NATIONAL BOARD OF FIRE UNDERWRITERS,  
*New York, June 28, 1918.*

HON. HENRY T. RAINY,  
*House of Representatives,  
Washington, D. C.*

MY DEAR CONGRESSMAN RAINY: We are in receipt of your favor under date of June 26, in relation to the proposed revenue bill.

Your information respecting placing of insurance by persons, firms, etc., in the United States with foreign companies is unquestionably correct. There is a very great volume of this business placed in companies and associations not authorized to transact business in the United States, and such companies share none of the expense of our National, State, or municipal governments, nor are the policies taxed under the provisions of the present revenue act. Their activities are not confined

exclusively to marine and transportation risks, but include all classes of property insurance; that is, fire, tornado, bombardment, invasion, etc., in addition to transportation and marine.

These companies make no returns to any taxing authority in this country, and it is impossible to do more than estimate the amount of the premiums. I have conferred with a number of our leading insurance officials and they assure me that a conservative estimate of marine and transportation business would be more than \$50,000,000 annually, and that other property risks combined will exceed the amount paid for marine and transportation. If this is true, and I believe it is, a conservative estimate of the total business would indicate a minimum of \$100,000,000 annually. Of this immense sum nothing is contributed to the support of either our National, State, or municipal governments, and the business is in direct competition with our domestic companies and the United States branches of foreign companies.

It is the general belief that the opportunity presented to foreign companies having United States branches to evade payment of any taxes in this country by transacting business direct from the home office is so apparent that many have availed themselves of same. In this practice I am quite sure the United States branches take no part, but the business is written at the home office abroad, at the instance of the assured or some broker acting for him, and the authorized branch in this country has no record or knowledge of it.

I understand the modus operandi of handling this business by foreign companies is to issue policies covering property in this country, basing their liability upon that paid by some American company covering the same risk. To illustrate: They will issue a policy for \$10,000 with a provision that they are liable and will pay upon the same basis at the same ratio and in like amount to the insurance company which is interested in the risk. By this means they not only escape the item of tax expense, but likewise escape the items of expense of adjustment, inspection, etc., and have but a small acquisition cost.

In a competitive way they have a further advantage of being immune from the application of our various State laws affecting the business of insurance, such as anti-discrimination in premium charges, the necessity for having policies countersigned by a resident of the State upon whom service of process may at any time be had, and the numerous other restrictive measures to be found in the statutes of the various States. They can charge one firm one rate and another firm under conditions almost identical an entirely different rate. Domestic and authorized companies are not permitted to discriminate in this manner and the result is that in a competitive way the foreign interests have a tremendous advantage and secure business through the very simple process of taking advantage of the rate which domestic companies must maintain to prevent discrimination.

This class of business, therefore, could bear a very much heavier tax than that imposed upon the premiums of domestic and authorized companies. I should say that a tax at the rate of 10 per cent upon insurance covering property interests placed with foreign companies not authorized to transact business in the United States, or if authorized, not placed through United States branches, would secure for the Government annually a sum in excess of \$10,000,000. This would not result in an increase in rates, as the items of the several taxes now imposed, plus necessary expenses which the domestic and authorized companies must bear, are in excess of the 10 per cent you mention.

All of the above is confirmed by the estimates of several of our larger companies based upon their competitive experience.

Trusting this is the information you desire, I am

Yours, very truly,

J. H. DOYLE  
*Assistant General Counsel.*

Mr. RAINEY (presiding). This will close the public hearings, except that Mr. Neal and Mr. Post, representing the publishers, have been given the right to appear later, and Mr. Rothschild, representing the jewelers' organization, has been given the right to appear later. The committee will be adjourned, to meet subject to the call of the chairman.

# REVENUE BILL

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No. 22

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## HEARINGS

BEFORE THE

## COMMITTEE ON WAYS AND MEANS

HOUSE OF REPRESENTATIVES

WITH REFERENCE TO

## THE NEW REVENUE BILL

[THIS PRINT OF THE HEARINGS IS SUBJECT TO REVISION  
BEFORE THE FINAL PRINT]

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JULY 10, 1918



WASHINGTON  
GOVERNMENT PRINTING OFFICE  
1918

COMMITTEE ON WAYS AND MEANS.

HOUSE OF REPRESENTATIVES.

SIXTY-FIFTH CONGRESS, SECOND SESSION.

CLAUDE KITCHIN, North Carolina, *Chairman.*

HENRY T. RAINEY, Illinois.

LINCOLN DIXON, Indiana.

CORDELL HULL, Tennessee.

JOHN N. GARNER, Texas.

JAMES W. COLLIER, Mississippi.

CLEMENT C. DICKINSON, Missouri.

WILLIAM A. OLDFIELD, Arkansas.

CHARLES R. CRISP, Georgia.

GUY T. HELVERING, Kansas.

GEORGE F. O'SHAUNESSY, Rhode Island.

JOHN F. CAREW, New York.

GEORGE WHITE, Ohio.

JOSEPH W. FORDNEY, Michigan.

J. HAMPTON MOORE, Pennsylvania.

WILLIAM B. GREEN, Iowa.

CHARLES H. SLOAN, Nebraska.

NICHOLAS LONGWORTH, Ohio.

GEORGE W. FAIRCHILD, New York.

JOHN A. STERLING, Illinois.

WHITMELL P. MARTIN, Louisiana.

WILLIS C. HAWLEY, Oregon.

ALLEN T. TREADWAY, Massachusetts.

JOHN E. WALKER, *Clerk.*

## REVENUE BILL.

COMMITTEE ON WAYS AND MEANS,  
HOUSE OF REPRESENTATIVES,  
*Wednesday, July 10, 1918.*

The committee met at 10 o'clock a. m., Hon. Claude Kitchin (chairman) presiding.

There were also present Representatives Rainey, Dixon, Hull, Garner, Dickinson, Oldfield, Crisp, White, Fordney, Moore, Green, Longworth, Fairchild, Sterling, Martin, and Hawley.

Mr. HAWLEY. Mr. Chairman, Hon. Charles F. Curry, of California, who has recently been ill, and for that reason unable to appear before the committee, has requested that there be printed in this hearing the following statement from him.

The CHAIRMAN. Without objection it will be incorporated in the hearing.

(The statement referred to follows:)

HOUSE OF REPRESENTATIVES,  
*Washington, D. C., July 8, 1918.*

HON. WILLIS C. HAWLEY,  
*Committee on Ways and Means.*

*House of Representatives, Washington, D. C.*

MY DEAR MR. HAWLEY: Inclosed I am forwarding to you for the information of the Committee on Ways and Means, a letter I have received from Mr. A. L. Cowell, secretary of the Irrigation District Association at California, complaining that the Commissioner of Internal Revenue has reversed the ruling of his predecessor and has ruled that assessments levied by irrigation districts are not deductable for income-tax purposes. I am also inclosing a letter addressed to Hon. Daniel C. Roper, Commissioner of Internal Revenue, by Mr. Cowell, giving reasons why the original ruling should not have been reversed; also a brief filed with the Secretary of the Treasury January 8, 1914, by Messrs. Pierce, Cowell, and Dennett; and a brief filed by myself in January, 1914, with the Secretary of the Treasury; also the opinion of the Attorney General on the subject and the original ruling of the Treasury Department, exempting reclamation, drainage, and irrigation districts from liability to this taxation.

It was not, and I do not believe it is, the intention of Congress to authorize the levying or the collecting of such a tax, and I believe the Committee on Ways and Means in framing the new revenue law, should so definitely exempt from taxation irrigation, reclamation, and drainage districts that the Commissioner of Internal Revenue can not misinterpret it.

I would appreciate it very much if, for the information of the Committee and of Congress, you would have this letter, with the inclosures, published in the hearings on the proposed revenue bill by the Committee on Ways and Means.

Respectfully, yours,

C. F. CURRY,  
*Member of Congress, Third District of California.*

IRRIGATION DISTRICTS ASSOCIATION OF CALIFORNIA,  
Stockton, Cal., June 20, 1918.

HON. CHARLES F. CURRY,  
*House of Representatives, Washington, D. C.*

MY DEAR MR. CURRY: I inclose a copy of a letter which I have sent to the Commissioner of Internal Revenue, in response to one from him under date of June 8. He advised me that the matter of assessments levied by irrigation districts had been fully reconsidered, and it was now held that such assessments are not deductible for income-tax purposes since they constitute assessments against local benefits. This reverses a ruling made by him last February to the effect that such taxes paid to meet current expenses of operation of irrigation districts were deductible. He also says that Treasury Decision 2090 with regard to special assessment districts is held to be applicable under the present law.

We are sure Congress did not contemplate such discrimination as is explained in my letter to the commissioner, and if the ruling is not modified, we believe the law should be amended to remove any doubt as to its meaning. Inasmuch as Congress is to revise the revenue law this summer, the time is opportune for such action.

I presume that the ruling in regard to irrigation districts applies also to reclamation and drainage districts, and other similar taxing subdivisions. It has been suggested that the law should be amended by eliminating the words "not including those assessed against local benefits" from the section authorizing the deduction of all taxes in computing net taxable income, and by inserting the words "and assessments" after the word "taxes," so as to make it clear that all taxes and assessments are to be deducted. While some assessments against local benefits, such as those for street improvements, do increase the value of the land assessed, yet they constitute a heavy burden upon the land, which results either in great public benefit or in an increase in the productiveness of the land. To tax money spent for increasing the productiveness of land, and then to tax the increased income resulting from that increased production seems like double taxation.

If, however, Congress does not desire to go so far, it surely ought to be willing to amend the law so as to exempt taxes levied by any district to meet such expenses as would be deductible if incurred by farmers outside of such a district.

I am writing a similar letter to the other California Representatives whose districts contain irrigation districts and to Senators Phelan and Johnson; also to Representative Hawley, the Pacific coast Representative on the Ways and Means Committee. Let me suggest that the matter be considered by the California delegation and perhaps with delegations of other States having irrigation, reclamation, or drainage districts, and that such steps as may be deemed proper be taken to secure a modification of the commissioner's ruling or the amendment of the law, or perhaps both. Our association is to meet Saturday, June 29, to consider the matter, and I have asked Representative Raker to wire me before that time what seems the most feasible plan of action for us to take.

Very truly, yours,

A. L. COWELL.

STOCKTON, CAL., June 18, 1918.

HON. DANIEL ROPER,  
*Commissioner of Internal Revenue,  
Washington, D. C.*

DEAR SIR: I am in receipt of your letter of June 8 IT:PA—CEK, advising that the matter of assessments levied by irrigation districts has been fully reconsidered, and it has been decided that such assessments are not deductible for income-tax purposes, since they constitute assessments against local benefits.

Permit us to suggest that this ruling involves consequences which we are sure were never contemplated by Congress in the enactment of the income-tax law, and we therefore respectfully ask that further consideration be given to the matter to determine whether the wording of the law requires an interpretation which penalizes the farmers who have adopted the plan of public ownership of their irrigation facilities.

Take the cases of four farmers, Smith, Jones, Brown, and Black; all having irrigated farms. Smith is a member of a mutual-water company; Jones obtains water from a private corporation selling water for profit; Brown has a large pumping plant on his place; and Black is in an irrigation district. In computing their taxable incomes, Smith will deduct as business expenses the assessments which he pays to the mutual water company, Jones will deduct his water rates paid to the private corporation, and Brown will deduct the cost of operation and upkeep of his pumping plant and something for its depreciation. The payments by Smith and Jones will probably

go in part into funds for the payment of interest on bonds and for sinking funds to redeem those bonds, and if Brown has borrowed money to pay for his pumping plant he will deduct the interest paid on it. Why, then, should Black be denied the right to deduct similar amounts for the same kind of business expense merely because he pays for irrigation service in the form of taxes?

Under the law of California our irrigation districts may charge tolls for the use of water. Tulare district does this. Such tolls undoubtedly are deductible in computing net income. If the farmer in the Tulare district is allowed to deduct what he pays for irrigation service, why should the farmer in the neighboring Alta district, whose cost of similar service is covered by his district taxes, be denied the right to a similar deduction?

North of this city is a territory now served with water by a private corporation. A farmer in that territory would undoubtedly have the right to deduct from his income what he pays the corporation for the use of water, even though part of the payment goes to meet interest on the company's bonds and presumably to build up its sinking fund. It is proposed to organize an irrigation district in that territory and take over the private system. If that should be done, why should that farmer be denied the right to deduct the cost of the same service because he would then pay for it in taxes to the irrigation district?

That it was not the intention of Congress so to discriminate against the people of irrigation districts is evident from the fact that mutual nonprofit-making organizations are especially favored by exempting their incomes from taxation. Furthermore Congress in 1916, after providing for the deduction from incomes of taxes levied by counties, municipalities, or school districts, inserted the significant words "or other taxing subdivision of any State." We respectfully submit that your ruling leaves these words without any meaning, although in the act they are emphasized by the repetition of the conjunction "or." To what form of organization can these words refer except such subdivisions as irrigation, reclamation, and drainage districts, which unquestionably exercise the taxing power? It seems clear to us that Congress regarded the phrase, "not including those assessed against local benefits" as well understood to mean taxes levied to pay for permanent improvements designed to increase the value of certain land and assessed in accordance with the benefits supposed to be conferred on the property taxed. Such taxes were undoubtedly regarded as a part of invested capital or for the personal comfort and convenience of the taxpayer. But Congress, of course, knew that considerable portions of the levies made by such districts are not of that character, but are to meet administrative and operating expenses and interest on bonds, and that in some districts even taxes for constructing works are levied on an ad valorem basis, without any consideration of the benefits to individual holdings. Congress must have meant to allow the deduction of at least some such portions of the taxes levied by "other taxing subdivisions of any State," for only by so assuming can we conceive of any good reason for inserting in the law the words quoted.

In considering the deductibility of irrigation district taxes paid for interest on bonds, it does not seem to us to be material that income derived from interest on such bonds is not taxable. A farmer may borrow money for a pumping plant from a Federal farm loan bank or from a mutual savings bank or building and loan association, whose incomes are exempt from taxation, but that will not affect his right to deduct from his income the interest on the money so borrowed.

Therefore, as the rule is that in case of doubt, such statutes are to be construed in favor of the taxpayer, we respectfully urge that it is possible to construe the law so as to give effect to what seems to be the intent of Congress and so as to be consistent with the policy to encourage, and not to penalize, cooperative effort for increasing the productiveness of the soil.

I have been unable to obtain here a copy of Treasury Decision 2090, referred to in your letter, but have written to the collector at San Francisco for it. If there are any other opinions or rulings throwing light on the matter we should be glad to have them.

Respectfully,

A. L. CORNELL,  
Secretary.

JANUARY 8, 1914.

Hon. WILLIAM G. McADOO,  
Secretary of the Treasury Washington, D. C.

SIR: Referring to Treasury Decision No. 1910, relative to the bonds of irrigation districts and their liability under the income tax law, in behalf of the Irrigation Districts Association of California, we would respectfully request a reconsideration of the said decision, and in support thereof submit the following points and authorities.



## WHAT IS MEANT BY A POLITICAL DIVISION.

Assuming as correct the definition of a political division given in the case of *Smith v. Howell* (60 N. J. L., 384), as "A division of the State, with its inhabitants organized for the public advantage and not in the interest of particular individuals or classes, the chief design of which is the exercise of governmental functions, and to the electors residing within which is, to some extent, committed the power of local government." irrigation districts, as organized under the laws of California, come very clearly within such classification.

## OPINION OF CONGRESS.

In the first place, if we endeavor to ascertain the attitude of Congress itself toward such corporations, we find in section 14, paragraph b of the Federal reserve act, that irrigation districts are included among the political subdivisions the bonds of which Federal reserve banks are permitted to handle.

The declaration of both the Legislature and the Supreme Court of California are even more pronounced as to the political character of these irrigation districts.

## ANALYSIS OF ORGANIZATION OF FUNCTIONS OF IRRIGATION DISTRICTS.

Before, however, considering in detail the legislative acts and the court decisions in California, an analysis of the functions of a district may not be improper.

In the first place it should be borne in mind that in the arid States, where water is essential for the cultivation of the land, irrigation districts are created for the management of a utility necessary for the general welfare.

Second. These districts are not created strictly for a special purpose and for the special benefit of persons residing therein and owning property within such districts, but for the benefit of all persons residing in such districts, and the water itself is delivered, just as tuition in the district schools is delivered, to all residents of the district desiring the same, without cost other than the payment of the taxes levied upon all taxable property.

Third. Assessments are not made against local benefits, since all of the land within the district is assessed according to its actual value, and not according to the amount of water that may be used upon it. Indeed, land in cities and considerable unimproved land in parts of the districts must pay taxes for the support of the districts, though deriving no direct benefit from the use of water.

Fourth. The vote necessary to secure the issuance of bonds of irrigation districts, and also to organize such districts and elect the officers thereof, is not confined to the owners of real property, but such bond issues are determined, and such organization is effected and officers elected by all of the voters within the district possessing qualifications sufficient to entitle them to vote at the general State elections.

## LEGISLATIVE AND JUDICIAL DECLARATIONS.

Article 14, section 1, of the constitution of California, provides that the use of all water now appropriated, or that may hereafter be appropriated, etc., "is hereby declared to be a public use and subject to the regulation and control of the State."

Section 31 of article 4 of the constitution of California, as proposed to be amended by a resolution submitted to the people by the legislature in 1913, is a legislative declaration of the legislative understanding that California irrigation districts are "political subdivisions of the State." As the section stood prior to the proposed amendment, it provided that the legislature should not have power to authorize the State, or any political subdivision thereof, to subscribe for stock or to become a stockholder in any corporation. A proviso is added by the amendment as follows:

"*Provided further*, That an irrigation district, for the purpose of acquiring the control of any international water system, necessary for its uses and purposes, a part of which is situated in the United States and a part thereof in a foreign country, may in the manner authorized by law, acquire the stock of any foreign corporation which is the owner of, or which holds the title to, the part of such system situated in a foreign country."

This amendment was proposed for the purpose of permitting the Imperial irrigation district to acquire rights to a canal system constructed in Mexican territory.

The supreme court even more clearly has expressed its opinion of the political character of irrigation districts. In *Merchants Bank v. Escondido Irrigation District* (144 Cal., 333), in passing upon a section of the irrigation act which permitted the directors to hypothecate, as additional security for its bonds, the works of the district, the court used the following language.

"To convey, in addition to the legal title, the statutory powers of the board to the possession and management of the water system and other property of the district would be in contravention of section 13 of article 11 of the constitution, which forbids the delegation of such powers. Which provision, it can hardly be doubted, must (with section 12 of the same article) be construed as applying equally to public or municipal corporations of this character, as to ordinary municipalities or cities."

Section 12 referred to, provides that the legislature shall have no power to impose taxes upon counties, cities, towns, or other public or municipal corporations, and section 13 provides that the legislature shall not delegate to any special commission, etc., "any power to make, control, appropriate, supervise or in any way interfere with any county, city, town, or municipal improvement, money, property or effects."

This case also cites with approval the case *In re Madera Irrigation District* (92 Cal. 308) which is a leading case in California on irrigation districts. In that case the court uses the following language:

"Inasmuch as there is no restriction upon the power of the legislature to authorize the formation of such corporations for any public purpose whatever, and as when organized they are but mere agencies of the State in local government, \* \* \* in the present case the legislature has chosen to authorize the creation of a public corporation in the manner and with the form specified in the act under discussion. \* \* \* an election shall be ordered, at which, if two-thirds of the electors within the district shall vote in favor of such organization, the district shall thereafter be organized, \* \* \* the objection that this vote may be carried by a majority of those who have no interest in the lands affected thereby is but an incident and not of the essence of the matter. It is no more than exists in every popular vote which involves the creation of a municipal debt or the adoption of a municipal organization. \* \* \* Property qualification for voting either in amount or character is strictly forbidden by the Constitution. (Con., Art. I. sec. 24.) \* \* \* That an irrigation district organized under the act in question becomes a public corporation is evident from an examination of the mode of its organization, the purpose for which it is organized, and the powers conferred upon it. \* \* \* The district officers thus become public officers of the State. \* \* \* Under this power of taxation—one of the highest attributes of sovereignty—the title of the delinquent owner of real estate assessed may be divested by sale. \* \* \* Here are found the essential elements of a public corporation, none of which pertain to a private corporation. \* \* \* Its officers are public officers, chosen by the electors of the district and invested with public duties. Its object is for the good of the public and to promote the prosperity and welfare of the public."

It is to be noted that the court uses the language "that the districts are invested with the power of taxation, one of the highest attributes of sovereignty."

It should also be noted that the tax levied is not an assessment for benefits but an ad valorem tax levied upon all real property regardless of whether it is irrigated or not. *Tregoe v. Modesto Irrigation District* (88 Cal., 334). The organization is absolutely the same as the organization of a school district where all of the property owners, whether they have children or not, pay a tax to support the school which becomes free to all children who are residents of the district but of which privilege, of course, the taxpayer who has no children can not avail himself.

In the case of *Boehmer v. Big Rock Irrigation District* (117 Cal., 28), affirming the Madera case, the following language is quoted:

"An irrigation district organized under the Wright Act becomes a public corporation and its officers become public officers of the State."

These cases have been affirmed by a continuous line of decisions: *Fallbrook Irrigation District v. Bradley* (164 U. S., 112); *Pioneer Irrigation District v. Walker* (20 Idaho, 605; 119 Pac., 304); 3 *Kinney* on irrigation, section 1404 et seq.: "the districts are public corporations and political subdivisions of the State" (2 *Wiel*, p. 1255).

#### GENERAL CONSIDERATIONS.

Considerations of the purposes of the exemption in the income tax law and of the Federal authority as to taxation, as well as of questions of public policy, supports even more strongly the contention that the bonds of irrigation districts are not subject to taxation than do these very explicit legislative and judicial declarations.

The act itself provides that "there shall not be taxed under this section any income derived from any public utility or from the exercise of any essential governmental function accruing to any State, Territory," etc. Both as a matter of fact and as a matter of legislative recognition, in the arid and semiarid States, water is an absolute essential for the proper development of the agricultural resources, and, indeed, for

the obtaining of a mere subsistence from the land itself, and has been declared by California to be a public use, and its use and distribution certainly becomes a public utility.

RURAL MUNICIPALITIES V. URBAN MUNICIPALITIES.

If a city issues bonds for municipal waterworks, there is no question as to the exemption of such bonds, and it certainly would be a very strange, inequitable, and unjust construction which would say to the farmer, whose labor is really the backbone of national prosperity, that, while his brother in the city is favored by national legislation to the extent that no tax is levied upon the bonds which he may issue for water, yet the farmer must be taxed for the water which is necessary for the cultivation of his farm. The act also provides in substance that corporations not organized for profit are not subject in their stock or bonds to such income tax, and irrigation districts are not organized for profit. They are not only political and municipal or quasi-municipal organizations, but they are absolutely without the purpose of private profit, and clearly come within the spirit of the exemption in first proviso of paragraph G (a) of the income tax law.

The Federal Government has seen fit to loan to farmers in certain favored regions the money of the United States for the construction of irrigation works, even without interest, and yet here, where the farmers have taxed themselves to obtain water and are paying interest upon their securities, it is proposed that an added burden should be imposed upon them from which their brothers under the national reclamation act projects are exempt. While agitation is being made for an improved system of rural credit, much of the small credit which he is obtaining would be taken away from the farmer if this ruling is sustained.

In substance and effect the only difference between the bonds of irrigation districts and the bonds of cities is that the irrigation districts are rural municipalities, organized for the purpose of obtaining for rural communities the use of certain utilities, while city bonds are issued by urban communities for the purpose of obtaining for the residents therein the use of certain other utilities not in most cases as essential, and we submit that it is an entirely unjust and inequitable discrimination which would operate against the rural municipalities and in favor of the urban municipalities.

The State of California recognized the injustice of this and in section 1314 of article 13 of the constitution provided that the bonds of irrigation districts should not be subject to taxation. This section reads as follows:

"All bonds issued by the State of California, or by any county, city and county, municipal corporation or district (including school, \* \* \* and irrigation districts) within said State shall be free and exempt from taxation."

Here, again, we have the solemn declaration of the people of the State of California through its constitution that irrigation districts are municipal organizations or political subdivisions of the State.

It perhaps is not improper that the department should consider, on the grounds of justice, the long struggle which the farmers of the arid regions of western America have undergone in order to obtain for their land the water which is necessary and which has added wealth to the United States which is almost immeasurable, and the bulk of this work in the State of California has been carried on by the farmers themselves in the organization of these rural municipalities, where all of the expense and labor and cost has been borne by the residents of the districts. At this time, after the people of California are beginning to see the fruition of their hopes in the reclamation of the arid portions of their State through the instrumentality of these agencies of the Government, to impose this additional burden is a hardship for which there is no justification or reason, and we respectfully submit that in view of the authorities that have been cited and of the reasons that have been given and of the congressional interpretation which in the Federal reserve act has been placed upon such securities, we are justified in asking that the bonds of irrigation districts be held to come within the class of bonds exempt from taxation under the income-tax law.

Respectfully submitted.

E. N. PIERCE,

*Secretary Irrigation Districts Association of California.*

A. L. COWELL,

*Secretary San Joaquin Valley Water Problem Association.*

L. L. DENNETT,

*Attorney for South San Joaquin and the  
Waterford Irrigation Districts.*

BRIEF FILED WITH SECRETARY OF TREASURY BY C. F. CURRY, JANUARY, 1914.

The Solicitor of Internal Revenue's attention is called to the fact that reclamation districts being authorized by the laws of California are duly authorized agencies. Also the law that the authorized act of an agent is the act of its principal, to wit: the State; and that these reclamation bonds are, in fact, the act of the State of California.

His attention is also called to the fact that the decisions of the highest courts of California defining and explaining these reclamation districts are the construction of the highest court of that State of a statute thereof, and that even the Supreme Court of the United States considers itself bound by the construction of the highest court of a State of the statute of that State. His attention is called to the fact that the highest courts of California have construed these reclamation districts as agencies authorized and created by the State, and that these decisions have been followed and approved and made part of such decisions of the Federal courts as have had occasion to construe or consider the statute of these reclamation districts.

It is submitted that these reclamation districts are utilities of the State of California and the coupons attached to the bonds, evidencing the interest thereon, are issued by the treasurer of the several counties of the State wherein the reclamation districts are located.

The Federal courts of California hold they are agencies and State utilities, and these Federal decisions approve, adopt, and cite as parts of their own opinions various opinions of the highest State court of California.

The bonds and coupons are issued by the State as they are issued by a legally declared political agency of the State.

The State of California is greatly interested in the income from these bonds being not taxed that they may have the advantage the income law gave them in paragraph "G," and which will enable their being marketed and of which they are in great need.

I respectfully request this brief may be carefully considered before any further action is taken, and suggest that in view of the fact that the interests of the sovereign State of California are involved that the matter should properly have the consideration of the Attorney General if you do not think the income from these bonds are exempt from tax.

A copy of the sections of the Political Code of California under which these bonds are issued you will find in a brief of Mr. Gregory transmitted by your collector.

Referring to the case of State of South Carolina v. United States (199 U. S., 437), the question now presented is not whether the Government can tax by internal-revenue taxation the utilities of a State. This question is not presented for the reason that by section G it is provided that "there shall not be taxed under this section any income derived from any public utility."

And, further, this case is illuminating as showing that these reclamation districts are utilities and State governmental functions and should not be taxed, as Justice Brewer therein cites with approval the doctrine of United States v. Baltimore & Ohio Railroad Co. (17 Wall., 332).

"The rights of the States to administer their own affairs through their legislative, executive, and judicial departments is conceded by the uniform decisions of this court and by the practice of the Federal Government from its organization. This carries with it an exemption of those agencies and instruments from the taxing power of the Federal Government."

Justice Brewer says, further: "These decisions, while not controlling the question before us, indicates that the thought has been that the exemption of State agencies and instrumentalities from national taxation is limited to those which are of a strictly governmental character and does not extend to those which are used by the State in carrying on an ordinary private business." (South Carolina v. United States, 199 U. S., 461.)

Justice Brewer further says the well established distinction between duties of a public character and those which relate to what may be considered their private business is their different responsibility for negligence. "The distinction is well established between the responsibilities for acts done in their public capacity, in the discharge of duties imposed upon them by the legislature for the public benefit, and for acts done in what may be called their private character." (South Carolina v. United States, supra.)

The test has been if the acts were of a public character the municipal corporation—or agency—could not be sued for negligence, and if the corporate functions or agency was of a private character or for its benefit or profit it could be, and in all the cases of the Federal as well as State courts it is seen that these reclamation districts can not

be sued because they are public agencies; and under the reasoning and decision of Mr. Justice Brewer they could not be taxed—even had Congress enacted they should be, instead of expressly exempting them therefrom. (St. Louis Southwestern Ry. Co. v. Board of Directors of Miller Levee District No. 2; 207 Fed., 338.)

"A state, under its general governmental powers, has the right, directly or through the agency of levee districts created for the purpose, to build levees to protect land from overflow; and such structures create no liability for consequential damages caused thereby to private property by reason of any provision of the National Constitution."

Sanborn and Carland, circuit judges, and Willard, district judge.

"The public object which the State might legally accomplish was the prevention of the overflow. The means employed were the levees."

Now the only income from these reclamation districts is the coupons or interest on their bonds, and these can not be taxed under the exemption. Income in the law does not necessarily mean earnings as an income from a State, or a political subdivision thereof, may be derived from its power to enforce payments through taxation rather than in the restricted returns from physical and mental labor or investments as in the case of natural persons.

These reclamation districts are similar to where the United States condemned lands for the Plaza near the Capitol in this city or for public parks and pays for them one half out of the Treasury and the other half out of the revenues of the District of Columbia, and which is compensated by taxation on abutting property supposed to be benefited thereby. If the United States and the District of Columbia were not in funds, as is not the State of California, and issued bonds, with coupons thereto attached, would these coupons be taxable? They certainly would not, whether the bonds were issued by the District Commissioners or any other agency elective or appointive that might be selected to issue the bonds to raise the money to pay therefor.

Section G of the law provides:

"That there shall not be taxed under this section any income derived from any public utility or from the exercise of any essential governmental function accruing to any State, Territory, or the District of Columbia, or any political subdivision of a State \* \* \*

The Federal courts of the United States have analyzed and defined what a reclamation district is and in such decisions have quoted and adopted the decisions of the State courts of California explaining and defining the nature of these reclamation districts. They have held that the reclamation districts are public agencies and the interest on the bonds, the income therefrom, are derived from such tax district and are paid by the county officers wherein the several reclamation districts are located, and come out of the exercise of the State of one of its public agencies and from an essential function accruing to the State—to increase its income by reclaiming waste land and making it more valuable for State taxation purposes.

Upward of \$30,000,000 worth of land have been made taxable through this agency, and twice that much is now contemplated being done additionally.

The increased value to the reclaimed land is paid for by taxation upon the land benefited by the owners thereof, but the State, not having the money in hand to make the improvements at once and render the land more valuable to it for taxation, has authorized the issuance of the bonds by a public agency it has created, and the owners of the bonds derive their income from and through such agency.

Political Code of California, section 3480:

"The board of trustees of the district shall cause bonds in the amount stated in the order for the election to be executed and delivered, together with the assessment list, to the treasurer of the county in which the greater portion of the lands of said district is situated.

\* \* \* \* \*

"They shall be signed by the president of the board of trustees of the district and attested by the county auditor of said county.

"Coupons for each installment of interest shall be attached to said bonds \* \* \* and attested by the facsimile signature of the county auditor.

"The coupon for the interest or income from these bonds is the promise that the treasurer of \_\_\_\_\_ County, California, will pay the holder hereof \* \* \*,"

"The treasurer of said county \* \* \* shall \* \* \* any of said bonds \* \* \*"

"Before making a sale of said bonds, notice shall be given by the county treasurer that he will sell a specified amount of said bonds.

"Any money derived from the sale of said bonds by said county treasurer shall be placed in the treasury to the credit of said district."

It should be noted here that the coupons are attached to and sold with and at the time the bonds are sold.

The improvements are done under the direction, supervision, and approval of United States Army Engineers and the purposes of the improvements and the operations of the reclamation districts are not only to enhance the land in value for increased State taxation, but to have the work performed in such manner that it will preserve and increase the navigability of the Sacramento and San Joaquin Rivers; prevent the destruction or loss in value of other lands outside the reclamation district; and coincide with the operations of the California Débris Commission, created by Congress and the State of California.

The United States Circuit Court of California says that a district organized under the Political Code of California (3440-3491) for the reclamation of swamp and overflowed lands, is a public agency.

*Sells v. Greene* (88 Fed., 129). Morrow, circuit judge:

"Reclamation districts organized under the provisions of the Political Code of California (secs. 3440-3491, inclusive), while performing in a sense, public functions, in the reclamation of swamp and overflowed lands, are not public municipal corporations. It may even be doubted whether they may be termed, with absolute accuracy, 'quasi public corporations.' They appear to be more properly designated as 'public agencies' for certain particular purposes, to wit, reclamation of swamp and overflowed land. The nature and functions of reclamation districts organized under the provisions of the political code of the State have been carefully considered by the supreme court of the State in *People v. Reclamation District No. 551*, (117 Cal., 114; 48 Pac., 1016), the same district proceeded against in the case at bar, and in *Hensley v. Reclamation District 53* (Pac., 401). In the case last cited it was said:

"They [reclamation districts] have been called 'quasi public corporations.' They are at least 'public agencies.' (Citing *People v. Reclamation District No. 551*, 117 Cal., 114; 48 Pac., 1016.) But, if considered corporations, they have only such powers and have only such liabilities as are prescribed by the law which creates them. They are not corporations organized under the civil code. Their characters are determined by the provisions of the political code, from which they derive whatever legal existence they have. The law which creates them does not anywhere provide that they may be sued, and they can sue only for one purpose; that is, to collect the assessments. There is no provision for perpetual succession, and there are only two or three usual powers of a corporation granted them \* \* \*

"\* \* \* No reason occurs to me why the trustees can not be enjoined and a proper case be made out against them. They are the representatives of the district—the public agents, so to speak—under whose authority and supervision the work of reclamation is carried on after the district is organized."

*Sells v. Greene* (81 Fed., 555), circuit court, N. D. Cal., 1897. Morrow, circuit judge:

"It is not disputed that a reclamation district is, under the laws and decisions of the State of California, a corporation of a quasi public character. See sections 3446, et seq. Pol. Code Cal.; *Dean v. Davis*, 51 Cal., 406; *People v. Reclamation District No. 108*, 53 Cal., 346; *People v. Williams*, 56 Cal., 647; *Lamb v. Reclamation District No. 108*, 73 Cal., 125; 14 Pac., 625; *Elmore v. Drainage Comrs.*, 135 Ill., 269; 25 N. E., 1010."

*Sells v. Greene* (81 Fed., 557). Morrow, circuit judge:

"Reclamation districts, like drainage districts, are for the purpose of 'the reclamation of large bodies of swamp and overflowed lands, and their consequent improvement is justly to be regarded as a matter of public concern.'" (*Elmore v. Drainage Comrs.*, 135 Ill., 275; 25 N. E., 1011.)

*Rec. Dist. v. Hagar*, 4 F., 366, affirmed.

*Hagar v. Rec. Dist.*, 108, 111 U. S., 701:

"A reclamation district being under the law of California a corporation of a quasi public character, is not liable to a private action for negligence in the performance of its duties, or for a nuisance." *Sells v. Greene* (C. C.), 81 F., 555.

*Bates County, Mo., v. Wills* (111 C. C. A., 358). Munger, district judge:

"Viewing the legislation of the State relative to these drainage districts, we think it is apparent that drainage districts were merely political subdivisions of the county for the special purposes of drainage and were not at the time the contract was entered into created corporations capable of suing and being sued."

*Dillon on corporations* (5th Ed., 63):

"In California a swamp-land reclamation district is a public corporation for municipal purposes." (Citing *Dean v. Davis*, 51 Cal., 406, 410; *People v. Reclamation Districts*, 53 Cal., 346; *People v. Williams*, 56 Cal. 6 and 7; *Hoke v. Perdue*, 67 Cal., 526.)

"A levee district organized under the laws of California to construct works for preventing portions of the territory from overflow, and clothed with powers, for this purpose, to issue bonds, levy and collect assessments, construct and repair highways, open canals, etc., is a public corporation." (Dean v. Davis, 51 Cal., 406.)

"Reclamation districts are public corporations." (People v. Williams, 56 Cal., 647.)

People v. Reclamation District No. 551 (117 Cal., 121):

"Certainly, these districts were not municipal corporations, as that term is used in the constitution, and I think it equally clear that they do not belong to any class of corporations defined in the Civil Code. Section 284 reads: 'Corporations are either public or private. Public corporations are formed or organized for the government of a portion of the State. All other corporations are private.'"

"These districts, in my opinion, belonged to neither of these classes. They are special organizations, formed to perform certain work, which the policy of the State requires or permits to be done, and to which the State has given a certain degree of discretion in making the improvements contemplated. They are described by Dillon in his work on Municipal Corporations, sections 24, 25, and 26. He calls them quasi corporations. Perhaps it would have been more accurate to say that they are not corporations at all, but are so classed because many of the presumptions and rules which apply to corporations have been made applicable to them. There are public agencies which would cease to exist when the policy of the State has changed so that they are no longer required, or when there is no further function for them to perform. And there is nothing in the constitution relating to municipal corporations which would prevent the State from so changing its policy as to put them out of existence."

Reclamation District No. 551 v. County of Sacramento (134 Cal., 478):

"The sole question presented is, whether property acquired by reclamation district is necessary and indispensable to the execution of its objects, is subject to taxation for State and county purposes. Section 1 of article 13 of the constitution declares that 'all property in the State, not exempt under the laws of the United States, shall be taxed in proportion to its value—provided—(that) property used exclusively for public schools, and such as may belong to the United States, this State, or to any county or municipal corporation within this State, shall be exempt from taxation.'"

"Appellant's contention is that a reclamation district is not a municipal corporation, hence its property does not fall within the exceptions of the above provision of the constitution. Plaintiff was organized under the provisions of section 3446 et seq. of the Political Code. It was held in People v. Reclamation District No. 551 (117 Cal., 114), that these districts are not municipal corporations, as that term is used in the constitution nor do they come within the classes of corporations defined by section 284 of the Civil Code. It was said: 'They are special organizations, formed to perform certain work which the policy of the State requires or permits to be done, and to which the State has given a certain degree of discretion in making the improvements contemplated.' Again: 'They are public agencies, which would cease to exist when the policy of the State has changed so that they are no longer required, or when there is no further function for them to perform.'"

"Referring to Mr. Dillon's designation of them as quasi corporations, it was said 'Perhaps it would be more accurate to say that they are not corporations at all.' Hensley v. Reclamation District No. 556 (121 Calif., 96), was an action against the district for damages sounding in tort. It was held that the action would not lie: that these districts 'have only such powers and have only such liabilities as are prescribed by the law which creates them. \* \* \* Their characteristics are determined by the provisions of the Political Code, from which they derive whatever legal existence they have. The law which creates them does not anywhere provide that they may be sued.' It was held that a judgment could not be enforced against a district, for 'it has no property out of which a judgment could be satisfied. It is, in its essential character, a mere agency.' \* \* \*

"It is not necessary to hold this property, thus created, to be the property of a municipal corporation in order to make it exempt from taxes. It would be sufficient to hold that it is public property of the State within the meaning of the constitution. The whole scheme of reclamation originates with the State and it is carried to conclusion by agencies of the State—the district, as we have already seen, being a public agency—in furtherance of public policy."

Swamp land, etc., District 341 v. Blumenberg (156 Calif., 537):

"A district which, though not a municipal corporation, is at least a public corporation performing some of the functions of government for the local territory interested."

"Expressions will be found in cases where such organizations have been designated 'corporations for municipal purposes,' or 'public corporations,' or 'corporations for public purposes,' but these were convenient phrases or designations, and descriptive

rather than judicial declarations, as to the nature and character of these agencies. The question is conclusively answered by *People v. Reclamation District No. 551* (117 (alif., 114). It is held that the Reclamation District, considering it to be a corporation, is not a corporation for municipal purposes within the meaning of the constitution, but as such Levee District or Reclamation District, are distinctly not private corporations, it must follow that, if they be corporations, they are corporations in a class by themselves and the general powers of the legislature for their creation, organization, and control are in no wise limited by the constitution of the State."

*Reclamation District No. 70 v Sherman* (11 Cal., App. 400) "Reclamation districts are governmental agencies which may be formed and organized by special act; and the general power of the legislature for their creation, organization, and control is not limited by the constitution of the State. They are formed to carry out a specific purpose."

*People v. Reclamation District No. 108* (53 Cal., 349), "a corporation of this character is, as already stated, a public corporation. Such a corporation can be created not only by the means and in the manner provided by the general law, but also by special act, or by implication of law."

If any bond shall not be presented for payment when the same becomes due, it shall cease to draw interest, but, if presented at such time and not paid for want of funds, the said county treasurer shall so indorse it and thereafter such bond shall draw interest until paid at the rate of 6 per cent per annum, compounded semiannually, until funds shall have been provided for its payment, which bonds shall be substantially in the following form:

"No. .... Reclamation District No. .... in the county of ....., State of California. For value received, promises to pay the holder hereof, at the office of the treasurer of said county, on the first day of ....., 19... the sum of ..... dollars, in gold coin of the United States, with interest in like gold coin at the rate of 6 per cent per annum, payable at the office of said treasurer semiannually, on the first day of January and July in each year, on presentation and surrender of the interest coupons hereto attached. This bond is issued by authority of section thirty-four hundred and eighty of the Political Code of the State of California, pursuant to an election held in said reclamation district on the ..... day of ....., nineteen hundred and ....., authorizing its issuance, and is based upon an assessment levied in said district and filed in the office of the county treasurer of said county on the ..... day of ....., 19...

"In testimony whereof, the said district, by its board of trustees, has caused this bond to be signed by the president of said board, and attested by the auditor of said county, with his seal of office attached, this \_\_\_\_\_ day of \_\_\_\_\_, 19—.

"\_\_\_\_\_  
President of said board.

"Attest:

"\_\_\_\_\_  
Auditor of \_\_\_\_\_ County."

And the interest coupons shall be in substantially the following form:

"No. \_\_\_\_\_  
The treasurer of \_\_\_\_\_ County, California, will pay the holder hereof, on the \_\_\_\_\_ day of \_\_\_\_\_, 19—, at his office in \_\_\_\_\_, \_\_\_\_\_ dollars, gold coin, out of the funds of Reclamation District No. \_\_\_\_\_ for interest on bond numbered \_\_\_\_\_ of said district.

"Attest:

"\_\_\_\_\_  
County Auditor."

INCOME TAX—SPECIAL ASSESSMENT DISTRICTS.

DEPARTMENT OF JUSTICE,  
January 30, 1914.

SIR: In your letter of the 8th instant you requested an expression of opinion on certain questions arising in the administration of your department in connection with the interpretation of the proviso contained in paragraph B, section 2, of the revenue act approved October 3, 1913 (the income-tax law), which reads as follows:

"That in computing net income there shall be excluded interest upon the obligations of a State or any political subdivision thereof."

In substance, your question is whether special assessment districts created under the laws of the several States for the purpose of the improvement of streets and public highways, the provision of sewerage, gas, light, and the reclamation, drainage, or



irrigation of considerable bodies of land within the same are "political subdivisions" of the State within the meaning of the above proviso.

I can not, of course, undertake to pass upon any particular obligation of any specific district of the character referred to. I confine myself to a statement of the principles of law involved, leaving to you the application thereof to specific cases.

The term "political subdivision" is broad and comprehensive and denotes any division of the State made by the proper authorities thereof, acting within their constitutional powers, for the purpose of carrying out a portion of those functions of the State which by long usage and the inherent necessities of Government have always been regarded as public. The words "political" and "public" are synonymous in this connection. (Dillon Municipal Corporations, 5th ed., sec. 34.) It is not necessary that such legally constituted "division" should exercise all the functions of the State of this character. It is sufficient if it be authorized to exercise a portion of them. Otherwise the principal advantage sought in making such subdivisions would not be attained. Counties, townships, wards, precincts, all lack something of the fullness of the State itself, and are created to give local government in minor matters to a particular district.

If, then the special assessment districts, to which you refer be lawfully created by a State for the purpose of exercising a portion of its public functions so defined, they are "political subdivisions thereof."

As indicated by the term "special assessment districts," these divisions are given the power of taxation—perhaps the most important power possessed by the State. A tax can only be laid for a public purpose (*Loan Association v. Topeka*, 20 Wall., 655), and therefore, where the power to levy a tax is given a district by the State, presumptively that district is created for a public use and is exercising a public function. (*Burington v. Beasley*, 94 U. S., 310; *Blair v. Cuming County*, 111 U. S., 363, 373; *Perry v. Keene*, 56 N. H., 514.) In *Blair v. Cuming County*, supra, the court said:

"And when the legislature has given to gristmills and the water-power connected with them such a public character as in the present case, the improvement of the water power must be regarded as a public work of internal improvement, which may be aided in its construction by the issue of bonds under the act in question."

Nor does it make any difference that the tax is measured by the benefit conferred. A man can not be compelled to pay money, even to benefit himself, and in special assessments based on benefits the question is still preliminary and vital whether the tax has been assessed for a public purpose or not.

Undoubtedly, the legislature might attempt to grant the power of taxation to a district for purposes purely private, but every presumption is against a construction to that effect, and it should not be indulged where the purposes for which the power of taxation is granted have by long usage been treated as public and have been sustained as such by the State courts.

The purposes to which you refer, namely, the improvement of streets and public highways, the provision of sewerage, gas, and lights, the reclamation, drainage, and irrigation of considerable districts of land are clearly public and have always been so treated.

In *Davidson v. New Orleans* (96 U. S., 97, 104) a special drainage law of Louisiana was sustained as providing for "a tax, assessment, servitude, or other burden" "imposed upon property for the public use, whether it be for the whole State or of some more limited portion of the community."

In *County of Mobile v. Kimball* (102 U. S., 691) the act creating a harbor board for the improvement of Mobile Harbor and authorizing taxation therefor was sustained as contemplating a public work.

In *Hagar v. Reclamation District* (111 U. S. 701, 704, 705) the reclamation act of California was sustained, the court saying:

"It is not open to doubt that it is in the power of the State to require local improvements to be made which are essential to the health and prosperity of any community within its borders. To this end it may provide for the construction of canals for draining marshy and malarious districts, and of levees to prevent inundations, as well as for the opening of streets in cities and of roads in the country. The system adopted in California to reclaim swamp and overflowed lands by forming districts, where the lands are susceptible of reclamation in one mode, is not essentially different from that of other States, where lands of that description are found. The fact that the lands may be situated in more than one county, can not affect the power of the State to delegate authority for the establishment of a reclamation district to the supervisors of the county containing the greater part of the lands. Such authority may be lodged in any board or tribunal which the legislature may designate.

"In some States the reclamation is made by building levees on the banks of streams which are subject to overflow; in other States by ditches to carry off the surplus water.

Levees or embankments are necessary to protect lands on the lower Mississippi against annual inundations. The expense of such works may be charged against parties specially benefited, and be made a lien upon their property. All that is required in such cases is that the charges shall be apportioned in some just and reasonable mode, according to the benefit received."

In *Wurts v. Hoagland* (114 U. S., 606, 614) the drainage act of New Jersey was sustained as being "a just and constitutional exercise of the power of the legislature to establish regulations by which adjoining lands held by various owners in severalty, and in the improvement of which all have a common interest, but which, by reason of the peculiar natural condition of the whole tract can not be improved or enjoyed by any of them without the concurrence of all, may be reclaimed and made useful to all at their joint expense."

In *Essex Public Road Board v. Skinkle* (140 U. S., 334, 339) the court made the following statement concerning a board created by the legislature of New Jersey to construct roads in a certain county:

"The public road board was an involuntary quasi corporation, created to construct a public work and authorized to procure the means to accomplish the improvement by the imposition of assessments upon private property. It was purely a governmental agency, existing wholly for public purposes, and whose interests belonged exclusively to the public."

In *Fallbrook Irrigation District v. Bradley* (164 U. S., 112, 161) the California irrigation law was upheld, the court saying:

"It is not essential that the entire community or even any considerable portion thereof should directly enjoy or participate in an improvement in order to constitute a public use."

In *New Orleans Gas Company v. Drainage Commission* (197 U. S., 453, 460) the Supreme Court held that a drainage commission was an agency of the State, and as such possesses its police powers; and said:

"The drainage of a city in the interest of the public health and welfare is one of the most important purposes for which the police power can be exercised. The drainage commission, in carrying out this important work, it has been held by the supreme court of the State, is engaged in the execution of the police power of the State."

In *Railway Company v. Drainage Commissioners* (200 U. S., 561, 592), the drainage commission of the State of Illinois was permitted, incidental to its operations, to cause a change of a bridge of a railroad without compensation, the court saying:

"We hold that the police power of a State embraces regulations designed to promote the public convenience or the general prosperity, as well as regulations designed to promote the public health, the public morals, or the public safety."

In *Little v. Williams* (231 U. S., 335) the Supreme Court held that a levee district in Arkansas which had an imperfect title from the State was bound by the subsequent action of the State affecting that title, saying:

"The district was a mere political subdivision of the State, created by the latter and invested with authority to construct and maintain levees to protect lands within its limits from overflow by the waters of the Mississippi River and to levy and collect taxes and take other measures to that end. (Laws Ark., 1893, pp. 24, 119.) It was essentially a subordinate agency of the State, was exercising a power of the State for its convenience, could have no will contrary to the will of the State, held its property and revenue for public purposes, and was in all respects subject to the State's paramount authority. In view of this relation, we are quite clear that the State's action was binding upon the district, and that the latter could not, by its subsequent deed to the plaintiff, invest her with a title which it no longer possessed."

And this decision was followed in the case of *Chapman & Dewey Lumber Co. v. St. Francis Levee District*, decided by the Supreme Court of the United States on the 26th instant, where the language of the supreme court of Arkansas in *Carson v. St. Francis Levee District* (59 Ark.), at pages 533 to 535, is referred to with approval.

These decisions establish that districts lawfully created by the State for the purpose of constructing works of the character referred to above, and of levying a tax therefor, are portions of the State itself, invested with a part of its sovereign functions, and are therefore political subdivisions thereof. \*

The decisions of the supreme courts of the several States have been very carefully examined, and it has been found that their conclusions are uniformly in accord. It would stretch this opinion to undue length to refer to them in detail. They may be found in *Dillon. Municipal Corporations* (5th ed., sec. 34, note 3) and *Page and Jones on Taxation by Assessment* (sec. 233).

In many of these decisions irrigation districts and the like are referred to expressly or substantially as "political subdivisions"; for example, *Carson v. St. Francis Levee District* (59 Ark., 513, 534); *Land and Stock Company v. Miller* (170 Mo., 240, 253);

Cook v. Port of Portland (20 Oreg., 580, 588); Wharton County Drainage District v Higbee (149 S. W. Rep., 381, 387); Reed v. Claypool Drainage and Levee District (122 Fed., 207, 211); People v. Hepler (240 Ill., 196, 199).

The case of State v. Englewood (41 N. J. L., 154), has been cited as determining that a special assessment district is not a political subdivision of the State unless it coincides with a recognized unit of local government, such as a county, township, or city, but this case must be read in connection with Essex Public Road Board v. Skinkle (49 N. J. L., 641, 670, 671), where the court said of the board:

"It may properly be termed a quasi corporation, whose functions are wholly of a public nature, and having corporate powers only for certain specified purposes. Such a corporation is a mere agent, employed as part of the machinery of government, to aid in carrying on a portion of its affairs of a local nature," and with Smith v. Howell (60 N. J. L., 384), where a street lighting district was held to be a political division of the State. So in a case in the court of errors, Van Cleve v. Passaic Valley Sewerage Commissioners (71 N. J. L., 574, 585) the court, while holding the assessment invalid because levied on territory outside the district, said:

"If, for instance, as was suggested by the arguments before us, powers adequate to the execution of the legislative scheme of drainage were conferred upon the entire area to be taxed, and duties respecting the exercise of such powers constitutionally imposed in such manner as indicated that their exercise was compulsory, a question not touched upon in this opinion would be presented."

The law of New Jersey, therefore, does not seem to differ from that of the other States as to the character of special assessment districts—at any rate, where the assessments do not exceed the benefit conferred.

In my opinion, therefore, the special assessment districts of the character referred to above, when lawfully created under the authority of the State, are "political subdivisions" thereof; but I desire carefully to refrain from expressing any opinion whether assessment districts might not be created for a purely private purpose so as to bring them within the principles laid down in the South Carolina Dispensary case (199 U. S., 437), rather than within those which governed United States v. Railroad Company (17 Wall., 322).

I have the honor to be, your obedient servant,

J. C. McREYNOLDS.

To the SECRETARY OF THE TREASURY.

(T. D. 1946.)

#### INCOME TAX.

Special assessment districts created under the laws of the several States for public purposes, such as the improvement of streets and public highways, the provision of sewerage, gas and light, and the reclamation, drainage, or irrigation of bodies of land, and levee and school districts are held to be political subdivisions of a State.

TREASURY DEPARTMENT,  
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,  
Washington, D. C., February 10, 1914.

To collectors of internal revenue:

Referring to paragraph B, section 2 of the income-tax law, which reads as follows: "That in computing net income there shall be excluded interest upon the obligations of a State or any political subdivision thereof," you are informed that under date of January 30, 1914, the honorable, the Attorney General, held that special assessment districts created under the laws of the several States for public purposes, such as the improvement of streets and public highways, the provision for sewerage, gas and light, and the reclamation, drainage, or irrigation of bodies of land within such special assessment districts when such districts are for public use, are political subdivisions of the State within the meaning of the above proviso.

It is held that the term "political subdivision" includes special assessment districts or divisions of a State created by the proper authority of the State acting within its constitutional powers and under its general laws, for the purpose of carrying out a portion of those functions of the State which by long usage and inherent necessities of government have always been regarded as public.

Levee and school districts, when lawfully created under the authority of the State and which are authorized by the laws of the State to levy a tax to meet the obligations of such districts, are also held to be political subdivisions of a State within the meaning of the income-tax law.

The income derived from interest upon the obligations of all such public districts shall, therefore, be excluded in computing net income for the income tax.

This decision supersedes Treasury Decision 1910.

W. H. OSBORN,  
*Commissioner.*

Approved:

C. S. HAMLIN,  
*Acting Secretary.*

The CHAIRMAN. Without objection, the statement of Mr. Van Derlip and Mr. Stevens will be printed in the hearing.  
(The statement referred to follows:)

STATEMENT SUBMITTED TO THE WAYS AND MEANS COMMITTEE OF THE HOUSE OF REPRESENTATIVES SUGGESTING MODIFICATIONS OF THE EXISTING REVENUE LAWS RELATIVE TO THE PROVISIONS (a) ALLOWING DEDUCTIONS FROM GROSS INCOMES FOR DEPLETION OF MINES IN CONNECTION WITH TAXES UPON CORPORATE INCOMES, AND (b) DEFINING "INVESTED CAPITAL" IN CONNECTION WITH TAXES UPON EXCESS PROFITS.

[By John R. Van Derlip, Frederick C. Stevens.]

This statement is submitted in behalf of various independent owners and producers of iron ores on the ranges constituting what is commonly referred to as the Lake Superior Iron Ore District in the States of Michigan, Wisconsin, and Minnesota; yet, while it is submitted primarily and directly at the instance of such owners and producers, its chief purpose is to aid the committee, if possible, in arriving at and formulating a law which will be just in its operation, both to the Government and to all business interests and business investments.

By the term "independent owners and producers" is meant those who own and produce ore, or who own ore produced by others, for sale in the market; as distinguished from those whose ore output is not sold as raw material, but who mine ores principally for their own consumption in the manufacture of pig iron, steel, and many forms of fabricated steel products.

#### THE INTERESTS AFFECTED.

The iron interests affected by the legislation herein suggested are enormous in their geographical as well as in their material extent. They embrace not only the Lake Superior ore bodies, but extensive iron ore bodies in the Southeastern States and in other parts of the United States. The legislation affects also other important groups of mineral deposits such as the coal deposits of the eastern, southeastern, central, and southwestern portions of the United States; the lead and zinc deposits of the Mississippi Valley, and in fact the greater part of all of the mineral resources of the United States. As respects iron ore, these deposits constitute the great reserves of the Nation; and, in the existing exigency, with its tremendous requirement of iron ore, they should be rendered available for immediate production, unhampered by every unnecessary and justly avoidable tax restriction; while the opening and developing to productive capacity of the other mineral deposits, above mentioned, in the United States, are of immediate and vital importance to the country.

#### ENCOURAGEMENT OF NEW MINES.

The amendments herein proposed will aid especially in clearing up the difficult problems to be faced in the development and operation of new domestic deposits required by the restriction of imports, particularly the manganese and graphite deposits of the southeastern United States and the chromite deposits of California. Up to this time, these last-named ores have been obtained in great part from foreign sources which can no longer be looked to on account of lack of available ships; so reliance must now be placed to a very large degree upon domestic sources for the requisite supplies of these essential elements in the production of ordnance, ammunition, and other fabrications demanded by the necessities of the Government and the general public. The deposits of these ores occur in small and scattered bodies and are capable of being operated only in a limited way. Furthermore, any undue restriction, by an inaccurate system of taxation which discourages the continued operation at fullest capacity of the underground mines, will have the double effect of reducing the available supply in the market of iron ore and of discouraging the searching out, exploring, and development of possible new mineral territory. Such exploration and development are the most hazardous features of the business, yet they are of the utmost importance, because they are the foundation for the future maintenance and expansion of the iron and steel business in the United States.

## THE PRESENT SITUATION.

The situation to-day in the iron mining industry is very precarious. The Government has entered upon an era of practical sequestration, just announced, of the entire steel output of the country (which will necessitate the use of all iron ores produced in the United States), to be used for its purposes and to be distributed in accordance with its requirements. The market prices for iron ores have for some months past been fixed by the Government, and the prices at which they can be sold hereafter will be named by it. The Lake Superior iron district in 1917 shipped 64,500,000 gross tons of iron-ore. Of this amount 48 per cent (about 32,000,000 tons) came from underground mines, and 52 per cent from open-pit mines, where steam shovels load the ore directly into railroad cars. Of the 32,000,000 tons of ore derived from underground mines approximately 20,000,000 tons are mined and sold by the independent operators.

On account of war conditions the labor supply has been much reduced, resulting in a materially lessened production. During the past year the labor cost per ton, which constitutes about two-thirds of the mining cost, has more than doubled, and the other one-third of such cost, covering fuel, explosives, machinery, lubricants, etc., has increased in varying percentages from 30 per cent up to 120 per cent. The recent advancement of freight rates has likewise added to the burden of costs to be paid out of the fixed market price of iron ores, and as a consequence some of the underground mines in the Lake Superior district have already closed down and others will follow.

The foregoing statements are the result of painstaking calculations by expert mining accountants and managers, and data in relation thereto can be found in and the statements herein made will be verified by documents on file in the office of the price-fixing committee of iron and steel of the War Industries Board.

One other consideration is important. The ore from the underground mines is superior in chemical and physical qualities to that taken from the open-pit mines and is the basis for all blast-furnace practice. Any substantial curtailment, therefore, in the production of the underground ores means not alone a lessening of available raw material, but a serious interference with the use of the other ores and with the production of pig iron which is made from the combined ores.

## WHY AMENDMENT NECESSARY.

The theory of the income-tax laws, and a purpose of the Congress in their exemptions, were to secure to business men the return of their invested capital tax free, while imposing upon all income, gain, and profits derived therefrom both income and excess-profits taxes.

But the laws as they now stand have laid upon business men and corporations, and especially upon mine owners, burdens which have seriously handicapped and will in the future affect even more disastrously their undertakings and markedly the operations of mines and the output of essential ores, in consequence of which the revenues that the Government might reasonably anticipate from the earnings of mines will be correspondingly decreased.

These dangers arise—

First. By reason of the inadequacy of the provisions relating to deductions from gross income allowed for depletion of mines, found in paragraph eighth of section 5 (a) and paragraph second of section 12 (a) of the income-tax law of September 8, 1916 (which provisions are practically identical in form).

Second. Because of the limitations of the definition of "invested capital" appearing in section 207 of the excess-profits tax law of October 3, 1917.

In detail, the defects complained of are:

1. A failure to recognize that royalties paid to mine owners, for ores disposed of under mining leases or other forms of contracts, in advance of mining and removing the ores, represent a conversion of invested capital. On the contrary, as the law has been construed and applied, such advance payments have been regarded by the Government as income and subject to income and excess-profits taxes; and, to the extent of such advance payments, the mine owner has been prevented from receiving back his invested principal represented by his mineral holdings free from such taxes which, it is not unreasonable to assume, will henceforward absorb the major part of it.

2. The second way in which existing legislation has operated injuriously and inequitably is by so restricting the definition of "invested capital" in the war excess-profits tax law as to impose excess-profits taxes upon capital actually used in business as well as to classify as excess profits a considerable portion of what is in fact that percentage of profits (not less than 7 per cent, or more than 9 per cent, upon business capital) intended by the law to be exempted from such taxation.

## DISASTROUS RESULTS TO BE APPREHENDED.

Each of these defects in the law not only works loss and injustice, but the tax burden thus added will necessarily lead to a restriction of output for several reasons:

(1) It marks in many cases the difference between a profitable or a losing operation and compels its suspension.

(2) It tends to cause suspension of operations until such time as the owner can be assured at least of a certain return of the investment which he has in his mine.

(3) Instead of stimulating the opening and operation of new properties actually necessary for the successful conduct of the war, it discourages such enterprise.

(4) Another consequence which can not be escaped is that, if incomes be diminished by reduction of mining operations, the public revenue derived under these tax laws will fall in like ratio.

(5) The same conditions operate to discourage all extensions by way of development in existing mines, and to destroy all initiative in seeking out and exploring new mineral fields. No one will open new mines or extend old ones with the certain prospect that his earnings will be doubtful and also that his capital invested will be in danger of loss by taxation upon a technical claim that a part of it constitutes income.

It is especially important that Congress should not prejudice the interests of the Government itself by casting obstacles, in the nature of unwarranted taxation, in the way of production in this country of those less common, but very essential, metals, such as manganese, graphite, chromite, etc., for which, in the past, we have depended almost wholly upon imports. As already stated, these metals occur in various parts of the United States, but in comparatively small deposits, and it must be anticipated that owners will not undertake development of these mines unless their capital therein is protected.

## PROPOSED AMENDMENTS.

Two amendments of the existing laws, which will overcome the objections above referred to, are proposed for the consideration of the committee.

## THE FIRST AMENDMENT.

The first amendment is of paragraph eighth of section 5 (a) (and the corresponding portion of paragraph second of section 12 (a) of the income tax law of September 8, 1916, relating to depletion deductions, and, together with the language which it is designed to supersede, is printed below:

*Present law.*

Eighth. (a) In the case of oil and gas wells a reasonable allowance for actual reduction in flow and production to be ascertained not by the flush flow, but by the settled production or regular flow:

(b) in the case of mines a reasonable allowance for depletion thereof not to exceed the market value in the mine of the product thereof, which has been mined and sold during the year for which the return and computation are made.

*Proposed amendment.*

"(a) In the case of oil and gas wells, a reasonable allowance for actual reduction in flow and production to be ascertained not by the flush flow, but by the settled production or regular flow:

"(b) In the case of mines, an allowance for depletion thereof equal to but not exceeding the market value in the mine of the ore content thereof which has been mined and sold during the year for which the return and computation are made; or, if the mine be operated or controlled, under a mining contract in any form, by another than the owner, an allowance equal to but not exceeding the market value in the mine of the ore content thereof which has been mined and removed, or for which compensation has been made in accordance with the contract in advance of mining, during such year,

such reasonable allowance to be made, in the case of both (a) and (b) under rules and regulations to be prescribed by the Secretary of the Treasury:

such allowances to be made in the case of both (a) and (b) to all parties interested therein, including owners, lessors and lessees, to the extent of the value of their respective rights or interests therein, under rules and regulations to be prescribed by the Secretary of the Treasury:

*Provided*, That when the allowances authorized (a) and (b) shall equal the capital originally invested, or in case of purchase made prior to March first, nineteen hundred and thirteen, the fair market value as of that date no further allowance shall be made.

No deduction shall be allowed for any amount paid out for new buildings, permanent improvements, or betterments, made to increase the value of any property or estate, and no deduction shall be made for any amount of expense of restoring property or making good the exhaustion thereof for which an allowance is or has been made.

*Provided*, that, if the mine was acquired prior to March 1, 1913, whenever the sum of such annual allowances shall equal the market value of the same as of that date; or, if the mine was acquired after said date, whenever the sum of such allowances shall equal (a) the actual cash paid therefor, or (b) the actual cash value, at the time of payment thereof, of tangible property other than cash paid therefor, or (c), if acquired otherwise than by purchase, the actual cash value of the mine at the time of such acquisition, then no further allowance shall be made.

No deduction shall be allowed for any amount paid out for new buildings, permanent improvements or betterments made to increase the value of any property or estate, and no deduction shall be made for any amount of expense of restoring property or making good the exhaustion thereof for which an allowance is or has been made."

#### PRINCIPLE OF TAXATION UNCHANGED.

In respect of this amendment it may be briefly pointed out that the principle of taxation already adopted by the Congress is not sought to be modified in any respect. The suggested changes are merely for the purpose of protecting the owners of mines in the return to them of the capital investment which they had therein on the 1st of March, 1913. It was the undoubted purpose of the Congress in the act of September 8, 1916, to accomplish this end by the depletion provisions referred to. Nevertheless, the act as framed failed to reach one phase of iron-mining operations through which, in a large percentage of instances, the owner of the mine receives back a large part of his invested capital. In the Lake Superior district the common method of disposing of iron ores is by mining contracts, usually in the form of so-called mining leases, under which the contractee or lessee pays to the mine owner in advance of mining the ore, if the mine be not actively operated (which occurs almost always before he begins active operations and, sometimes, when active operations, having begun, for one cause or another are suspended), an annual sum representing the agreed per ton compensation for a definite number of tons of ore, which sum is received by the owner, and understood by both parties to be in full payment for an equivalent amount of ore whenever it is removed thereafter. These payments are commonly designated as advance minimum royalties; but, whatever their designation, they constitute in fact installment payments to the mine owner for the ore in the mine, and to the extent of the value on the 1st of March, 1913, of the ore so paid for, they represent the return (and the only return) to the owner of such value.

It happens not infrequently that such advance payments are made for several successive years in which no ore is actually mined, but when mining begins (or is resumed after a period of discontinued operation) the whole number of tons represented by such payments of advance royalties are removable by the lessee without his being required to make any further compensation therefor.

Under the law as it now stands there is permitted "in the case of mines, a reasonable allowance for depletion thereof, not to exceed the market value in the mine of the product thereof which has been mined and sold during the year for which the return and computation are made." Under the construction placed upon this law by the Treasury Department, no deduction is permitted to a mine owner by way of depletion out of such advance royalties received by him for ore to be thereafter mined and removed. A moment's consideration of the subject, however, reveals that, when the operator of the mine applies such advance royalties in payment for an equivalent amount of ore subsequently removed by him, the owner of the mine receives no moneys from which he can make a depletion deduction on account of the ore so taken out; as a consequence, his capital represented by such ore is not received by him tax-free, but is treated as income by the Government and is accordingly subjected to both income and excess-profit taxes.

Should the mining contract be terminated for any reason before the ore paid for in advance has been removed, the mine owner would then be obligated to report such

advance royalty payments as income for the year in which the termination occurred, precisely as in all other cases of advance payments on contracts, as provided for in article No. 117 of regulations No. 33.

## THE SECOND AMENDMENT.

The second amendment proposes to modify that portion of section 207 of the excess-profits tax law of October 3, 1917, defining the meaning of "invested capital," so that it will read as printed below:

*Present law.*

(a) In the case of a corporation or partnership:

(1) Actual cash paid in,

(2) the actual cash value of tangible property paid in other than cash, for stock or shares in such corporation or partnership, at the time of such payment (but in case such tangible property was paid in prior to January first, nineteen hundred and fourteen, the actual cash value of January first, nineteen hundred and fourteen, but in no case to exceed the par value of the original stock or shares specifically issued therefor), and

(3) paid in or earned surplus and undivided profits used or employed in the business, exclusive of undivided profits earned during the taxable year:

*Proposed amendment.*

"(a) In the case of a corporation or partnership:

(1) The actual cash value of all the tangible property of the corporation or partnership, including mines and mineral deposits, as of March 1, 1913, if such property was acquired prior to said date; or, if acquired on or after said date, (a) the actual cost thereof in money, or (b) the actual cash value, at the time of payment, of tangible property other than cash paid therefor, or (c), if otherwise acquired, the actual cash value thereof at the time of such acquisition; and

(2) Paid in or earned surplus and undivided profits acquired on or after March 1, 1913, used or employed in the business exclusive of undivided profits earned during the taxable year."

Section 207, as it now reads, undertakes to define "invested capital" for the purpose of levying excess-profits taxes. It will be borne in mind that the one reason for ascertaining invested capital of a taxpayer, whether individual or corporate, is, to compute the amount of income received by the taxpayer which shall be free from excess-profits taxation. The income thus freed from the excess-profits tax is intended to be such a percentage of the taxpayer's invested capital as shall represent what the Congress deems to be, in war times, a fair return to the taxpayer upon the investment which he has in the business in which the income is earned. Manifestly, therefore, it is essential that the amount of that investment shall be accurately and justly ascertained; and, if the definition of "invested capital" as contained in the act of October 3, 1917, is inaccurate and works injustice, whether to the taxpayer or to the Government, the inaccuracy should undoubtedly be corrected.

## FOUNDATION OF INCOME AND EXCESS PROFITS LAWS.

The foundation upon which the present excess profits tax law and the income-tax law rests is, that, as between the Government and the taxpayer, a line of demarcation is drawn (on the 1st of March, 1913, as respects income taxes, and on the 1st of January, 1914, as respects excess-profits taxes), distinguishing between the period prior to the dates named, when neither of said taxes could lawfully be levied by the Government, and the period after said dates. Whether a taxpayer gained or lost in the carrying on of his business prior to the date constituting such line of demarcation is immaterial. Upon all income, gains, and profits derived by a taxpayer after the specified date, the Government has the authority, which it is exercising, to impose income and excess-profits taxes. The basis for the depletion allowance under the income-tax law, and for the deduction permitted under the excess profits tax law, should be the actual invested capital of the taxpayer on the 1st of March, 1913, and the 1st of January, 1914, respectively (unless, as would seem reasonable for the sake of uniformity and consistency, the date of March 1, 1913, should be adopted for both laws).

## PRACTICAL DEFINITION DESIRABLE.

The definition of "capital" in a tax law can not be abstractly accurate. And it is here urged that, on the contrary, the aim should rather be to make it practical. The definition, therefore, should be one which is in consonance with the recognized understanding and practice of business men of the country where the law is operative.



Such a practical definition, in the observance of which the commercial interests of the United States have developed and are being carried on, is proposed by the amendment. A deviation from the principle embodied in this definition will produce uncertainty and confusion at a time when stability and assurance are most necessary.

The adoption of the proposed amendment will eliminate one of the elements of complication and doubt which has produced so much confusion in the application of the law; and, as respects owners of mineral properties, will give the additional advantage of conforming the definition of "invested capital" in the excess-profits tax law, to the basis of valuation for the purpose of depletion allowances that has been incorporated in the income-tax law and which has been recognized as sound and just. It will also greatly simplify the administration of the law by the Treasury Department.

It is therefore submitted that, for the purposes of the excess-profits tax, the actual value of the invested capital of a mine owner, as of the 1st of March, 1913, should be adopted as the basis for determining the amount of his earnings which shall be free from excess profits tax. The proposed amendment seeks only to produce this result.

The suggested definition of invested capital (although proposed by representatives of a single industry) is as broad as the whole law. If adopted, it will in large part efface the inequality in the operation of the law of which criticism is so widely heard. It will give every enterprise the exact standing as respects income taxes that it had in the business world on March 1, 1913—a standing based upon its actual resources and not upon inaccurate and artificial standards of measurement.

#### THIS DEFINITION SANCTIONED BY SUPREME COURT.

The attention of the committee is directed to the recent decisions of the Supreme Court in *Doyle v. Mitchell Bros. Co.*; *U. S. v. C. C. C. & St. L. Rwy. Co.*; and *Hays v. Gauley Mountain Coal Co.* (all decided May 20, 1918), and *Lynch v. Turrish*; and *Southern Pacific Railway Co. v. Lowe* (decided June 3, 1918).

In those cases it was adjudged (1) that, upon the adoption of the sixteenth amendment in February, 1913, Congress, for the first time, was empowered to tax income from property without apportionment among the States; (2) that property owned by a taxpayer on the date when the tax law became effective (Mar. 1, 1913, as respects the income-tax law, the latest law considered by the court) represented his capital as of that date; and (3) that the enhancement of value that accrued between the time of acquisition and that effective date is to be included in such capital value, and is not subject to taxation as income, gains, or profits.

#### LAW MODIFIED BY REGULATIONS.

While the law does not expressly exclude losses which occurred between the time that capital was paid in and January 1, 1914, the regulations of the Secretary of the Treasury take them into consideration and allow only the actual value of the "invested capital."

The Secretary of the Treasury in so doing has assumed authority to protect the Government against the allowance of improper deductions, by excluding such losses, embracing losses arising from depletion, deterioration, etc. (Article No. 42 of Regulations No. 41).

The Secretary could not, however, without assuming to legislate, take into consideration the actual value, as of January 1, 1914, of that portion of the "invested capital" which resulted from an increase in property values after the property was acquired by the taxpayer. As a result, "invested capital" represented by a natural increment in values of such properties is (contrary to the adjudications of the Supreme Court) excluded from consideration as a basis for determining the deduction allowable to a taxpayer under the act of October 3, 1917, notwithstanding the fact that such increase may represent a very considerable proportion of the capital actually employed in business on January 1, 1914, and which produces a large percentage of the revenues derived from such business both by the owner and by the Government.

#### PROPOSED RELIEF ESSENTIAL.

It is needless to urge that, in the light of these considerations, the operation of the excess-profits-tax law is distinctly unjust to many taxpayers, and leaves a much smaller proportion of their earnings free from the excess-profits tax than they would be entitled to under a calculation of "invested capital" that accords with universal business understanding and procedure. The necessary consequence of this is, that a substantial portion of the earnings which it was contemplated by the Congress

should be freed from excess-profits taxation, is included in the amount subject to such tax.

As has been pointed out earlier in this statement, a disproportionate burden of taxation placed upon any business necessarily discourages the vigorous prosecution of that business and directly tends (a) to reduce production (which, in the case of iron mines, is one of the most important considerations at the present moment), and (b) thereby to reduce the income available for taxation under any form of income or profits tax. By the adoption of the proposed amendment, or some equivalent clauses, there will be extended to all of the business interests of the country the assurance that the Congress recognizes that the prosperity of the Nation depends upon their prosperity, and that nothing will more effectually encourage an energetic conduct of business than a confidence that the integrity of their invested capital will be protected by law.

#### COOPERATION OF BUSINESS.

The officials of the Treasury Department have borne cheerful witness to the fact that, speaking generally, all of the business interests of the country have endeavored to cooperate with the department in submitting full and honest returns of capital and income; and it may be unhesitatingly asserted that the temper of the people to-day is such that, accorded due protection of their capital investments, they will cheerfully contribute to the support of the Government and its purposes any proportion of their income, gains and profits, whether under the income-tax law or the excess-profits-tax law, that may be needed to provide required revenue.

The interests in whose behalf this statement is submitted to the committee are not seeking the lessening of the contributions to be exacted from them for the purposes of the Government. On the contrary, they stand ready to add to the contributions which they have already made to any extent that may be asked of them under the operation of equitable tax laws. They anticipate that they will be called upon to pay, and will willingly pay, both income and excess-profits taxes at such increased rates as Congress may ask. They simply urge that existing laws shall be so modified that the tax which they may be asked to pay in the form of income-tax assessments shall be based not upon invested capital but solely upon incomes; and that excess-profits taxes shall be based upon what are excess profits in the right definition of the term; that they shall not include, to a considerable part, the capital actually employed in the business and the percentage of reasonable return thereon which the law exempts from such taxation.

An incorrect definition of "invested capital" should not be retained to defeat the very purposes in the mind of the Congress, in allowing a deduction designed to permit the profitable continuance of established business and to invite the investment of additional capital therein, as well as in the initiation of new enterprises.

It is respectfully submitted that the spirit of the amendments herein proposed should be incorporated in the revenue measure which the committee is about to write, to the end that capital may not be withdrawn, from business and that properties in the nature of those represented by the independent iron ore owners and producers, shall not be forced into idleness.

JOHN R. VAN DERLIP.  
FREDERICK C. STEVENS.

JUNE 28, 1918.

#### STATEMENT OF MR. MEYER D. ROTHSCHILD, NEW YORK CITY.

The CHAIRMAN. Mr. Rothschild, whom do you represent in the hearings here?

MR. ROTHSCHILD. I represent 62 jewelry organizations in the United States, practically every jewelry organization with one exception; that is, every one that we knew of when we sent out the call for the meeting. That one exception is the National Wholesale Jewelers' Association, where we represent a great many of the members, executive officers, although the President of the organization, who was asked to join our organization, joined it twice and declined twice. We do not officially, therefore, represent that organization to-day. We asked labor organizations, organized labor and labor organizations, also to join us; in fact, we wanted to make it a democratic organization, and I would like, Mr. Chairman, if you will

permit me, in view of the conditions that exist of which you know, to be permitted to read a statement which we have carefully gotten up, and after that statement I am willing and the gentlemen of my committee, and there are 16 or 17 men here representing different branches of the organization, to answer any questions and to serve you in any way we can:

The CHAIRMAN. And in your statement you are representing the gentlemen who are present here?

Mr. ROTHSCHILD. Yes, sir; and I should like to be permitted to read this statement, because it may answer a great many questions.

Mr. MOORE. Before Mr. Rothschild goes on I would like to ask him about the National Wholesale Jewelers' Association. That is one association you do not represent?

Mr. ROTHSCHILD. I have just stated that.

The CHAIRMAN. You represent the manufacturers and producers?

Mr. ROTHSCHILD. And many members of the National Wholesale Jewelers' Association.

Mr. MOORE. I want to find out something about that before you proceed, for the information of the committee. Is Davis J. Gutmann, of Cincinnati, the president of that association?

Mr. ROTHSCHILD. Yes, sir.

Mr. MOORE. And he is the gentleman who did not join your association?

Mr. ROTHSCHILD. He is the gentleman who joined our association and declined twice after joining.

Mr. MOORE. The advisory board of that association consists of Edwin Massa, of St. Louis; A. G. Schwab, of Cincinnati; George H. Edwards, of Kansas City; Frederick G. Thearle, of Chicago; and Louis Sickles, of Philadelphia. Are any of those gentlemen members of the association that you represent?

Mr. ROTHSCHILD. Mr. Edwards is a member of our committee. Mr. Massa telegraphed me some days ago that he was with us. Mr. Sickles, I believe, is ill in a sanitorium. Mr. Thearle declined to serve on the committee because he was going away. Mr. Schwab declined to serve because he said that he wanted to stand with Mr. Gutmann.

Mr. MOORE. Before you started I wanted the committee to understand that there were some differences between your larger organization and this organization of National Wholesale Jewelers, of which Mr. Gutmann is the president. Who is the secretary of the National Wholesale Jewelers' Association?

Mr. ROTHSCHILD. A Mr. Fernley.

Mr. MOORE. Mr. T. James Fernley, of Philadelphia?

Mr. ROTHSCHILD. I think there are two Fernleys, father and son. Some member of the committee would know about that.

Mr. SHERWOOD. They both are.

Mr. MOORE. Is that the same Mr. Fernley who is secretary of the National Hardware Association?

Mr. ROTHSCHILD. I believe he is secretary of some 15 or 20 organizations.

Mr. MOORE. Trade organizations?

Mr. ROTHSCHILD. I believe so.

Mr. MOORE. He is opposed to the stand you are taking, is he not?

Mr. ROTHSCHILD. I do not know. We have not been able to find out.

Mr. MOORE. What about Mr. L. P. White, of Philadelphia, who is reported as being treasurer of the National Wholesale Jewelers' Association?

Mr. ROTHSCHILD. We have not heard from him.

Mr. MOORE. You do not know how he stands?

Mr. ROTHSCHILD. We do not know how he stands.

Mr. MOORE. It is clear, then, that you are not speaking for the National Wholesale Jewelers' Association as a body, but you are speaking for some of the members of it who perhaps may or may not agree with Mr. Gutmann, the president of the association?

Mr. ROTHSCHILD. That is the situation.

Mr. MOORE. Mr. Gutmann is a Cincinnati jeweler?

Mr. ROTHSCHILD. Yes, sir.

Mr. MOORE. Are you representing the association of retailers in New York that was spoken for here the other day by a Mr. Goldman?

Mr. ROTHSCHILD. No, sir.

Mr. MOORE. Do those gentlemen harmonize in their views with the associations you represent?

Mr. ROTHSCHILD. Frankly speaking, I had never heard of either of the organizations that Mr. Goldman represents. We tried to reach every organization and we have reached all those that our trade had any record of. I would have invited those organizations to become members of our committee if I had known of their existence.

Mr. MOORE. I ask you this because it is fair that you should know that Mr. Goldman was here representing certain retail jewelers of New York City and disclaimed any connection with any national organization, but in the course of his testimony some reference was made to you and the possibility of your appearing before the committee, and I desired to have you know that Mr. Goldman represented some retail jewelers who evidently differed from the views that you may express.

Mr. ROTHSCHILD. I thank you.

The CHAIRMAN. I would suggest to the committee that we allow Mr. Rothschild to finish his statement, because it is a consecutive one, and to pursue his line of thought uninterrupted, and then after he finishes his statement any member of the committee may ask him such questions and obtain such information as they desire. I know that will be preferable to you and also to the committee.

Mr. ROTHSCHILD. That is very agreeable to me and I have here special men who can answer questions that perhaps I could not answer.

A statement given out at Washington on May 29, to the effect that the Committee on Ways and Means would hold public hearings on a new tax measure, contained the request that persons having the same problems should agree upon one spokesman to present their views.

The jewelers' vigilance committee (incorporated) thereupon called a mass meeting of the entire jewelry trade, and on June 6, 1918, a large number of jewelers met at the rooms of the Merchants' Association in New York City and organized the jewelers' war revenue tax committee.

Meyer D. Rothschild was elected chairman, and he was directed to form a representative committee as soon as possible.

At this meeting a suggestion was made that every jewelry organization in the country be represented on this committee, and the

chairman has made every effort to carry out this democratic method of procedure. The jewelers' war revenue tax committee as now constituted is made up of 62 manufacturing, wholesale, and retail organizations, boards of trade and other trade organizations, besides a number of individual members, of which a complete list is included in this statement.

When the committee representing the jewelers of the United States appeared last year before the Senate Finance Committee, its spokesman presented resolutions adopted in mass meeting, from which we beg leave to quote as follows:

*Be it resolved*, That this mass meeting, representing every branch of the jewelry trade in the United States, patriotically affirm our willingness to pay any and all equitable taxes which may be levied by Congress to meet the requirements of the war.

That was our position in 1917, and, after a year of war, it is our platform to-day.

The jewelry trade not only cheerfully paid such taxes as were levied by Congress, but, acting in the spirit of another resolution, in which we offered our hearty cooperation with the Government in working out the details of the law, the jewelers conferred and co-operated with the Treasury Department through their jewelers war revenue tax committee, with the result that the Government undoubtedly received the maximum amount of money from jewelers that could possibly have been collected under the act.

We appear before you to-day as patriotic citizens, ready and anxious to assist the Government to win this war. We will try and pay our share of any commodities tax which Congress may assess on the industries with which we are now grouped under section 600 of the tax law, although, in the interest of an increased revenue, we trust that this group will be greatly enlarged.

Our industry asks of your committee only such consideration as we know that you, as wise legislators, will give to all industries, be they thought ever so nonessential at present.

Some day we shall win the war. When that time comes, the so-called nonessential industries, which are now justly obliged to yield men and materials for the paramount business which the civilized world has in hand, will come into their own again. The arts of peace will once more function freely, and it is well that every industry, including jewelry, shall maintain some organization in order to be able to win commercial victories in the coming business struggle, for which even our allies, notwithstanding the stress under which they are living, are now intelligently preparing.

While the jewelers of the United States do not ask special favors at your hands, we do expect fair play, and therefore beg leave to submit a few facts in complete refutation of the grave charges of maintaining a lobby, of profiteering, of lack of patriotism, and of failure to keep our pledges to the Government to conserve platinum, which were made on the floor of the House of Representatives on June 7, 1918. The Hon. Henry T. Rainey, senior majority member of the Committee on Ways and Means, said:

The jewelers' vigilance committee was organized about the time of our entry into the world war for the avowed purpose of protecting jewelers of the country in the manufacture and sale of luxuries against war taxes that might be deemed by them to be excessive, and the first thing the vigilance committee did was to establish here in this capital the most forceful and most aggressive lobby I have ever seen in the city of Washington.

In answering this charge, we submit the following facts:

The preliminary meeting of the jewelers' vigilance committee was held in January, 1917, and the committee was organized March 16, 1917, three weeks before we entered the war. The purposes of the organization are expressed in its preamble and constitution, as follows:

#### PREAMBLE.

The success of the manufacturer, importer, and jobber of jewelry depends primarily on the success of the retail jeweler, whose success in turn rests on the foundation of public confidence.

The jewelry business is conducted on a plane of straightforward and honest dealing, but occasionally, as in other lines, there are unscrupulous men who employ methods which tend to weaken the confidence of the public in jewelry and so menace the well-being of our trade.

Public confidence can be measurably strengthened if the various branches of our business—manufacturing, jobbing, and retail—make successful efforts to stamp out existing evils through devising simple legal safeguards which will restrain the evil-doer and reassure and protect the ultimate consumer.

To this end the jewelers vigilance committee is now formed, and pledges itself to try to prevent, minimize, or stop fraud, misbranding, and all kinds of misrepresentation of merchandise and materials handled by the jewelry and kindred trades.

It further pledges itself to defend the interests of all branches of our trade against unfair attacks and unjust legislation whenever prompt action is required and no other trade organization is prepared to undertake such defense.

In order to obtain a fair representation of the various branches of the trade, the charter members of the jewelers vigilance committee are appointed at the suggestion of various trade associations and trade interests, but they shall nevertheless in nowise incur liability against or be subject to any control by or represent any such association or interests on the jewelers vigilance committee, but shall act solely as individuals on the committee for the best interests of the entire trade and the public.

#### PURPOSES.

The purposes of the jewelers vigilance committee are to investigate complaints or violations of stamping, misbranding, false advertising, and similar laws relating to fraud in merchandising, to bring about the abandonment of these and other dishonest or doubtful trade practices, to assist the authorities in the enforcement of the laws covering fraud, misbranding, and misrepresentation, to defend the interests of all branches of our trade against unfair attacks and unjust legislation and the establishment of uniform trade definitions, standards of weights, measures, and qualities, and customs and practices.

The jewelers vigilance committee is primarily concerned with the enforcement of existing laws in New York City and vicinity, but may keep in touch with members of our trade in all parts of the United States, with a view to cooperate with such members and other bodies, in the enactment of needed legislation and particularly in bringing about National and State reforms in stamping, misbranding, and advertising laws, to the end that in time such laws shall be uniform and efficacious in all parts of our country.

These purposes do not contemplate special activity in regard to war taxes.

The actual attitude of the jewelers toward war taxes can best be gleaned from the resolutions which were presented to the Senate Finance Committee by the jewelers committee, a copy of which is attached to this statement. We challenge the production of a single bit of proof to show that there was a lobby established by the jewelers vigilance committee in Washington, or that any agent, attorney, or lobbyist was hired, or that a single penny was paid to anyone for any lobbying in connection with war-revenue taxes, platinum, or any other matter with which the vigilance committee had to do in Washington.

The activities of the war revenue tax and platinum committee of the jewelers vigilance committee with members of either House of Congress were as follows:

A representative committee of jewelers appeared before the Senate Finance Committee at the commodities tax hearing. A very brief hearing was further accorded to the chairman of the jewelers committee by the Senate Finance Committee, to bring out some point in regard to the wording of the act.

Several members of the war revenue tax committee called on Chairman Kitchen, but were not permitted to discuss the war-revenue tax bill, as Congressman Kitchen stated that he would not consider any matters connected with the war-revenue tax bill until the Senate had taken action on it.

The CHAIRMAN. Do you recall when it was that they called on Chairman Kitchen?

Mr. ROTHSCHILD. They called on Chairman Kitchen on the day when the Blue and Gray met here in Washington.

The CHAIRMAN. Was the bill then before the Senate?

Mr. ROTHSCHILD. The bill was then before the Senate.

The CHAIRMAN. And I told you that it was not proper for me to discuss the matter or to consider it until the Senate acted?

Mr. ROTHSCHILD. That is my understanding. We had a few pleasant words.

The CHAIRMAN. I do not want it to appear that I refused to talk with anybody, because I know that during the pendency of the bill I never refused to talk with anybody. I remember eating my breakfast at 7 o'clock, and then nine days out of ten I did not eat another mouthful until very late in order that I might give the lunch hour and time after the adjournment of the House to those gentlemen who came to talk with me about these matters.

Mr. ROTHSCHILD. I do not suppose that the chairman has any special recollection of this call.

The CHAIRMAN. Of course, if the bill was then before the Senate, I thought it was improper—and I so told the committee—for me to discuss the matter until the Senate had acted.

Mr. ROTHSCHILD. This is not a complaint, Mr. Chairman. I am simply running over our activities, and I could not leave that out.

The CHAIRMAN. I do not want it to appear, and I know that you do not intend it to so appear, that I refused to talk with anybody at the proper time.

Mr. ROTHSCHILD. The language may have been badly chosen.

The CHAIRMAN. I think I talked with everybody who came to see me. I can not say that I agreed with all of them, but I certainly gave them a full hearing.

You may proceed.

Mr. ROTHSCHILD. On May 21, 1917, the platinum committee waited on Congressman Rainey at the House of Representatives and presented a letter addressed to him by the Secretary of Commerce, giving certain facts about the Government's requirements for platinum at that time. The interview was brief, because Congressman Rainey declared his intention to urge a prohibitive tax on the making of platinum jewelry, regardless of Secretary Redfield's statements.

Mr. RAINEY. What date was that?

Mr. ROTHSCHILD. On May 21, 1917, when the bill was up. I think it was during the discussion. In fact, I have taken the date from the Congressional Record. It was the day when these commodities taxes were being considered.

The committee then went to the Gallery of the House, and when the platinum amendment to the war-tax measure was offered one of the members of the platinum committee sent for the Congressman from his district (Mr. Lehlbach) and showed him a letter which Secretary Redfield had written to the platinum committee, to be used as an answer to the propaganda of a small group of chemists, one of whom was a Government official.

Congressman Lehlbach had this letter read by the Clerk of the House.

These are the only Senators or Representatives who were approached at any time by any member or committee of the jewelers' vigilance committee. This, then, is the entire sum of the congressional activities of the tax and platinum committees representing the jewelry trade, and form but a slight foundation upon which to erect the charge of a "forceful and aggressive lobby."

On the charges of profiteering and breaking their promises to the Government, Congressman Rainey is reported to have said:

More than four years have elapsed since this awful world war started, but during that period of time no nation engaged in this war has produced profiteers more unpatriotic, whose efforts have been more unconscionable than the jewelers' vigilance committee and the 400 jewelers' establishments in the United States which have sustained them with funds.

A little further on he states:

The promised efforts of the jewelers of the country through their vigilance committee to conserve platinum failed miserably.

Platinum continued to increase in value, until to-day the Government has placed a value on it of \$105 per ounce, and as it increased in value its use as jewelry increased. Those jewelers who held the platinum stocks of the country and those dealers in platinum who held large stocks, without efforts on their part, made enormous sums of money, and while pretending to be discouraging the use of platinum they compelled its use by discouraging the use of substitutes.

The facts as to the actual cost of crude platinum and the actual selling prices of refined platinum, as taken from the books of a prominent dealer in platinum, are as follows:

Date.	Crude, purchasing price.	Refined, selling price.	Date.	Crude, purchasing price.	Refined, selling price.
	<i>Per ounce.</i>	<i>Per ounce.</i>		<i>Per ounce.</i>	<i>Per ounce.</i>
March, 1917.....	\$100	\$105	September, 1917.....	\$100-102	\$105
April, 1917.....	102	105	October, 1917.....	102	105
May, 1917.....	102	105	November, 1917.....	103	105
June.....	( <sup>1</sup> )	105	December, 1917.....	104	105-108
July, 1917.....	102	105	January, 1918.....	104	108
August, 1917.....	100-103	105	February, 1918.....	104-106	108

<sup>1</sup> No 1917 purchase

In February, 1918, this dealer's stock was commandeered by the War Industries Board.

The gross profit indicated here is less than 5 per cent, and the net profit, after deducting the cost of refining and other expenses is, of course, still less. These figures speak for themselves.



The price of platinum is entirely controlled by the foreign owners of the metal and speculation by the dealers or by manufacturers of jewelry would have been exceedingly dangerous, as it was a foregone conclusion that the minute the war stopped the potential release of large quantities of platinum used, or held in reserve, for war purposes only, would cause a great break in the price of this metal, which sold for about \$40 an ounce in 1914.

There was no speculation or profiteering in platinum by either the dealers in the metal or the manufacturing jewelers. On the contrary, it is doubtful if any considerable portion of the platinum taken over by the Government at \$105 an ounce represented even the actual cost price to the jewelers, especially as some of this platinum had a certain amount of labor expended on it.

This committee questions if any other commodity has been commandeered by the Government at exact cost, or at a loss, to the owner.

The jewelers have not complained about the commandeering of their platinum, but they are naturally averse to being charged with making enormous sums of money on the increase in price of the metal when, as a matter of fact and of record, the value has not increased 5 per cent since we entered the war, and the platinum taken over by the Government at \$105 an ounce cost them in many instances \$108 to \$120 an ounce. This is not profiteering.

The efforts of the jewelers to conserve platinum did not fail. That the jewelers patriotically and fully carried out their pledges to the Government to conserve platinum is evidenced by the testimony of the one man whose business it was to investigate this phase of the platinum situation. Prof. James Lewis Howe, of the Washington and Lee University at Lexington, Va., a noted platinum expert, was the special committee on platinum of the chemistry committee of the National Research Council.

In a letter published in the February, 1918, number of the *Journal of Industrial and Engineering Chemistry*, Prof. Howe writes (p. 159):

*Editor of the Journal of Industrial and Engineering Chemistry:*

Much has been written of late, and more said, regarding the use of platinum in jewelry, and it has been broadly intimated that the jewelers are not living up to their agreement of last April with the Government. It is worth while to repeat the terms of this pledge of the jewelers' vigilance committee:

"We pledge ourselves to discontinue and strongly recommend to all manufacturing and retail jewelers of the United States that they in a truly patriotic spirit discourage the manufacture, sale, and use of platinum in all bulky and heavy pieces of jewelry.

"During the period of the war, or until the present supplies of platinum shall be materially augmented, we pledge ourselves to discontinue and recommend that the jewelry trade discourage the use of all nonessential platinum findings or parts of jewelry, such as scarfin stems, pin tongues, joints, catches, swivels, springs, rings, ear backs, etc., where gold would satisfactorily serve.

"Be it further resolved, that the jewelry trade encourage by all means in its power the use of gold in combination with platinum wherever proper artistic results may be obtained."

Having been in close touch with the platinum situation, I desire to state from personal knowledge my belief that the jewelers have fully lived up to their pledge and in many cases gone beyond them in efforts to conserve platinum.

It was the manufacturing jewelers who entered into this agreement, and it is not surprising that some retailers have been making great efforts to work off their stock on hand, and have thereby opened themselves to criticism.

Whether a metal, so limited in supply and so invaluable in scientific industry, ought to be used at all in jewelry is a fair question, but it is not the question in point. A large and legitimate platinum jewelry industry has sprung up in recent years, and the question is whether the exigencies of the present platinum situation demand the

immediate wrecking of this industry by having the Government commandeer all platinum; personally, I do not believe that at present they do.

I hold no brief for the jewelers, but I think this statement should be made in fairness to them, and I may add that it is my conviction that, should the Government be placed in straits from lack of platinum for the manufacture of war material, the jewelry trade can be relied on to find a way of furnishing all that is needed.

JAS. LEWIS HOWE,  
*Special Committee on Platinum, Chemistry Committee of the  
National Research Council.*

WASHINGTON AND LEE UNIVERSITY,  
*Lexington, Va.*

As to the contributions of the jewelers to the vigilance committee, we beg to submit that these funds were voluntary contributions from all branches of the trade, and every penny expended was used to carry out the purposes expressed in the constitution of the organization.

As to the statement quoted from the letter of Dr. Van. H. Manning, that "There are other white metals equally valuable for the setting of gems, except that they are not as costly as platinum," we answer that the jeweler would welcome such a metal. As a matter of fact, if such a white metal exists, or has been produced, it is not known to the jewelry trade.

Platinum is par excellence the metal for fine and delicate jewelry, firstly, because its brilliant white color enables the jeweler to obtain beautiful effects in the setting of diamonds which can not generally be obtained with gold on account of its color; secondly, on account of its malleability, ductility, rigidity, and tenacity, because of which the most delicate and intricate designs are possible with a surprisingly small quantity of metal; and, lastly, because jewelry made of platinum will retain stones in their settings without the heavy beading required in gold and will not tarnish or oxidize from exposure to air, fumes, or acids, or when worn on the body.

This combination of qualities, which does not exist in any other metal known to jewelers, has made possible most of the great advance in the art of the jeweler in the United States in recent years.

Answering the further statement of Congressman Rainey, that "50 per cent of the supply of platinum is still used in the manufacture of jewelry," we wish to point out that the commandeering orders of the War Industries Board have cut off all platinum from jewelers, except the 25 per cent of their stocks of unmanufactured metal released some months ago.

Most of this platinum has probably been used for special orders, and as the jeweler can not buy platinum to-day from any source whatever without holding it for Government use, it is fair to state that very little platinum is now being used in the manufacture of jewelry.

The control of the War Industries Board is complete, and no platinum is released for any purpose whatever except with the consent of that board.

We also wish to point out that the jewelers' vigilance committee turned over the consideration of platinum on January 25 last to the newly formed jewelers' war-service committee, which was organized under the auspices of the Chamber of Commerce of the United States to serve, as other war-service committees were serving, as an intermediary between manufacturers and the Government.

The first official request for platinum was received by the chairman of the platinum committee of the vigilance committee on January 22, 1918. This request, which was in the form of a letter from Mr. Waddill Catchings, chairman of the war-service executive committee of the Chamber of Commerce of the United States, inclosed a letter from Mr. B. M. Baruch, chairman of the War Industries Board, which was as follows:

MR. WADDILL CATCHINGS,  
*United States Chamber of Commerce, Washington, D. C.*

DEAR SIR: The shortage of platinum in the production of explosives is such that it is necessary for the Government to have command of every bit of platinum that can possibly be had.

I wish you would express to the jewelry trade that it is the desire of the Government that no further use of platinum should be made in the manufacture of jewelry, and I should like to know where it is possible to obtain a supply of platinum.

I should like to know how it would be possible to secure possession of all the platinum in the United States.

Yours, very truly,

B. M. BARUCH.

These communications were handed to a special subcommittee of the jewelers' vigilance committee which had been conferring with Mr. Summers of the War Industries Board, and on January 25 the entire platinum matters were turned over to the jewelers' war-service committee.

The jewelers' war-service committee called on Mr. Baruch and Mr. Summers in Washington and recommended that all the unmanufactured platinum held by jewelers be commandeered.

Mr. Rainey states:

The War Industries Board have evidently followed the advice of the jewelers' vigilance committee. The statement is made that 10,000 men are engaged in the manufacture of platinum jewelry, and the industry must not be disturbed and the men thrown out of employment.

The fact is that the War Industries Board itself made the objection that it did not wish to disturb the jewelry industry to the extent of commandeering all the platinum and thereby throw the platinum workers out of employment. In the face of this objection, the jewelers' war service committee, without any definite knowledge of the actual requirements of the Government, was certainly justified in assuming that the 75 per cent commandeering order would suffice for the needs of the Government.

The jewelers' vigilance committee had no contact at all with the War Industries Board since January 25 last.

The jewelers of the United States were prepared at any time since April, 1917, to give up the unmanufactured stocks of platinum to help win the war. That this would practically put many of them out of business was an incident which they, as patriotic citizens, were facing with the best possible grace.

No intimation from any Government official charged with the duty of procuring platinum for Government uses came until January 22, 1918. When the request came, it was for 75 per cent of the unmanufactured platinum, and specific assurances were given from time to time that the platinum jewelry in the hands of the manufacturers was not required; that is the situation to-day. The commandeering order has been obeyed without a murmur, and any further orders of the Government will be obeyed in the same spirit.

While the jewelers have no word of criticism against the Government for the cutting off of what, to many of them, is the source of their livelihood, they protest most emphatically against an unfair and misleading propaganda which was started by some members of the American Chemical Society soon after we entered the war.

Such a propaganda based on the opinion that platinum (because of its scarcity and its great value in chemistry, and for certain indispensable war purposes), should not be used in the manufacture of jewelry during the war, might, if carried on in a manly, decent way, be above criticism. The propaganda of which we complain, however, has largely been a press campaign of half truths and misrepresentations; the prime mover therein, besides being an officer of the American Chemical Society and one of the managers of the Journal of Industrial and Engineering Chemistry, is a Government official, connected with the Bureau of Mines.

A recent press statement purporting to come from the Bureau of Mines, given out for release on June 16, contains all the stock arguments of the propagandists and states at the beginning of the article:

Every effort is being made by the Bureau of Mines to emphasize the urgent necessity of obtaining all the platinum it can possibly secure, and, as a part of its war program to bring this about is using every effort to discourage the use of platinum for jewelry, not only for the duration of the war but "for all time".

Here we see the chemists' propaganda in "full flower": Platinum jewelry is to be banned, not for the period of the war, but "for all time." It is made to appear in this statement that the Bureau of Mines, a branch of the Department of the Interior, is in favor of an appeal to patriotic women to help the Government obtain sorely needed platinum by abstaining from buying platinum jewelry. The Bureau of Mines knows, or could have readily ascertained from the War Industries Board, that no such Government necessity for platinum exists, and that the War Industries Board has full power, and is exercising this power, to obtain platinum ample for the Government needs.

If, under these circumstances, the Bureau of Mines actually authorized the statement released June 16, we submit that such action is open to the gravest criticism.

It is interesting to read the confession in this statement that the movement among the women of the country to discourage platinum in jewelry has been initiated by the American Chemical Society. The patriotic women who form the Women's National League for the Conservation of Platinum undoubtedly believe that they are justified in appealing to the patriotic women of the country not to buy platinum jewelry, because they have been told by representatives of the American Chemical Society that the Government needs the platinum jewelry which the jeweler has for sale and, inferentially, can not get it unless the public refuses to buy any more. Now, this is not true, as the members of the American Chemical Society, who are responsible for this and other like activities, know that the Government has full power to commandeer every piece of platinum jewelry owned by the jeweler.

If there are any thinking men among those propagandists, it must occur to them that a campaign such as they are trying to wage, if successful, must spell ruin to hundreds of reputable merchants who

are morally and legally entitled to sell their platinum jewelry, and who must sell this jewelry to pay their debts, especially in view of the fact that no responsible Government official who has the right to speak on the subject has, up to this time, objected to such sales.

Mr. STERLING. I do not understand what motive the American Chemical Society could have for taking that course.

Mr. ROTHSCHILD. I will come to that in a minute.

If, and when the time arrives that the Government needs platinum jewelry, the jewelers will meet such national need in a patriotic spirit.

It is thime that this insensate, selfish, and dangerous propaganda be stopped. The vast majority of the 12,000 members of the American Chemical Society would surely repudiate the methods which have been employed, if they knew the facts.

We have felt it necessary to make this statement on the question of platinum in connection with jewelry because of that part of Congressman Rainey's speech in which he said:

I now hereby most solemnly promise that, so far as I am concerned, when the new war-revenue bill makes its appearance it will impose a war tax so high on jewelry composed in whole or part of platinum as to make its use impossible in the manufacture of jewelry during the period of this war at least.

Congressman Longworth, one of the minority members of the Committee on Ways and Means, suggested that such a provision be put in in committee, and Congressman Alexander made the further suggestion that it be made a felony to use platinum for the manufacture of jewelry.

Platinum, iridium, and palladium are completely controlled by the Government at present. Every bit of platinum, in any form whatever, can be commandeered, and the War Industries Board is exercising this power as freely as the necessities of the Government dictate. If emergency requirements develop, there is enough platinum in the United States in one form or another to meet any possible war or scientific need.

These are facts well known to those officials whose duty it is, and who have ample power, to safeguard the platinum requirements of the Government.

The writing of a special prohibitive platinum jewelry tax into the new war revenue act will not add an ounce to the platinum reserves of the country or give the Government any added power to acquire or conserve this metal. Such a tax, or even its serious consideration by Congress, will simply furnish more ammunition for the group of chemists who, since April, 1917, have been persecuting the jewelers with the avowed purpose of getting cheaper platinum for themselves.

That is simply the animus of the cause.

Mr. STERLING. What do they use it for?

Mr. ROTHSCHILD. Scientific purposes.

Mr. MOORE. They put it in crucibles?

Mr. ROTHSCHILD. Yes; largely crucibles.

Mr. MOORE. It is better able to stand the acid test than any other metal?

Mr. ROTHSCHILD. Yes, sir.

Mr. MOORE. And if cheaper it would be more advantageous for their business?

Mr. ROTHSCHILD. And more advantageous for the jewelers and for everybody.

Mr. MOORE. They have accused the jewelers of having boosted the price?

Mr. ROTHSCHILD. The jewelers have no control.

Mr. MOORE. I say "they have accused the jewelers?"

Mr. ROTHSCHILD. Yes, sir.

Mr. MOORE. And yet they use it in their business as chemists?

Mr. ROTHSCHILD. Yes, sir, and they have sold platinum vessels during the last year largely, so I have been told, in order to get a profit on the platinum bought long ago.

Mr. MOORE. I do not want to interrupt you.

Mr. ROTHSCHILD. I have only about half a page, and then I will be through.

On behalf of the 62 jewelry organizations whom we represent, we protest against any such discriminatory tax which, while not suggested to produce revenue, could only serve to strengthen the hands of those who are ruthlessly trying to prevent the sale of manufactured platinum jewelry to the public.

The chemists have no monopoly of patriotism and no right or warrant to speak for the Government. We therefore respectfully suggest that the Committee on Ways and Means should not lend itself to their purposes by reporting a special tax on the manufacture of platinum jewelry.

All of which is respectfully submitted.

#### JEWELERS' WAR-REVENUE TAX COMMITTEE.

##### MEMBERS.

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Kentucky Retail Jewelers' Association, J. L. Wanner, president, 311 Broadway, Paducah, Ky.

Maine Retail Jewelers' Association, A. E. Garnsey, president, Sanford, Me.

Manufacturers Association of Silver Plated Hollow Ware, George H. Wilcox, president, president of International Silver Co., Meriden, Conn.

Manufacturing Jewelers' Association of Boston, H. G. Morris, president, Boston Jewelry Manufacturing Co., 373 Washington Street, Boston, Mass.

Manufacturing Jewelers' Association of Newark, N. J., Irving Heidell, representative, Irving Manufacturing Co., 45 Austin Street, Newark, N. J.

Manufacturing Jewelers' Association of New York, Milton L. Ernst, president, 88-90 Gold Street, New York City.

Manufacturing Jewelers' Board of Trade, Frederick A. Ballou, president, B. A. Ballou & Co., 61 Pike Street, Providence, R. I.

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Missouri Retail Jewelers' Association, Fred W. Pilcher, president, Pilcher Jewelry Co., Mexico, Mo.

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North Carolina Retail Jewelers' Association, Sam K. Eaton, president, Newbern, N. C.

North Dakota Retail Jewelers' Association, J. B. Pederson, president, Leeds, N. Dak.

Novelty Jewelers' Association, Charles Lippman, president, Lippman, Spier & Hahn, 1261 Broadway, New York City.

Ohio Retail Jewelers' Association, Fred H. Meyers, president, 19 Market Street, Warren, Ohio.

Oklahoma Retail Jewelers' Association, R. C. Everts, president, Weatherford, Okla.

Oregon Retail Jewelers' Association, O. A. Hartman, president, Hartman Bros., Salem, Oreg.

Pennsylvania Retail Jewelers' Association, Charles H. Hambly, president, 916 Chestnut Street, Philadelphia, Pa.

Philadelphia Jewelers' Guild, Maj. J. Warner Hutchins, president, 1328 Walnut Street, Philadelphia, Pa.

Platinum smiths' Association, Frederick Keim, president, Frederick Keim, & Co. (Inc.), 25 West Forty-fifth Street, New York City.

Retail Jewelers' Association of Greater New York, Emil W. Kohn, president, Theodore A. Kohn & Son, 321 Fifth Avenue, New York City.

Sterling Silver Manufacturers, Charles W. Harmon, president, Joseph Fabys Co., 54 Maiden Lane, New York City.

Tennessee Retail Jewelers' Association, A. H. Ruth, president, John W. Ruth & Sons, Shelbyville, Tenn.

Texas Retail Jewelers' Association, W. B. Kinne, president, Gainesville, Tex.

Twenty-four Karat Club of Pittsburgh, Sam F. Sipe, president, 339 Fifth Avenue, Pittsburgh, Pa.

Utah Retail Jewelers' Association, Sam C. Park, president, Boyd Park (Inc.), 166 Main Street, Salt Lake City, Utah.

Vermont Retail Jewelers' Association, A. G. Mansur, president, 71 Church Street, Burlington, Vt.

Virginia Retail Jewelers' Association, George L. Palmer, president, J. J. Palmer's Sons, 2711 Washington Avenue, Newport News, Va.

Washington Retail Jewelers' Association, Kristian Falkenberg, president, Walla Walla, Wash.

West Virginia Retail Jewelers' Association, W. J. Lukens, president, W. J. Lukens Co. (Inc.), Wheeling, W. Va.

Arno A. Dorst, The Dorst Co., Fifth and Elm Streets, Cincinnati, Ohio.

Wisconsin State Retail Jewelers' Association, J. R. Chapman, president, J. R. Chapman & Co., 119 Main Street, Oshkosh, Wis.

Mr. Henry R. Arnold, D. C. Percival & Co. (Inc.), 373 Washington Street, Boston, Mass.

Mr. David Belais, Belais & Cohn, 13 Dutch Street, New York City.

Mr. W. J. Buffington, C. D. Peacock (Inc.), State and Adams Streets, Chicago, Ill.

Mr. George H. Edwards, Edwards-Ludwig-Fuller Jewelry Co. (Inc.), 1113 Walnut Street, Kansas City, Mo.

Mr. DeForest Hurlburt, Assistant to the President of Elgin National Watch Co., 10 South Wabash Avenue, Chicago, Ill.

Mr. W. F. Juergens, Juergens & Anderson, 100-108 North State Street, Chicago, Ill.

Mr. Jacob Engel, Baltimore, Md.

Mr. Lee Reichman, Reichman Bros., 170 Broadway, New York City.

Mr. John W. Streeter, second vice president of Bailey, Banks & Biddle Co., 1218 Chestnut Street, Philadelphia, Pa.

Mr. M. N. Smith, Smith Patterson Co., 52 Summer Street, Boston, Mass.

Mr. John W. Sherwood, president of Solidarity Watch Case Co., 15 Maiden Lane, New York City.

Mr. Adolphe Schwob, Adolphe Schwob (Inc.), 2 Maiden Lane, New York City.

Mr. Henry C. Tilden, Spaulding & Co. (Inc.), Michigan Avenue and Van Buren Street, Chicago, Ill.

Before I sit down I should like to say that we have come here with some matters on tax questions, but we felt that this matter ought to be cleared up first, because the trade or those who have been authorized to speak for the trade have not made a public utterance in any attempt to refute these charges until this minute.

Mr. RAINEY. When was the jewelers' vigilance committee organized?

Mr. ROTHSCHILD. There was a meeting, I believe, in January, 1917.

Mr. RAINEY. When was it organized for business?

Mr. ROTHSCHILD. In March, I think. I have the exact date. I can give you the exact date, because I made some inquiries. March 16, 1917.

Mr. RAINEY. At that time war was inevitable?

Mr. ROTHSCHILD. Yes, sir.

Mr. RAINEY. Who was the chairman of the vigilance committee?

Mr. ROTHSCHILD. Mr. Harry C. Larter.

Mr. RAINEY. He stated on April 2 that the vigilance committee had been organized just 12 months. He is likely to be right about it?

Mr. ROTHSCHILD. I got my data from the actual records.

Mr. RAINEY. On the 18th of April, when the jewelers' vigilance committee held their meeting, he made this statement:

It hardly seems possible that 12 months have rolled by since the jewelers' vigilance committee actually came into existence.



What were the first activities of the jewelers' vigilance committee?

Mr. ROTHSCHILD. Platinum.

Mr. RAINEY. At whose request?

Mr. ROTHSCHILD. I think I started that.

Mr. RAINEY. How soon was the platinum committee of the jewelers' vigilance committee organized after the organization of the committee?

Mr. ROTHSCHILD. I have no exact data, but I can tell you approximately. I think about the 9th of April, some time early in April. A newspaper notice in New York indicated that the Government was interested in platinum, and a meeting of the executive committee, I believe, of the jewelers' vigilance committee was called to consider that matter.

Mr. RAINEY. Then the platinum committee was organized?

Mr. ROTHSCHILD. Soon thereafter. I have a copy of the telegram which was sent to Mr. Baker, the Secretary of War, and if you wish I can read it, in which we offered our services and offered to cooperate with the Government.

Mr. RAINEY. I know.

Mr. ROTHSCHILD. I could give you the exact date, but it would take some little time to find it. It was early in April.

Mr. RAINEY. At least as late as the 9th of April?

Mr. ROTHSCHILD. I think so; it was very early.

Mr. RAINEY. We were already then at war with Germany?

Mr. ROTHSCHILD. Yes.

Mr. RAINEY. Who was the first chairman of the platinum committee?

Mr. ROTHSCHILD. I was.

Mr. RAINEY. You were the first chairman?

Mr. ROTHSCHILD. The chairman of the platinum committee of the jewelers' vigilance committee. It went out of existence on January 15.

Mr. RAINEY. Who was the chairman on January 15?

Mr. ROTHSCHILD. I was.

Mr. RAINEY. It never had but one chairman?

Mr. ROTHSCHILD. It never had but one chairman.

Mr. RAINEY. At the time it went out of existence on January 15, it turned over its affairs to the war-service committee?

Mr. ROTHSCHILD. Yes, sir.

Mr. RAINEY. Who organized the war service committee?

Mr. ROTHSCHILD. The war service committee was organized under the auspices of the jewelers' vigilance committee.

Mr. RAINEY. The same committee that appointed the platinum committee?

Mr. ROTHSCHILD. Yes, sir.

Mr. RAINEY. Who was the chairman of the war service committee?

Mr. ROTHSCHILD. Mr. O. G. Fessenden.

Mr. RAINEY. Who is he?

Mr. ROTHSCHILD. I think he is the president of the Hayden W. Wheeler Co., large wholesale jewelers in New York, and is connected with other jewelry organizations.

Mr. RAINEY. What has he to do with platinum?

Mr. ROTHSCHILD. I think they use some platinum in their business. They are manufacturers and wholesalers. He is not the chairman to-day; he was the first chairman.

Mr. RAINEY. Who is the chairman to-day?

Mr. ROTHSCHILD. Mr. Robert B. Steele.

Mr. RAINEY. For what period was this chairman of the platinum committee selected?

Mr. ROTHSCHILD. You are speaking of the vigilance committee?

Mr. RAINEY. That is the same thing.

Mr. ROTHSCHILD. No, sir; it was not. They were elected for different purposes. They took that over as one of their duties.

Mr. RAINEY. For what period was the chairman selected?

Mr. ROTHSCHILD. For a year.

Mr. RAINEY. How did you happen to have two of them in six months?

Mr. ROTHSCHILD. I am not a member, but I believe that Mr. Fessenden resigned.

Mr. RAINEY. When did he resign?

Mr. ROTHSCHILD. I can not answer you. Mr. Steele, who succeeded him, is here.

Mr. STEELE. In the middle of May, this year.

Mr. RAINEY. What time in the month of May?

Mr. STEELE. About the middle of the month. Mr. Fessenden resigned on account of illness and he is now taking a long vacation in Maine.

Mr. RAINEY. Was that after or before I made the speech to which Mr. Rothschild has referred? He resigned after I made the platinum speech.

Mr. STEELE. Yes.

Mr. RAINEY. Who is Mr. Steele?

Mr. ROTHSCHILD. Mr. Steele is a manufacturer of platinum jewelry, or was.

Mr. RAINEY. Mr. Fessenden was not a manufacturer?

Mr. ROTHSCHILD. He manufactures some platinum jewelry; yes, sir.

Mr. RAINEY. And Mr. Steele was better able to take care of the platinum end of it, being a manufacturer of platinum jewelry?

Mr. ROTHSCHILD. I am not so sure about that.

Mr. RAINEY. You would think that he would know more about it than Mr. Fessenden?

Mr. ROTHSCHILD. About platinum?

Mr. RAINEY. Yes, sir.

Mr. ROTHSCHILD. I think so. I think he is an actual manufacturer. I do not think that Mr. Fessenden is.

Mr. RAINEY. Mr. Steele took charge the middle of May of this year of the war service committee, as I understand?

Mr. ROTHSCHILD. Yes, sir.

Mr. RAINEY. What have you to do with the war service committee?

Mr. ROTHSCHILD. Nothing.

Mr. RAINEY. You are not even a member?

Mr. ROTHSCHILD. No, sir.

Mr. RAINEY. What committees are you a member of?

Mr. ROTHSCHILD. I am a member of this newly formed war revenue tax committee.

Mr. RAINEY. Does that committee take the place of the war-service committee?

Mr. ROTHSCHILD. No, sir.

Mr. RAINEY. Who appointed the revenue committee?

Mr. ROTHSCHILD. A mass meeting held on June 6 in New York at the rooms of the Merchant's Association.

Mr. RAINEY. A mass meeting of what?

Mr. ROTHSCHILD. Of jewelers invited from all parts of the country.

Mr. RAINEY. Who invited them, the jewelers' vigilance committee?

Mr. ROTHSCHILD. Yes, sir.

Mr. RAINEY. When?

Mr. ROTHSCHILD. On June 6.

Mr. RAINEY. 1918?

Mr. ROTHSCHILD. Yes, sir.

Mr. RAINEY. That meeting was called by the jewelers' vigilance committee?

Mr. ROTHSCHILD. Yes, sir.

Mr. RAINEY. And they met and organized the war-service committee?

Mr. ROTHSCHILD. No; the war-revenue tax committee.

Mr. RAINEY. How could the jewelers' vigilance committee, which went out of business January 15, 1918, assemble this convention which did not meet until June and which resulted in the selection of the war-service tax committee?

Mr. ROTHSCHILD. You are mistaken in saying that the jewelers' vigilance committee went out of business. That committee is in existence. A subcommittee of the jewelers' vigilance committee, the platinum committee, went out of existence.

Mr. RAINEY. Well, on the going out of business of the platinum committee on January 15, the war-service tax committee was organized?

Mr. ROTHSCHILD. No; it had been in existence some time before that. Mr. Steele can probably answer that question.

Mr. STEELE. The jewelers' war service committee was organized on January 7, 1918.

Mr. RAINEY. Why did the platinum committee go out of business on January 15?

Mr. ROTHSCHILD. Because the platinum committee felt that the war service committee, which had been formed under the auspices and at the request of the Chamber of Commerce of the United States would be the proper body to carry on negotiations or any business between the Government and the jewelers as to any matters in which the jewelers could serve the Government.

Mr. RAINEY. And platinum—

Mr. ROTHSCHILD (interposing). Was one of them.

Mr. RAINEY (continuing). Being an important basis war metal, it looked better to have some other committee in charge of it, from your standpoint?

Mr. ROTHSCHILD. I do not think, Mr. Rainey, that that entered into it. The thing that entered into it was the point that the war service committee would have to deal with the Government on the question of using jewelers' plants to make war material, as they are using them to-day to make surgical instruments on the question of fuel and other questions, and it did not seem proper that there should be another committee butting in. In other words, the jewelers' war service committee was to be the intermediary between the Government and the jewelry trade for all Government needs.

Mr. RAINEY. But the platinum committee was organized first?

Mr. ROTHSCHILD. The platinum committee had outlived its usefulness at that point. There was another committee better fitted to take it over, and I admit that I suggested getting out and letting the war-service committee handle it from that time on. I had other things to attend to.

Mr. RAINEY. How much money did the platinum committee or the war-service committee raise in order to regulate the platinum question so far as Congress was concerned?

Mr. ROTHSCHILD. In order to regulate the platinum question, I do not think they raised one penny. The jewelers' vigilance committee had quite liberal contributions from the trade, and as the chairman of it is here, or the treasurer, they probably can tell you to a penny all the money contributed. No money was contributed for any particular purpose except the general purposes of the committee. I think Mr. Reichman could answer that question.

Mr. RAINEY. The president is Mr. Larter?

Mr. ROTHSCHILD. Yes, sir.

Mr. RAINEY. Is he here?

Mr. ROTHSCHILD. Yes, sir.

Mr. RAINEY. The president stated on April 2 of this year:

While other things have been accomplished and plans for the future discussed, because of existing conditions, they have been temporarily postponed. All of the above work has, naturally, imposed a large expense, and through the energetic and persevering work of the chairman of the finance committee has been met by contributions of large and small amounts by the generosity of over 400 persons and firms connected with our industry. We still have left a nucleus for a fighting fund, which can and will be used in the interest of every branch of the jewelry trade.

That is a fair statement of the activities of the vigilance committee, is it not?

Mr. ROTHSCHILD. It is a general statement.

Mr. RAINEY. Now, when did you quit looking after after the platinum situation?

Mr. ROTHSCHILD. About January 15.

Mr. RAINEY. Mr. Larter states that for 12 months prior to April 2, of this year, you had successfully looked after the platinum situation in the interests of the trade, and at the same time cooperated in every way possible with the Government. Twelve months would carry you down to April—

Mr. ROTHSCHILD (interposing). I quite agree with you that there is a misstatement there which probably was a slip.

Mr. RAINEY. Who made the misstatement?

Mr. ROTHSCHILD. Mr. Larter.

Mr. RAINEY. I am reading from his annual address to the jewelers' vigilance committee. You were present at the time?

Mr. ROTHSCHILD. I was not. I am not even a member of the jewelers' vigilance committee. I tried to get out of all these things, so did not accept reelection.

Mr. RAINEY. You read this report?

Mr. ROTHSCHILD. I am not sure I read it, but I am familiar with all the things that really did happen.

Mr. RAINEY. It was printed in the Jewelers' Circular-Weekly of April 10, 1918. You have never corrected it in any way?

Mr. ROTHSCHILD. Well, I would not consider that of sufficient importance to—

Mr. RAINEY (interposing). It might become important now.

Mr. ROTHSCHILD. I am willing to make it, Mr. Rainey.

Mr. RAINEY. In view of your former testimony. So this is the first denial you have made of your activities continuing up until the 2d day of April, 1918?

Mr. ROTHSCHILD. I am quite sure Mr. Larter would be willing to correct that. It was simply a slip or a lapse.

Mr. RAINEY. Well, this is the first denial you have made?

Mr. ROTHSCHILD. The first time I have been asked about it. The first time it has been brought to my notice.

Mr. RAINEY. Now you say that the platinum committee went out of business on January 15, 1918. On the 2d day of April of this year Mr. Larter made this statement:

While the platinum matter, in so far as its connection with the Government is concerned, is now in the hands of this platinum committee, the jewelers' vigilance committee is still interested in the adverse propaganda, started afresh against the use of platinum, etc.

So Mr. Larter, chairman of the vigilance committee, thought the platinum committee was still in charge of the matter several months after you say the platinum committee ceased to exist?

Mr. ROTHSCHILD. He does not say the platinum committee, but the jewelers' vigilance committee, the parent committee, which is naturally interested in anything that affects—

Mr. RAINEY (interposing). I am reading from his report.

Mr. ROTHSCHILD. But he does not say the platinum committee, but the vigilance committee.

Mr. RAINEY. Well, I will read it to you again, literally.

Mr. ROTHSCHILD. Please.

Mr. RAINEY. This was on April 2, 1918:

While the platinum matter, in so far as its connection with the Government is concerned, is now in the hands of this platinum committee, the jewelers' vigilance committee is still interested in the adverse propaganda, etc.

Mr. ROTHSCHILD. The platinum committee he refers to there is the war service committee.

Mr. RAINEY. Then the war service committee is a platinum committee?

Mr. ROTHSCHILD. It has the platinum matter among other matters. I really am not familiar with the report and am not responsible for it, but those are the facts.

Mr. RAINEY. He refers to it as the platinum committee, the war service committee.

Mr. ROTHSCHILD. Well, I think he would be very glad to correct that.

Mr. RAINEY. He will correct a lot of things, or you will, before we get through.

Mr. ROTHSCHILD. Well, I am giving you the facts, Congressman, as they are.

Mr. RAINEY. You and Mr. Larter do not agree on these matters. Now, you say the first activities of the jewelers' vigilance committee or the platinum committee or the war-service committee commenced about the 9th of April, 1917.

Mr. ROTHSCHILD. The first activities of the jewelers' vigilance committee commenced soon after we entered the war. The first question which came up or which was brought to our notice was the platinum matter.

Mr. RAINEY. That was your first activity. What else have you done since then?

Mr. ROTHSCHILD. The war-revenue tax.

Mr. RAINEY. What else have you done since interesting yourselves in the platinum subject?

Mr. ROTHSCHILD. War-revenue taxes, and I think there was one matter about flags. There was some legislation in New York State as to the use of flags or the national emblem on jewelry.

Mr. RAINEY. Did you ever take any interest at all, here in Washington or anywhere else, in connection with a tax on jewelry except the platinum tax?

Mr. ROTHSCHILD. Certainly. We are to-day very greatly interested in the general tax proposition and on the war-revenue tax bill there was a special committee appointed.

Mr. RAINEY. I know, but you say that committee was not appointed until this year?

Mr. ROTHSCHILD. That committee was appointed directly after that. That committee had hearings before the Senate Finance Committee. I think that must have been early in May of last year.

Mr. RAINEY. Is that the war service tax committee?

Mr. ROTHSCHILD. There were two committees formed. The jewelers' vigilance committee is a committee of 30 members. They in turn formed a subcommittee on platinum, when the platinum question came up. As chairman of the legislative committee of the jewelers' vigilance committee I was asked to serve as chairman of that committee, and I was also asked to serve as chairman, a little later, of the war revenue tax committee. I was chairman of both of those committees. I am entirely familiar, therefore, with all the activities of those two committees representing the jewelers, the platinum committee and the jewelers' war revenue tax committee, and we were occupied with both of those subjects about the same time. I believe the war revenue tax bill must have come up some time in May of 1917. I know we came down here, and I think it was the 12th of May that we appeared before the Senate Finance Committee.

Mr. RAINEY. Yes; Mr. Larter states here in his address:

The commodity tax, in which jewelry is a factor, developed in Congress just about a year ago in the war revenue bill, which, as you know, has since become a law. Again, our committee called a mass meeting, and at it another powerful, representative committee was appointed, headed by the former very able and efficient chairman, Mr. Rothschild.

What committee is that?

Mr. ROTHSCHILD. That is the war-revenue tax committee I have just referred to.

Mr. RAINEY. That is the war-revenue tax committee to which Mr. Larter refers as this platinum committee?

Mr. ROTHSCHILD. They are two separate committees. I happen to be chairman of each of them. They were two separate committees and they were appointed probably within a few weeks of each other, because the war-revenue tax matter came up soon after the platinum matter. The platinum matter developed directly after we entered the war.

Mr. RAINEY. How many meetings did you have here in Washington of the vigilance committee or of other committees which had to do with anything except platinum?

Mr. ROTHSCHILD. Well, I do not suppose the vigilance committee was in Washington on platinum more than——

Mr. RAINEY (interposing). I mean anything else except platinum.

Mr. ROTHSCHILD. Oh, we were here on war-tax questions five times, that is all.

Mr. RAINEY. How many times did the platinum committee come to Washington?

Mr. ROTHSCHILD. Probably two or three times.

Mr. RAINEY. Let me read you from the official records.

Mr. ROTHSCHILD. Go ahead.

Mr. RAINEY. Mr. Larter says you came here 16 times.

Mr. ROTHSCHILD. On platinum?

Mr. RAINEY. Yes, that the platinum committee came here.

Mr. ROTHSCHILD. Well, it might have been five or six times. I was forgetting the meetings we had with the Secretary of Commerce. We had two or three meetings with him.

Mr. RAINEY. How many meetings did the platinum committee have?

Mr. ROTHSCHILD. I do not remember. We had no stated meetings.

Mr. RAINEY. You had none at all?

Mr. ROTHSCHILD. No stated meetings. We would call a meeting whenever a matter of any importance came up and we would get as many men together as we could and talk things over.

Mr. RAINEY. The platinum committee had nothing to do with anything except platinum?

Mr. ROTHSCHILD. Nothing but platinum.

Mr. RAINEY. Mr. Larter states you had 16 meetings of that committee.

Mr. ROTHSCHILD. If he kept track of them that is possible. I did not remember there were any such number of meetings. I know there were a great many more meetings on the tax question.

Mr. RAINEY. You had more meetings on the tax question?

Mr. ROTHSCHILD. I was in Washington oftener and longer; much longer, that is, after the bill became a law.

Mr. RAINEY. That is the war service tax committee?

Mr. ROTHSCHILD. No; that is the jewelers' war revenue tax committee. The war service committee only came into being at the end of the year.

Mr. RAINEY. And you had more meetings of that committee than the platinum committee?

Mr. ROTHSCHILD. I was in Washington oftener; sometimes alone and sometimes with two or three other men.

Mr. RAINEY. The record shows that you only had 2 meetings of that committee, while you had 16 of the platinum committee.

Mr. ROTHSCHILD. You asked me about our activities in Washington. I imagine Mr. Larter refers——

Mr. RAINEY (interposing). I am asking about the meetings.

Mr. ROTHSCHILD. About the meetings held in New York? Your first question, I believe, was about the activities in Washington on platinum.

Mr. RAINEY. I am asking you how many meetings you had?

Mr. ROTHSCHILD. I could not tell you. I do not know.

Mr. RAINEY. And you said you had more meetings of the tax committee than the platinum committee, and the record shows you had

16 meetings of the platinum committee and only 2 of the tax committee.

Mr. ROTHSCHILD. In New York, possibly; but we were here in Washington. That was your first question. If that is not the question I would like to amend my answer.

Mr. RAINEY. How many trips did you make to Washington?

Mr. ROTHSCHILD. I could not tell you. There was one month I was here, I believe, half the time, probably here six or eight times.

Mr. RAINEY. What did you do on those trips?

Mr. ROTHSCHILD. We were trying to work out the war revenue tax law. We came here several times at the request of the Treasury Department and we tried to work out some rule or regulation, tried to get definitions, and I had to come here very often. Some Treasury decisions were rendered which the Treasury was dissatisfied with afterwards, or the Commissioner of Internal Revenue, and he telegraphed me to come here and the final upshot was the Jewelry War Tax Primer. It was a technical subject. We had offered our services at the outset and the commissioner accepted them.

Mr. RAINEY. The record shows that you made 18 trips to Washington.

Mr. ROTHSCHILD. Possibly.

Mr. RAINEY. Did you send out any circulars?

Mr. ROTHSCHILD. I did not.

Mr. RAINEY. Did the jewelers' committee send out any?

Mr. ROTHSCHILD. Probably.

Mr. RAINEY. What was the object in sending them out?

Mr. ROTHSCHILD. To notify the trade as to the things that had been done or was being done.

Mr. RAINEY. The only thing you were doing was interesting yourself in platinum?

Mr. ROTHSCHILD. In all these trips in regard to the war revenue tax I was interesting myself in various decisions and opinions, some of which had to be recalled or changed at the initiation of the commissioner himself, and the jeweler did not know where he was at; did not know what to pay taxes on; each collector had a different idea of the law, and we had to send out telegrams and letters and corrections from time to time. I dare say a lot of that paper stuff was in connection with that. I paid very little attention to it.

Mr. RAINEY. The record shows that prior to April 2 of this year you sent out over 17,000 letters.

Mr. ROTHSCHILD. Possibly. There are 35,000 jewelers in the United States.

Mr. RAINEY. And you sent out 445 telegrams, one of them containing 708 words.

Mr. ROTHSCHILD. That was a long one. I did not know anything about it.

Mr. RAINEY. Who got that telegram?

Mr. ROTHSCHILD. I do not know. I think Mr. Larter could answer a good many of these questions, Mr. Rainey.

Mr. RAINEY. That telegram went to 11 different firms, he says.

Mr. ROTHSCHILD. Yes.



Mr. RAINEY. Let me read you what Mr. Larter says your vigilance committee did during the year ending April 2, 1918:

An idea of some of the work done by the committee during the year was given in the report of Secretary Dickinson, which showed that during the year there have been 61 meetings of the directors and committees, divided as follows: Directors, 17; executive committee, 14; platinum committee, 16; legislative committee, 2; tax committee, 12.

There have been 10 mass meetings of the jewelers' vigilance committee with the trade at large, two on the subject of platinum, six on tax matters, one on watches, and one on war service committee. In addition to members of the jewelers' vigilance committee, incorporated, these meetings were attended by representatives of 832 firms.

There have been sent out 17,072 letters, circulars, announcements, etc., through the mail, and 455 telegrams, the shortest of which was 42 words, and the longest consisting of 708 words, this letter having been sent to 11 firms.

There have been 18 trips made by committees on various matters, 14 to Washington, 2 to Albany, 1 to Scarsdale, and 1 to Boston. In all, 115 members of the jewelers' vigilance committee and delegates from the trade at large making the trips.

That is a pretty active organization.

Mr. ROTHSCHILD. Well, I think it was blowing one's horn to a considerable extent. I suppose Mr. Larter wanted to show these people that their contributions were being used in very active work. I do not think it had any special bearing on our work, though. Some of those long telegrams were undoubtedly necessitated by a change in the rulings of the Internal Revenue Office, because there were some real serious conditions there as to the taxes.

Mr. RAINEY. Now, the Government wants platinum, you say, for the purpose of manufacturing acids, extracting nitrogen from the air for fertilizing lands and for war purposes, and for manufacturing acids to be used in explosives, and yet you say that was a selfish interest and not patriotic. Is that your position?

Mr. ROTHSCHILD. No, sir; it is not my position. My position is that the Government should have commandeered platinum long before it commandeered the platinum; that the Government should take no chances whatever in regard to the supply of platinum to win this war. That has always been my position.

Mr. RAINEY. In order to have platinum with which to win the war; is that your position?

Mr. ROTHSCHILD. Yes, sir.

Mr. RAINEY. And in order to accomplish that your organization, the jewelers' vigilance committee, agreed to supply the country with all the platinum it needed?

Mr. ROTHSCHILD. It did not.

Mr. RAINEY. What did you agree to do?

Mr. ROTHSCHILD. To give up all our unmanufactured platinum whenever the Government requested it. That is what we agreed to do, and we agreed also to cut down on the use of platinum for bulky articles, for findings, for pin tongues, and things which in the aggregate amount to considerable weight; which we did as far as the jewelers were able to enforce the thing. We had no power, but we used moral suasion, and we went far beyond our power in getting the jewelers to do these things.

Mr. RAINEY. When did you adopt your resolution, the vigilance committee, with reference to platinum?

Mr. ROTHSCHILD. I think it must have been early in April.

Mr. RAINEY. Early in April of what year?

Mr. ROTHSCHILD. 1917.

Mr. RAINEY. Is this the resolution?

Whereas the Secretary of Commerce has requested the platinum committee of the jewelers' vigilance committee to bring to the attention of the jewelry trade of the United States the advisability of conserving platinum in order that our Government may have larger supplies to draw upon for war purposes; and

Whereas the jewelry trade has already clearly expressed its desire and determination to assist our Government to the extent of its ability in bringing the war to a successful termination: Be it

*Resolved*, That we pledge ourselves to discontinue and strongly recommend to all manufacturing and retail jewelers of the United States that they in a truly patriotic spirit discourage the manufacture, sale, and use of platinum in all bulky and heavy pieces of jewelry; be it further

*Resolved*, That during the period of the war, or until the present supplies of platinum shall be materially augmented, we pledge ourselves to discontinue and recommend that the jewelry trade discourage the use of all nonessential platinum findings or parts of jewelry, such as scarfpin stems, pin tongues, joints, catches, swivels, spring rings, ear backs, etc., where gold would satisfactorily serve; be it further

*Resolved*, That the jewelry trade encourage by all means in their power the use of gold in combination with platinum wherever proper artistic results may be obtained; be it further

*Resolved*, That copies of these resolutions be handed to the Secretary of Commerce, to the trade press, and be sent to all our trade organizations and to the daily press, in order that they may have the widest possible dissemination.

That is the order.

Mr. ROTHSCHILD. Yes, sir.

Mr. RAINEY. Those are the resolutions that you adopted?

Mr. ROTHSCHILD. Yes, sir.

Mr. RAINEY. With reference to that resolution, and on account of it, the Secretary of Commerce addressed you a letter on May 21, 1917, as chairman of the platinum committee, in which he said in effect that no other conservation of platinum was needed than you had undertaken and as was expressed in the resolution that was adopted?

Mr. ROTHSCHILD. Yes, sir.

Mr. RAINEY. And that called forth that letter?

Mr. ROTHSCHILD. Yes, sir.

Mr. RAINEY. Which you succeeded in getting a Member of Congress to read on the floor of the House after I had refused to read it?

Mr. ROTHSCHILD. We did not ask you to read that letter, Mr. Rainey. I do not know that we asked you to read any letter.

Mr. RAINEY. I had a letter exactly similar.

Mr. ROTHSCHILD. I think you had a much longer letter and a much fuller letter.

Mr. RAINEY. Who requested the Secretary of Commerce to write that letter to me?

Mr. ROTHSCHILD. We went to the Secretary of Commerce with a copy of your proposed speech which had been sent out for release after you had delivered it to one of the trade journals. That journal believing it was of trade interest brought it to the notice of the committee, and we sent a wire to the Secretary of Commerce asking for a hearing, and we sent a wire to you at the same time stating that we would wait on you the next morning. We stated that we would like to speak to you about this proposed speech. We then went before the Secretary and showed him your speech, and he wrote that letter. He wrote a letter to you.

Mr. RAINEY. He being a democratic Secretary of Commerce and I being a Democrat, you thought you had me fixed?

Mr. ROTHSCHILD. No, sir; I did not think at all on that subject. I assumed that as the Secretary had up to that time been the only official who was thoroughly posted on platinum, he having before him every official of the Government or every branch of the Government that might need platinum, and they having stated that there were no platinum requirements within a week or two of that time—in view of those facts, we thought that his statement to you as to the facts of the situation might induce you to revise your views.

Mr. RAINEY. But it did not have much influence, did it?

Mr. ROTHSCHILD. It was not a question of influence, but it was a question of bringing certain facts to your attention.

Mr. RAINEY. At any rate, I refused to alter my views.

Mr. ROTHSCHILD. I am sorry to say that you did.

Mr. RAINEY. I am not sorry. What did you do to conserve platinum?

Mr. ROTHSCHILD. The resolutions were sent, as indicated there, to the trade journals.

Mr. RAINEY. I mean what was done to conserve platinum in addition to sending those resolutions?

Mr. ROTHSCHILD. Whenever any act on the part of any manufacturer in the direction of abusing those resolutions came to the notice of the committee, we requested and generally succeeded in getting those manufacturers to abstain from doing the things that they had been doing.

Mr. RAINEY. Suppose you mention one of them.

Mr. ROTHSCHILD. Well, for instance, some time during the summer the complaint was made to the Secretary of Commerce that solid platinum wedding rings were being manufactured. This complaint was sent to us by the Secretary of Commerce, and it came before the platinum committee, and that committee took the matter up, at once with the offenders.

Mr. RAINEY. Who were the offenders?

Mr. ROTHSCHILD. There were a number of them.

Mr. RAINEY. Who were some of them?

Mr. ROTHSCHILD. There was J. R. Wood, of New York.

Mr. RAINEY. Who else?

Mr. ROTHSCHILD. I called them offenders, but I want to amend that by saying that that was the first time it was called to our attention that those little wedding rings would be considered by the Government as bulky articles. Therefore, I want to amend that statement and not say that they were offenders, but I want to say those manufacturers who had not been particularly requested not to make those wedding rings. We did ask seven or eight concerns to abstain from making those rings and each one of them promised to abstain. They did abstain from making them, so far as we have been able to find out.

Mr. RAINEY. Who asked them to do that?

Mr. ROTHSCHILD. I did, as chairman of the platinum committee.

Mr. RAINEY. Who asked you to ask them?

Mr. ROTHSCHILD. Well, that communication from the Secretary of Commerce was my reason.

Mr. RAINEY. What communication?

Mr. ROTHSCHILD. It was a letter inclosing a communication which he had received, I think, from Dr. Hildebrand. Dr. Hildebrand had received a letter from some chemist.

Mr. RAINEY. When did you make this request?

Mr. ROTHSCHILD. That must have been last June or July. I could get you the exact date.

Mr. RAINEY. What else have you done to conserve platinum?

Mr. ROTHSCHILD. We have asked the trade journals not to advertise platinum, and we have asked individual jewelers to cut down on it and not advertise platinum for sale.

Mr. RAINEY. For instance, take this magazine Vogue; did you ask them not to advertise platinum?

Mr. ROTHSCHILD. I do not know anything about Vogue.

Mr. RAINEY. Did you protest against this article?

Mr. ROTHSCHILD. I had never seen an article in Vogue, and until I read your speech I had never seen the Vogue article.

Mr. RAINEY. Did you make any attempt to secure the use of platinum substitutes?

Mr. ROTHSCHILD. The only attempt I made to secure the use of platinum substitutes was by asking the Bureau of Standards, or Dr. Stratton, to tell us if they knew of any substitutes. We told Dr. Stratton that we wanted to know of any platinum substitutes.

Mr. RAINEY. They were using white gold as a substitute for platinum, were they not?

Mr. ROTHSCHILD. I think white gold was brought in some years ago as a substitute, but I do not think it has been successful. I do not think it stood up well. It tarnished, and you could not set small stones in it successfully.

Mr. RAINEY. Why did you protest through the jewelers' vigilance committee against these platinum substitutes?

Mr. ROTHSCHILD. I do not know that we protested against the use of platinum substitutes. We told the Secretary of Commerce that if there were any substitutes we wanted to be told about them, because we knew of none.

Mr. RAINEY. But they were using white gold as a substitute for platinum.

Mr. ROTHSCHILD. White gold is not a substitute for platinum.

Mr. RAINEY. Let me read you something here to show you what you have done. I am reading from the Jewelers' Circular-Weekly of May 22, 1918, which is quite a recent issue. This is against the use of white gold as a platinum substitute. This statement reads:

Prominent retail jewelers and platinum smiths met at New York and resolved to discourage the use of all metals that imitated platinum in any way.

Do you know anything about that?

Mr. ROTHSCHILD. I heard about the meeting, but I was not there. That was a meeting called, I believe, to consider the jewelry situation after platinum had been commandeered. The jewelers were at sea about it, and they did not know what to do. The suggestion was made at a meeting, I think, here at a table in Washington. I was present at the time, and it was suggested that it would be a good idea to call the principal jewelers together to see what could be done. Their business was practically at an end, because many

jewelers' organizations were only set up for platinum manufacturing. It was a serious question, and they thought that by getting together and talking it over some light could be shed on the subject.

Mr. RAINEY. What particular officials of the jewelers' vigilance committee were active in that conference?

Mr. ROTHSCHILD. I think the chairman was. Mr. Larter has been active. It was called by the jewelers' vigilance committee.

Mr. RAINEY. I have here before me his address on that occasion, speaking for that committee.

Mr. ROTHSCHILD. I am not a member of the jewelers' vigilance committee now.

Mr. RAINEY. I know that you are not now.

Mr. ROTHSCHILD. I am willing to accept blame for everything done while I was chairman, or even up to date.

Mr. RAINEY. I am perfectly familiar with your activities, Mr. Rothschild, in the interest of this jewelers' vigilance committee, and also on the subject of platinum. I suppose I am just as familiar with them as you are yourself. I do not want to offend you in any way, but I know all about them.

Mr. LONGWORTH. With regard to the influence that was used to prevent advertisements of platinum in jewelry, I have here a copy of the Jewelers' Circular-Weekly, with which, I assume, Mr. Rothschild has considerable influence. I have before me a copy of the issue of July 3, and I find—

Mr. RAINEY (interposing). Of what year?

Mr. LONGWORTH. Of this year and of this month. I find, for instance, on page 13, an advertisement by Untermeyer, Robbins & Co. It is a full page advertisement of jewelry, and reads: "Melee well matched in platinum tops," etc., the word platinum being printed in capital letters. I find on page 34 an advertisement of platinum made in Newark for jewelry purposes. I find on page 36 an advertisement by somebody called A. Suderov of a complete line of platinum and 18-carat white gold clusters on hand. On page 38 I find the advertisement of Shire & Strauss of fine diamonds and platinum jewelry; the word platinum in every case being printed in capital letters. On page 42 I find an advertisement by Goldsmith, Stern & Co., of platinum jewelry. I simply bring that up at this point to show what has been accomplished in the direction of preventing advertisements of platinum jewelry.

Mr. RAINEY. Is the Jewelers' Circular-Weekly the official organ of the jewelers' vigilance committee?

Mr. ROTHSCHILD. No, sir; it is a paper over which the jewelers' vigilance committee has no power or influence.

Mr. RAINEY. It publishes the reports of your meetings.

Mr. ROTHSCHILD. It publishes everything of interest to the jewelers that they can get hold of. The jewelers' vigilance committee has no connection with it. It is privately owned.

Mr. RAINEY. Did you try to get this Jewelers' Circular-Weekly to quit publishing platinum advertisements?

Mr. ROTHSCHILD. I have taken no action at all since I ceased to be the chairman of the committee. When I was the chairman of the committee, I took the matter up and requested that platinum advertisements be kept down as much as possible. I even made the suggestion at one time that they should decline to accept platinum

advertisements, and that, at least, they should be kept down or practically suppressed.

Mr. RAINEY. At any rate, your efforts to prevent the insertion of platinum advertisements in jewelers' papers does not seem to have been very successful.

Mr. ROTHSCHILD. Not from that statement; but, again, I want to say that it is not illegal or unlawful to use it in jewelry. Platinum costs \$105 per ounce, and it is an article used in trade. It is not illegal nor immoral for the jeweler to try to sell it. It would be illegal for him to keep on making jewelry of platinum in excess of the 25 per cent left to him by the War Industries Board. Now, these people are engaged in that business, and their fortunes and whatever they have are invested in jewelry. I can see no reason whatever, as long as the Government does not object to it, why the jeweler should not use it. That being true, I can see no reason why they should not take the usual mercantile methods of trying to get rid of it.

Mr. RAINEY. I agree with you that it is not illegal.

Mr. ROTHSCHILD. It is not immoral or unpatriotic.

Mr. RAINEY. I can not agree with that latter statement. Now, this jewelers' vigilance committee brought about this meeting of the retail jewelers and platinum smiths at New York, did it not?

Mr. ROTHSCHILD. Yes, sir.

Mr. RAINEY. It was brought about for the purpose of taking steps to discourage the use of platinum substitutes, was it not?

Mr. ROTHSCHILD. I am not absolutely informed, but when the matter was discussed in my presence I understood that it was brought about at a conference to see what the opinion of the trade was on the subject, or as to the steps which ought to be taken in order for them to continue in business.

Mr. RAINEY. The Jewelers' Circular-Weekly stated that it was called for that purpose. Now, let me read from Mr. Larter's address:

The jewelers' vigilance committee thought that this was the psychological time to bring together representatives of the retail jewelers of the country and the manufacturers so that we might have an open discussion as to what to do in reference to the conditions now confronting us. You all have received, probably, the commanding order issued by the chemical division of the War Industries Board in reference to platinum, and I wish to state that the platinum committee of the jewelers' vigilance committee, and also the jewelers' war-service committee, have been endeavoring to their best ability to try and advise those in authority what ought to be done and how it should be done in reference to the platinum matter. Up to the present time—up to this past week—the matter has been handled as well as it could be under existing conditions; and while I do not hold a brief for the war-service committee, I wish to state that those of us who have come in contact with the officials in Washington appreciate the fact that it is often difficult to convey to their minds some very important matters that seem necessary in reference to the jewelry trade.

That is a fair statement of the attitude of the jewelers' vigilance committee, is it not?

Mr. ROTHSCHILD. I do not know what the attitude was. The only thing I know about it was that the meeting was called as a conference. I was not present. They met and conferred, and I think they passed certain resolutions.

Mr. RAINEY. Do you know what those resolutions were?

Mr. ROTHSCHILD. My recollection of the resolutions is that they did not believe that there should be an attempt made to use white gold in place of platinum, unless the white gold was distinctly stamped

so that the public would not be defrauded. That is necessary, because white gold does look like platinum, especially to the uninitiated. The difference is that white gold, as we know at the present time, will tarnish and will not hold stones in settings.

Mr. RAINY. So that the object or purpose of this resolution was to discourage the use of white gold as a substitute for platinum by putting upon it this brand so that nobody could claim that he had platinum jewelry when he had white gold jewelry.

Mr. ROTHSCHILD. It was also to prevent misbranding and fraud, Mr. Rainey, which we are always very much interested in in connection with our business, because we know that white gold has been sold for platinum by clerks in jewelry stores, sometimes with knowledge and sometimes without.

Mr. RAINY. This paper states that in the resolution they also declared that the best interests of the jewelry trade demanded that white gold should not be used in the manufacture of jewelry that contained diamonds or other precious stones.

Mr. ROTHSCHILD. I assume that it is again on the theory that white gold has not proven to be mechanically right. In other words, I know that some years ago when white gold was first brought to the attention of the great jewelers of this country, they tested the thing out. Now, a jeweler would generally rather have an investment of \$50,000 in a certain kind of jewelry than \$250,000, because there is always more or less danger, and there would be a greater amount of money involved, and if white gold had stood the test, and if it had shown strong qualities and the capacity for being used in connection with fine jewelry and for holding small stones in settings, I am certain it would have gotten into the market willy-nilly and would have crowded out platinum. It would have done that if it had had the merit. It may be that some day they will find a white gold alloy or combination that will make it possible to use it in that way, but that does not exist to-day.

Mr. RAINY. Do you think that you are assisting in the conservation of platinum by discouraging the use of white gold?

Mr. ROTHSCHILD. I do not think the two have anything in common.

Mr. RAINY. But the more white gold they use the less platinum they will use.

Mr. ROTHSCHILD. No, sir; the more white gold the jeweler uses, the more trouble he stores up for himself in the future.

Mr. RAINY. Did you ever pass resolutions against the use of white gold before the war started?

Mr. ROTHSCHILD. I do not know that any resolutions were passed. I know that the principal jewelers discouraged it.

Mr. RAINY. The jewelers' vigilance committee never called together any sort of convention of jewelers for the purpose of discouraging the use of platinum substitutes until we had been in war for nearly a year?

Mr. ROTHSCHILD. The committee did not call them together for that purpose. They called the convention to consider the situation that confronted them because of the taking over of platinum for Government purposes. The jewelers who were making platinum jewelry did not know where to turn. They did not know whether to use green gold, yellow gold, white gold, or what.

Mr. RAINEY. The result of the meeting which the jewelers' vigilance committee called was that they did meet and adopted resolutions protesting against the use of platinum substitutes, was it not?

Mr. ROTHSCHILD. I think they adopted further resolutions besides those. I think the jewelers who came there, including the big retailers and the manufacturers, received suggestions from each other, which suggestions will probably prove valuable to them. It was a matter of coming together and advising with each other.

Mr. RAINEY. Did you send out the resolutions that were adopted on that occasion?

Mr. ROTHSCHILD. I did not.

Mr. RAINEY. Did the jewelers' vigilance committee send them out?

Mr. ROTHSCHILD. I do not know.

Mr. RAINEY. This convention, which was called together by the jewelers' vigilance committee, adopted another resolution. This is a part of the resolutions that they adopted discouraging the use of white gold and other platinum substitutes:

*Resolved*, That full publicity be given to these resolutions and that the jewelers' vigilance committee be requested to send copies of these resolutions to the entire jewelry trade with a return card, upon which the recipient may signify his willingness to cooperate.

Did the jewelers' vigilance committee do that?

Mr. ROTHSCHILD. I prefer to have Mr. Larter answer that.

Mr. RAINEY. You are testifying on the subject of platinum.

Mr. ROTHSCHILD. I would like to give you light on any subject that you ask me about, but I do not know anything about that.

Mr. RAINEY. Was the jewelers' vigilance committee active in connection with these commandeering orders adopted by the War Industries Board?

Mr. ROTHSCHILD. I do not believe so, but I do not know. I have been out of it ever since January 25, absolutely.

Mr. RAINEY. They say they were. Here is the resolution, and you are speaking, of course, for all of them. I presume you know something about it.

Mr. ROTHSCHILD. I will tell you what I know.

Mr. RAINEY. Here is the statement issued by the war service committee. This refers to Mr. Larter and this platinum committee. They say, referring to their efforts with the War Industries Board on the subject of platinum with reference to those orders, and this is published in the May 22 issue of the Jewelers' Circular-Weekly:

While we were not successful in eliminating the requirement of a waiver signed by the owner for the release of articles containing platinum, irridium, or palladium, left with a jeweler for repairs, alterations, or setting, a modification of this requirement, as recently arranged by the committee, was confirmed and no acknowledgment before a notary is now necessary in such cases. Anticipating that many private customers might object to signing such a waiver, the committee secured the insertion of a heading which shows the official nature of the new waiver and that it is required by the Government and not by the jeweler.

Do you know anything about that?

Mr. ROTHSCHILD. No, sir.

Mr. RAINEY. Was that in the interest of the conservation of platinum?

Mr. ROTHSCHILD. Absolutely.

Mr. RAINEY. This was an effort on the part of the jewelers' vigilance committee to eliminate certain waiver requirements and to get



certain articles out in trade so that they could not be used for war purposes.

Mr. ROTHSCHILD. I have never seen that before, but it seems to me from your reading of it to be an effort to assist the Government, so that the private owner would submit his platinum and conserve it. I think Mr. Steele, of the War Service Board, who is here, could answer that question; I can not, but from your reading I should say that it was rather in the direction of conservation than otherwise. These orders have all to be more or less modified in order to make them workable. That is my experience.

Mr. RAINEY. On the 22d day of May Mr. Larter again makes this statement:

I wish to state that the platinum committee of the jewelers' vigilance committee and also the jewelers' war service committee have been endeavoring to their best ability to try and advise those in authority, and so forth, with reference to the platinum matter.

That was on May 22. You say——

Mr. ROTHSCHILD (interposing). I say that there was no platinum committee of the jewelers' vigilance committee in existence on January 15, 1918. I think Mr. Larter will admit that.

Mr. RAINEY. Mr. Larter said as late as the 22d of May, 1918, that the platinum committee was cooperating with the war-service committee in its effort to conserve platinum.

Mr. ROTHSCHILD. Mr. Larter is here, and Mr. Larter can speak for himself. I think that was simply a slip.

Mr. RAINEY. Now, you think that the vigilance committee was successful in conserving platinum?

Mr. ROTHSCHILD. Yes, sir.

Mr. RAINEY. All that the Government needed?

Mr. ROTHSCHILD. I do not know what the Government needed. I do know what the Government needs to-day.

Mr. RAINEY. Let me read from another statement made by Mr. Fessenden, of the war-service committee, which is referred to as the platinum committee now. I am quoting from the Jewelers' Circular Weekly of May 22, referring to Mr. Fessenden:

He recited the conditions which led up to the taking of the census of platinum of the jewelers and the offer to the Government of but 10 per cent of the amount of stock that had been reported and how this had put the jewelers in a bad light before the officials of the country and made the commandeering orders necessary. He urged that every man present realize that this was the time to think of his country first and of his trade second.

Then Mr. Fessenden thought in the month of May of this year that your efforts had failed to conserve platinum?

Mr. ROTHSCHILD. I do not think there was any connection between the two things.

Mr. RAINEY. He says there was.

Mr. ROTHSCHILD. I should like to explain that the conservation of platinum which our committee attempted to secure and which we did secure, as far as we were able, was along pledges which were distinctly given and which Prof. Howell refers to in his letter in Engineering and Industrial Chemistry. That led up to these pledges. As to the request which the War Industries Board made of the war-service committee to ask the jewelers to voluntarily give platinum to the Government, I would like to make this criticism.

The war-service committee should not have attempted to put that request into execution. There should have been a statement made by the War Industries Board as to the amount of platinum required, they had the census, and the war-service committee might then have sent out a request to the jewelers stating that "we want such and such percentage of your platinum," and I am sure it would have been given. As a result of this criticism meetings were called and the first 500 ounces which were desired, I think, afterward augmented to 1,500 ounces.

Mr. RAINEY. At that time there were 5,000 ounces?

Mr. ROTHSCHILD. That was their entire stock. The War Industries Board did not say to the jewelers "You must give your platinum," but "how much platinum will you give?" There are thousands of jewelers, and the average jeweler probably thought that the other fellow was going to give the platinum—there are a great many jewelers and they were not going to be the "goat." I think that method of attempting to get platinum was rather a foolish one.

Mr. RAINEY. All of which means that you did not conserve the platinum for the Government as you agreed?

Mr. ROTHSCHILD. All of which means that we did as we agreed, and this had nothing to do with conservation. This was a question of taking away from the jewelers the stocks they still had on hand, which the Government finally did take to the extent it wanted to take. It was a request by the Government for a voluntary contribution of the jewelers stock in trade. The jewelers, I think, if they had understood the situation, would have made a better response.

Mr. RAINEY. There was no way of getting the platinum from the jewelers except by inducing them to make voluntary contributions?

Mr. ROTHSCHILD. You are mixing that up again. The vigilance committee had nothing to do with contributions. The government at that time had not asked for any platinum. They asked the jewelers to conserve the platinum. That was done. Then, after the Russian smash-up—

Mr. RAINEY (interposing). And in pursuance of that, as late as May of this year, you discouraged the use of platinum in jewelry?

Mr. ROTHSCHILD. As late as May the War Industries Board had already acted and by taking 75 per cent of all the platinum which the manufacturers had they discouraged the use of platinum in jewelry. They could have taken 100 per cent and they were advised by the jewelers war service committee to take 100 per cent, but they did not desire to.

Mr. RAINEY. Evidently relying upon the agreement of your organization to supply the country with sufficient platinum?

Mr. ROTHSCHILD. There was no such agreement at any time.

Mr. RAINEY. The resolution adopted did not even mean that?

Mr. ROTHSCHILD. How could it? We have no power, except the platinum we had. We said, "You can have that whenever you want it."

Mr. RAINEY. The letter you procured from the Secretary of Commerce did not mean that?

Mr. ROTHSCHILD. No; just what we had. The jewelers never had the platinum. The dentists, the photographers, the metallurgists, and the refiners had it. We only had a small portion.

Mr. RAINEY. You had 5,000 ounces and you only gave 500 ounces.

Mr. ROTHSCHILD. When the Government asked for platinum for 75 per cent, they got 75 per cent.

Mr. RAINEY. When they commandeered it?

Mr. ROTHSCHILD. When they commandeered it. The 500 ounces were augmented to 1,450 ounces of the 5,000 ounces.

Mr. RAINEY. After the commandeering order?

Mr. ROTHSCHILD. Before the commandeering order. The Government got 30 per cent of the stock in trade at less than cost, voluntarily. Ask that of the iron men or the copper men or any other industry in the country.

Mr. RAINEY. You are familiar with the fact that we have a platinum section in the Bureau of Mines?

Mr. ROTHSCHILD. I am not, not up to a short time ago.

Mr. RAINEY. A platinum statistical section?

Mr. ROTHSCHILD. There is in the Geological Survey, I believe, of the Interior Department, not in the Bureau of Mines.

Mr. RAINEY. You knew that the head of the Bureau of Mines, Dr. Manning, had stated that the platinum supplies were insufficient for the war?

Mr. ROTHSCHILD. Up to that time I had no knowledge that the Bureau of Mines had anything in connection with the platinum situation for Government purposes.

Mr. RAINEY. But you know their statistics showed that there was not enough platinum?

Mr. ROTHSCHILD. I did not know that they had any statistics. The statistics of the Geological Survey of the same department, the Interior Department, are probably the statistics they have been acting on, and I was familiar with those. I should like to make a short explanation if you please?

Mr. RAINEY. Of course.

Mr. ROTHSCHILD. Because of your inquiries, I should like to say that I am interested in this matter not only because I have been chairman of the platinum committee and of the war revenue tax committee, but because of certain assistance which I and another gentleman, Mr. Monroe, of New York, gave to our allies, before we entered the war in the conservation of industrial diamonds, which are very necessary to keep away from the enemy. The diamond committee was formed at the request of the War Trade Board. This diamond committee, of which I was the vice president, was afterwards asked by the War Trade Board to take over the conservation of platinum. I am really a Government official, a member of the War Trade Board, a platinum expert, and as such a great deal of this information came to me, information on the necessities of the Government's program, as indicated by various reports, information, of course, which I could not and did not give to the jewelers or to the vigilance committee, but which made me feel at all times the absolute necessity for conservation and which caused me in season and out of season to try to impress upon every branch of the Government that had anything to do with the war the necessity not so much of taking platinum from a few people in this country, but getting more platinum into this country.

There were 50,000 or 60,000 ounces which could have been obtained for this country during this year probably if the proper steps had been taken. That has been my entire work. All of these other

things have been side issues. The chemists, I think, have been very largely responsible indirectly for the frame of mind of Mr. Summers, of the War Industries Board, who thought that \$90 was the proper price for 21,000 ounces of platinum, when platinum was selling in the open market in New York at \$105; that frame of mind, that \$100 was too much to pay for platinum, when the whole world was willing to pay more, probably resulted in keeping 10,000 ounces, which could have come from Russia, from coming in.

Mr. RAINEY. When?

Mr. ROTHSCHILD. In January.

Mr. RAINEY. Of what year?

Mr. ROTHSCHILD. This year. I make this statement, because I do not want you to be under any misapprehension, if it should come about at some future time, that I have testified before this body of legislators and have covered these other views. I have had very intimate knowledge. I do not know what the platinum needs of the Government are to-day. I have never known. Probably the War Industries Board or some official would know. At the beginning of the thing, last April, there was nobody who wanted an ounce of platinum.

Mr. RAINEY. Are you one of the advisers of the War Industries Board?

Mr. ROTHSCHILD. I am not. I think I am persona non grata with that board. I am connected with the War Trade Board. I made a report to the War Trade Board on January 15, 1918, in which I strongly urged that from fifty thousand to seventy-five thousand ounces of platinum be obtained from abroad at once, including iridium. I also called attention to the danger of keeping the price too low, because it would keep platinum from coming here from Colombia, which was one source of supply. I also called attention to the absolute unbusinesslike attitude in fixing the price of platinum at \$90 which was worth \$105 in the open market and to the absolute unbusinesslike attitude of not being willing to pay that price if necessary. I think that the situation in this country to-day is largely due to the opinion honestly held by Mr. Sommers, of the War Industries Board, who estimated that \$105 was too much. We do not fix the price of platinum in this country and we can not fix it in this country. If the price of \$105 had been paid then we would have secured platinum from Colombia, probably 30,000 ounces a year, for which the refiners gladly pay \$105.

Mr. RAINEY. We get our principal supply from Russia?

Mr. ROTHSCHILD. Not since the war. I think some is coming from China and Japan. That metal naturally, like gold, is carried out. My own impression is that there are thousands of ounces of platinum in Japan and China which a liberal policy will bring to this country.

Mr. LONGWORTH. I do not know that I quite understand what Mr. Rothschild's relation to the Government is. Are you a dollar a year man?

Mr. ROTHSCHILD. Yes, sir.

Mr. LONGWORTH. You are on a subcommittee of the War Trade Board?

Mr. ROTHSCHILD. My business particularly is to pass on import licenses for platinum and diamonds. That has been done up until

the present time through a series of guaranties. We carefully check up the crude platinum as it goes into the hands of the refiner in order to be sure that none of it is smuggled out of the country to the enemy. That is also a part of the work of the War Trade Board.

Mr. LONGWORTH. What committee of the War Trade Board is that?

Mr. ROTHSCHILD. The committee on imports.

Mr. LONGWORTH. Who is the chairman of that committee?

Mr. ROTHSCHILD. Mr. Peterson.

Mr. LONGWORTH. Now, by virtue of your connection with the War Trade Board—are you in any way an advisor of the platinum section of the War Industries Board?

Mr. ROTHSCHILD. No; I think I am *persona non grata* there. I tried to be an advisor. I have been in touch with Mr. Summer and Mr. Connor at various times, saying over and over again *carthago delenda est*—"Get more platinum." What we have in this country ought to be an irreducible reserve.

Mr. MOORE. You said Colombia, \$30,000?

Mr. ROTHSCHILD. Ounces.

Mr. RAINEY. Of course, the greater part of the supply comes from Russia?

Mr. ROTHSCHILD. In normal times I should say 90 per cent.

Mr. RAINEY. At the time we entered this war Russia was prohibiting the exportation of platinum to any nation, wasn't she?

Mr. ROTHSCHILD. We could have gotten here in May—the Secretary of Commerce had a telegram, or a cablegram—

Mr. RAINEY (interposing). May of this year?

Mr. ROTHSCHILD (continuing). Last year—he had a cablegram from the attaché at St. Petersburg that there were 40,000 ounces available, which could have been gotten by the Government of the United States.

Mr. RAINEY. But at that time Russia did have an order in force which prohibited the exportation of platinum?

Mr. ROTHSCHILD. But they would have permitted the export to any of the allies and our Government could have gotten it.

Mr. RAINEY. But before we entered the war Russia had an order which did keep us from getting any platinum?

Mr. ROTHSCHILD. No, sir; precisely the contrary. I think 40,000 ounces were available, which Russia was willing to have us get.

Mr. RAINEY. Had we been getting any platinum from Russia during the year prior to our entry into the war?

Mr. ROTHSCHILD. The Americans bought their platinum from England and France. There was every opportunity of direct importation, as far as I have been able to learn. It was all handled by big English, French and German concerns before the war, big concerns.

Mr. RAINEY. Before the war we got it from Germany?

Mr. ROTHSCHILD. And England and France. We have been getting some platinum from France since the war started.

Mr. RAINEY. That was in connection with an international agreement?

Mr. ROTHSCHILD. I do not know. Platinum was always bought and sold freely. Before 1914 it was simply an article of commerce.

Mr. RAINEY. We got our supplies before 1914 from Germany?

Mr. ROTHSCHILD. There were a number of houses, Johnson, Matthey & Co., of London, the DeModis Co. of Paris, and W. C. Hereaus & Co., Hanan, Germany. Those were the three great

refining concerns and they sold platinum to the whole world. They had agents here. I think there was a combination. I think the prices were always more or less under one hat; that was my impression, but it was open commerce.

Mr. RAINEY. Who is David Kaiser?

Mr. ROTHSCHILD. He is a manufacturer and jeweler.

Mr. RAINEY. A large manufacturer?

Mr. ROTHSCHILD. I think he is connected now with a large concern. He had a business of his own up to a year ago. He is a well-known, reputable jeweler.

Mr. RAINEY. He is quoted in the Jewelers' Circular-Weekly of May 22, as saying this—

He (David Kaiser) quoted the words used by Chairman Fessenden of the War Service Committee before a meeting of the manufacturers and retailers that afternoon and said that the fact that the manufacturers of platinum had not lived up to the letter and spirit of their agreement with the Government had brought about the commandeering order from which they were now suffering.

Does that indicate that the jewelers' vigilance committee had succeeded in keeping its promise to the Government?

Mr. ROTHSCHILD. It did succeed in keeping its promise to the Government, and if you analyze that promise it was a promise to attempt to do certain things. There are 35,000 jewelers.

Mr. RAINEY. I am quoting a statement of David Kaiser on the authority of Chairman Fessenden who says they did not.

Mr. ROTHSCHILD. He does not say that the vigilance committee did not, but individuals. I will admit that there is an impression that some jewelers did try to get away from that, and probably kept on doing business as usual. It is quite probable.

Mr. RAINEY. What organization was instrumental in obtaining the release of 25 per cent of platinum at the time the last commandeering order was made?

Mr. ROTHSCHILD. The War Service Committee, I believe, had everything to do with the commandeering orders, and Mr. Steele is here, chairman of the subcommittee on platinum.

Mr. RAINEY. What organization of the jewelers' vigilance committee was instrumental in releasing iridium and palladium from the first commandeering order?

Mr. ROTHSCHILD. I do not know whether in the first place there was any such release. I believe that iridium and palladium, or the absence of them, was an oversight. I do not think that the gentleman who drew the order, who was probably some attorney, in the first instance knew of such metals. Palladium is not used by jewelers and is not used in war materials either. I have been trying to figure out why it was commandeered and probably it was because it was used by dentists and it would be needed in fixing the teeth of soldiers of this country and the allies. It was a case of giving them palladium to take the place of platinum which was taken away from them.

Mr. RAINEY. Is palladium used in connection with platinum?

Mr. ROTHSCHILD. No; not to-day. White gold was a combination of palladium and gold.

Mr. RAINEY. Is iridium?

Mr. ROTHSCHILD. Yes, sir; but not palladium.

Mr. RAINEY. What organization is responsible for the fact that iridium was not included?

Mr. ROTHSCHILD. No organization. It was an oversight—a lack of knowledge on the part of the man who drew the order.

Mr. RAINEY. Did the War Service Committee have anything to do with drawing that order?

Mr. ROTHSCHILD. I have no knowledge of their activities. The chairman is here and he can answer that.

Mr. RAINEY. Who is responsible for the fact that the first commandeering order only reached a few refiners?

Mr. ROTHSCHILD. The War Industries Board, undoubtedly, because if they had taken proper precautions they could have found the name of every refiner.

Mr. RAINEY. Did any organization of the jewelers' vigilance committee try to give them the names of every refiner so that they could all be reached by this order?

Mr. ROTHSCHILD. I do not know where the applications went, but I know that any application to the the jewelers' vigilance committee, or to any other committee, would have resulted in getting this information.

Mr. RAINEY. You did not tender anything of the kind in the interest of conservation of platinum?

Mr. ROTHSCHILD. As vice president of the American diamond committee, I did tender to the War Industries Board a list of all the names of jewelers and others who had platinum on hand as of April 1, 1918, because the diamond committee was instructed by the War Trade Board to take a quarterly census of the material which they were carrying for the War Trade Board—that is, diamonds and platinum. Such a census of platinum was taken, and we brought that fact to the attention of Mr. Connor, and told him that before he issued his commandeering order, if he would send it to the diamond committee, getting the permission of the War Trade Board, who are our superiors, we could check those names with the actual sworn returns which we had and give him the names of any that were missing. No notice was taken of that offer—that is, he said he would do it, but it was not done.

Mr. RAINEY. With reference to the supplies that you say could be obtained from Russia in May of last year, where did you get that information?

Mr. ROTHSCHILD. I got that information from the Secretary of Commerce, who said that he had a telegram or cablegram from Huntingdon, I think, the attaché in Petrograd, saying that 40,000 ounces were available, also stating the price. I do not remember what the price was. I think it was considerably below the market price in London and New York.

Mr. RAINEY. How much did they obtain from Russia?

Mr. ROTHSCHILD. As far as I know, the Government never obtained an ounce. There were 21,000 ounces brought from Russia by Mr. Draper, I think, and Mr. Stein, and one or two Americans who went out there, and Mr. Jannin, another engineer, I think the consulting engineer of the Bureau of Mines. They brought it over at their own risk. It had been financed by some banks there. They were assisted by the Government in bringing it out of Russia. I think the embassy's seals were placed on it.

Mr. RAINEY. When did they bring it out?

Mr. ROTHSCHILD. I think it came through to New York in December or January.

Mr. RAINEY. Of this year?

Mr. ROTHSCHILD. Yes, sir.

Mr. RAINEY. Part of the 30,000 ounces that you say have been obtained since May of last year?

Mr. ROTHSCHILD. Possibly some of it. That was the amount in bulk. This amount was brought in in different purchases. It was brought out as a patriotic piece of activity, and, as I said, I do not think that these men were very well treated after it was brought to this country.

Mr. LONGWORTH. Do you know what price they got?

Mr. ROTHSCHILD. I do not know. They said they were given \$90 as a starter, and would have to show costs if they got more.

Mr. LONGWORTH. I thought the \$90 referred to the other supply.

Mr. ROTHSCHILD. No; the 21,000 ounces was all they got, and to get over \$90 they would have to show actual cost.

Mr. LONGWORTH. But these men who actually brought the platinum, how much did they get?

Mr. ROTHSCHILD. I do not know how it was finally settled by the Government. It was taken from them on the basis of \$90 an ounce, plus some more money if they could show exact costs, which one of them told me would be difficult. They could have sold it in the open market at \$105. They believed they had been badly treated. The market had been \$105 practically all the year. Every Colombian who sent his platinum in got \$105 and these chaps only got \$90.

Mr. MOORE. And that was at a time when we were loaning money to the Russian Government, was it not?

Mr. ROTHSCHILD. I think so.

Mr. MOORE. I do not think the Russian Government was involved in it, but if the request had been made to the Russian Government I think there was no reason why the Russian Government should not have responded.

Mr. ROTHSCHILD. I think the British Government obtained some the early part of last year. I talked to someone in the British Embassy here, and they said that if the United States Government should get a request for platinum it would get it.

Mr. MOORE. It is very important that, if we need platinum which is in Russia, which is one of our allies whom we were helping, the War Trade Board or some other official body should have obtained it without intentionally driving jewelers out of business.

Mr. ROTHSCHILD. In all these months I never mentioned the word "jewelry." My idea—and I want you to take these words at par—my idea was that if we could get a sufficient stock of platinum abroad, the other things would take care of themselves.

Mr. MOORE. I think you are to be commended in trying to get it, and I am wondering whether our war bodies could not get it from Russia.

Mr. ROTHSCHILD. I think the Department of Commerce could enlighten you.

Mr. MOORE. The Bureau of Mines has asked for \$50,000,000 in order to discover platinum in this country, and I think it would be interesting to know what the value of the platinum is if they suggest that much merely to be used in prospecting.



Mt. ROTHSCHILD. One of the men offered to go into Russia and dredge platinum if he was backed up by the Government.

Mr. MOORE. This Government has facilities to get it without leaving it to a few heroic men to go over and get it. I may just say in passing that I am wondering why the Government does not get a little more activity from some of its bureaus for its interests.

Mr. ROTHSCHILD. We went so far, since we are on the subject of platinum, that the head of the Bureau of Foreign Exports, Mr. Carter, said to me some time last fall, "If we would help you—we have no appropriation—would you be willing to undertake to finance a large amount of platinum to be brought to the United States, if we would help you bring it over from Russia?"

I smiled and said, "I have no means of financing millions of dollars worth of platinum, but if there is no other way to get this out of Russia I will go around among the jewelers and bankers in New York and I will try to finance it."

Mr. MOORE. Do you know how much there is in the country to-day, the bulk value?

Mr. ROTHSCHILD. I have made a rough estimate, and I should say there is probably in the United States perhaps a million ounces.

Mr. MOORE. What would that be worth at your highest price, the Government price?

Mr. ROTHSCHILD. \$105,000,000. Much of it is unmanufactured.

Mr. MOORE. And the Bureau of Mines recently asked \$50,000,000 to prospect for platinum.

Mr. ROTHSCHILD. I have no criticism to that, but if one-fiftieth part of the \$50,000,000 was spent in sending merchants into Japan, China, and Russian Siberia, you would get a million ounces in three months.

Mr. MOORE. Most of that \$50,000,000 would be wasted.

Mr. GARNER. By the way, we did not give them the \$50,000,000.

Let me get at the idea of your controversy between you and Mr. Rainey.

Mr. ROTHSCHILD. We have no controversy.

Mr. GARNER. There seems to be some difference of opinion as to the good faith of this jewelers' emergency committee or vigilance committee, or whatever you term it. If I understand you, the Government sent out a request for contributions of what they had on hand, and they voluntarily gave 30 per cent of the platinum they had on hand?

Mr. ROTHSCHILD. Yes, sir.

Mr. LONGWORTH. Unmanufactured?

Mr. ROTHSCHILD. Yes, sir; and partly manufactured.

Mr. GARNER. You did not believe that that was the best method of getting the material. You thought they ought to tell what they had and each one give up a little. There has been some suggestion of criticism of the want of good faith of you gentlemen on account of the fact that you did not want to substitute for platinum. If I understood your statement it is that you do not want to substitute for platinum unless the substitute is branded so as to keep from defrauding the American people. Is that right?

Mr. ROTHSCHILD. That is our standpoint as to platinum and everything else.

Mr. GARNER. Your position is that the committee had a standard, and the reason you urged against substitutes for platinum was simply that you did not want to defraud the American people?

Mr. ROTHSCHILD. That is the only reason.

Mr. GARNER. And the only thing that you request is that if they used white gold that it be branded?

Mr. ROTHSCHILD. Yes, sir.

Mr. STEELE. I would like to make a statement in connection with the substitutes spoken of. Certain base metals had already been put on the market which had no precious metals in them, and some of the small jewelers, unfortunately for the trade, had already started in to manufacture jewelry with these substitutes, and it was to prevent the honorable trade of jewelry making from losing its high standing that we did not want any jewelers to use these base substitutes.

Mr. GARNER. In other words, the responsible jewelers of this country did not want the substitutes used except with the stamp on it, and, incidently, in trying to protect themselves they protected the public from being defrauded.

Mr. RAINEY. Mr. Rothschild, let me read you what the jewelers' war service committee said with reference to the commandeering orders. I am reading from your statement issued on the 15th day of May:

This country is in serious need of platinum, iridium, and palladium in order to carry out its war program. The jewelers' war service committee in two appeals asked the jewelers of the country to offer voluntarily and set aside for the Government a generous proportion of their manufactured platinum, with the result that an inadequate supply of the metal was pledged. Much speculation with its resultant artificial high prices has been prevalent in platinum. The only course for the Government to pursue, in order to control the market price of platinum, iridium, and palladium was to issue a commandeering order.

Do you think that is a fair statement of the platinum situation?

Mr. ROTHSCHILD. I do think it is, and if you will permit me I will explain the speculation. The thought that you called attention to a little while ago, the commandeering order, was issued covering refiners and dealers in platinum, and they could not sell to jewelers. There were no orders issued and no way of preventing anybody who had scrap platinum or any other platinum from selling to jewelers. There was no order preventing, no attempt to prevent jewelers using platinum they had on hand, and no attempt to prevent them from buying platinum. Now, the profiteer, the ugly little chap who is always ready to jump in on such an occasion, got around and picked up little lots where he could, and where platinum had been kept down to \$105 an ounce, for one year—and that is a remarkable thing that we have kept it down—these fellows got \$5, \$6, and \$8 a pennyweight, running it up to \$160 to \$180 an ounce. Jewelers bought it to fill orders because they could not get it through the regular sources. It ought to have been stopped by issuing a commandeering order on all users of platinum. The jewelers were opposed to that. No decent jeweler bought any of that platinum. Nobody with any self-respect bought that platinum.

Mr. RAINEY. The statement here that I have read indicates that the appeals of the jewelers' vigilance committee or the subcommittees resulted in an inadequate supply of the metal. Do you agree with that?

Mr. ROTHSCHILD. The appeal of the jewelers' war service committee had nothing to do with the jewelers' vigilance committee.

Mr. RAINEY. Do you agree with the statement that it resulted in an inadequate supply?

Mr. ROTHSCHILD. I think in the first offer 400 or 500 ounces was inadequate. It was increased to 1,450 ounces.

Mr. RAINEY. Do you think that was adequate?

Mr. ROTHSCHILD. I think when it was 30 per cent of the entire metal, some giving 75 per cent and some not so much, but they had little left. You can judge for yourself.

Mr. RAINEY. Some gave up enough and some did not.

Mr. ROTHSCHILD. Some gave up a large part of what they had and some did not.

Mr. RAINEY. Do you agree with the statement of the chairman of this committee now in charge of platinum—

Mr. ROTHSCHILD (interposing). I have nothing to do with platinum at present.

Mr. RAINEY. That the efforts of the vigilance committee and this subcommittee failed to get a sufficient amount of platinum?

Mr. ROTHSCHILD. The vigilance committee has had nothing to do with platinum since January, 1918.

Mr. RAINEY. Or the war service committee?

Mr. ROTHSCHILD. With due respect to the committee, I never should have issued such an appeal. I would have declined to send out such an appeal.

Mr. RAINEY. It does not make any difference what they did or what they tried to do, do you agree with the proposition that all these appeals resulted in the failure to get an adequate supply?

Mr. ROTHSCHILD. I believe that the original platinum committee did make good on its pledges to the country. I believe that the response made to the jewelers of the country for a voluntary offering of their unmanufactured metal on hand was a disappointment, and I think it was largely a disappointment because the jewelers did not realize the necessity of giving up the metal.

I would like to say right here that I was present at a meeting of a lot of little jewelers who met voluntarily after the suggestion came down from Washington that the jewelers had failed to meet the situation. They were very indignant. They said, "We did not know what the situation was. The appeal was not sent out in proper form." And I saw one man after another get up and offer 50 per cent of his platinum to the Government. The question was raised, "Isn't it possible for some people who have platinum on hand to try to get away from giving it up by putting it into a semi-manufactured state?" Then one man got up and offered a resolution that the Government be requested to include in unmanufactured platinum that on which not more than 20 per cent of labor had been expended, and that resolution was carried. Then it came out that the class of platinum on which 20 per cent of labor had been expended cost \$120 an ounce, while the Government was only paying \$105. Admitting that there were weaknesses, we have the main factor that there are 35,000 jewelers, probably three or four thousand jewelers who have to do with platinum. Perhaps nine-tenths of the jewelers have nothing to do with platinum. Take it all in all most of these men are

Mr. RAINEY. You made a long speech without answering the question. Do you agree with this statement of the chairman of the Jewelers' War Service Committee that all of the efforts prior to that time to conserve platinum, whether made by your committee or the War Service Committee or any other jewelers' organization, had failed to create an adequate supply. You can answer that if you want to.

Mr. ROTHSCHILD. Certainly; it was within the power of the jewelers.

Mr. RAINEY. And yet you persuaded the Secretary of Commerce to send that letter to me which was read on the floor of the House, and defeated this tax. You persuaded him that this position taken by the vigilance committee was all that was necessary in order to obtain a proper supply of platinum.

Mr. ROTHSCHILD. If you will read that letter, the Secretary of Commerce has suggested that there are four different sources of platinum, and the jewelers only wanted part of it.

Mr. RAINEY. Here is what the letter stated that you had read on the floor of the House and which defeated the attempt to tax you. I am reading from the letter which you persuaded the Secretary of Commerce to write.

No campaign said to be based upon the alleged present needs of the Government can therefore be properly made looking to the restriction of the use of platinum in jewelry further than the jewelry trade have already voluntarily gone as expressed in the resolutions adopted by them and which this department has published with its approval.

Mr. ROTHSCHILD. Does the Secretary of Commerce refer to certain sources of supply which he has?

Mr. RAINEY. I have read exactly what he has stated.

Mr. ROTHSCHILD. He doesn't refer to those sources of supply?

Mr. RAINEY. In referring to your efforts and your resolutions he says it is sufficient.

Mr. ROTHSCHILD. In conjunction with the other sources of supply.

Mr. RAINEY. He does not so state.

Mr. ROTHSCHILD. I have a letter, an official statement, I believe, in his letter to me, Mr. Rainey, referring to the sources of supply.

Mr. RAINEY. He refers to them all, I presume. I will read all the letter.

Mr. MEYER D. ROTHSCHILD,

*Chairman Platinum Committee, Jewelers' Vigilance Committee,  
New York, N. Y.*

MY DEAR SIR: In response to your inquiry, let me say that a supply of platinum is available to the Government from several sources: First, from domestic stocks, of which a census is now being made and which is known can be increased if need be; second, from stock now held by the Government which is available for sale to Government laboratories needing it for Government uses and to outside laboratories at the market price with the understanding that it is to be used for the purpose of the Government; third, from stocks existing abroad, known to be available.

No campaign said to be based upon the alleged present needs of the Government can therefore be properly made looking to the restriction of the use of platinum in jewelry further than the jewelry trade have already voluntarily gone as expressed in the resolutions adopted by them and which this department has published with its approval.

That is the letter that you had read on the floor of the House, and which defeated the attempt to conserve platinum.

Mr. MOORE. Mr. Rainey, may I ask if that is the letter to which you referred in the speech made by you on June 11?

Mr. RAINEY. Yes; I referred to it in the speech made by me on June 11.

Mr. FORDNEY. That wasn't all of that letter?

Mr. RAINEY. Yes; that was all of it.

Mr. MOORE. To whom was that addressed?

Mr. RAINEY. That was addressed to Meyer D. Rothschild.

Mr. MOORE. And that is the letter read by Mr. Lehlbach, of New Jersey?

Mr. RAINEY. That is the letter read by Mr. Lehlbach on the floor of the House.

Mr. STEELE. May I make a statement in regard to the question that you asked regarding the amount of platinum pledged by the jewelers in response to the call sent out by the Jewelers' War Service Committee? The Jewelers' War Service Committee was formed for the purpose of assisting the Government in all of its departments in any way possible by securing information and taking such action as they called for. When the War Industries Board called upon us to take a census of the unmanufactured platinum, by the manufacturing jewelers of the country, we had no option in the matter. We followed out the orders. We sent out the call for the census, which was of date February 1. On February 23 the commandeering order was sent to all the important refiners and importers and dealers in platinum throughout the country, the largest ones of the lot. In reference to this commandeering order, the wording of it, or the names of the people to whom it was sent, we were not consulted in any degree.

Mr. MOORE. That order went out from the Government?

Mr. STEELE. That order went out from the Government under date of February 23.

Mr. MOORE. Your committees had nothing to do with influencing that?

Mr. STEELE. We had nothing to do with that order in any way, shape, or manner. We knew that such an order was to be sent out.

Mr. MOORE. How many concerns did that apply to?

Mr. STEELE. We understand that the 14 most important dealers in the country were covered.

Mr. MOORE. How many others were not affected by that order?

Mr. STEELE. The refiners or the jewelers?

Mr. MOORE. Refiners and jewelers.

Mr. STEELE. The jewelers were not covered at all by this order.

Mr. MOORE. Can you explain why that order went out to only 14 refiners?

Mr. STEELE. I can not. If we had been consulted in regard to this matter, we would have advised them to cover all the jewelers also.

Mr. MOORE. Didn't that present an inequality in the trade at once, so that 14 were held out and the others went free?

Mr. STEELE. I think it did.

Mr. MOORE. How do you account for the Government proposition emanating from Washington?

Mr. STEELE. I do not think they understood that it was cutting off all these sources of platinum.

Mr. MOORE. Wasn't it calculated to create unrest in the trade?

Mr. STEELE. I think so.

Mr. RAINEY. Let me read in this connection, so that it can be in parallel columns, bearing in mind that 14 jewelers—

Mr. STEELE (interposing). Refiners.

Mr. RAINEY (continuing). Had been included, "An order has been sent to the jewelers."

Mr. STEELE. Well, this was the second order. This had no reference to the first order.

Mr. RAINEY. Then you proceed to say, "Our committee has been constantly in touch with the officers, advising them as to the necessary steps and the manner and form in which they should be taken."

Mr. STEELE. Yes, sir. There were three orders sent out. The first order was sent to 14 refiners and dealers in platinum, and with this we had nothing to do. We knew nothing of its wording or of its import. The second and the third orders that were sent out were in touch with the officials and we advised them as to what names should be covered, and the only thing in which our advice was not followed was that every jeweler in the country was not covered in the second order and third order.

Mr. MOORE. Did you advise that all be covered?

Mr. STEELE. Everyone.

Mr. MOORE. That is, you wanted fair play in the trade. These 14 were picked out of the rest.

Mr. STEELE. They were all covered only by the third order.

Mr. MOORE. That tended to unsettle conditions, I assume in the trade.

Mr. STEELE. The first order that was sent out—you ask why iridium was not covered. I have here a copy of that order. It was dated February 23, and it reads in the instructions to the refiners who received it—

You are to make on the inclosed blank an exact inventory of your stock of crude and refined platinum and platinum-iridium alloys as of March 1, 1918. Make affidavit to same and return it promptly with the accompanying receipt.

So that you really see iridium was covered in this first order, although as I say we had nothing to do with this. When the census was sent out by us it called for a statement of the unmanufactured platinum on hand in the hands of jewelers as of February 1. On February 23 the commandeering order was sent to the largest refiners and dealers of the country. It came, shutting off the most important source of supply of jewelers. Our census was called for about the middle of February and we reported about the 1st of March, a week after the commandeering order was sent to the refiners. We reported that almost 5,000 ounces of platinum was at hand in the hands of jewelers.

Mr. MOORE. You mean platinum already worked up?

Mr. STEELE. Unmanufactured. We then reported this to the War Industries Board. We tried to secure voluntary contributions. We sent out a call and a little before the first of April it was reported that 500 ounces had been offered voluntarily, but this was a matter of five weeks after the commandeering order had been issued shutting off new supplies of platinum, and two months after the date of the census, so that if we say that 30 per cent was offered voluntarily, it is not a true statement for the reason that the jewelers had been

operating for six weeks on the stock of 5,000 ounces reported February 1, and for five weeks they had been unable to secure any platinum from the ordinary sources of supply, so that it would be impossible to state just what proportion of their stocks they voluntarily offered. After that they finally offered to give 1,450 ounces which I should say was probably something like 50 per cent of the stock on hand at the time they made the voluntary offer, although no man can tell that definitely.

Mr. GARNER. It will not be my good fortune to be here this afternoon. We need a tax bill, and I would like to have a statement as to what you think ought to be levied on jewelers in the way of taxes. You are an official of the Government, and so is Mr. Rothschild. We have got to make up a tax bill and we want to get all the money we can without crippling your business.

Mr. STEELE. I am simply here to answer questions in regard to what has been accomplished by the War Service Committee, which has dealings in all matters between the Government and the trade. I am not a member of this tax committee.

Mr. GARNER. But you know a good deal about the jewelry business, do you not?

Mr. STEELE. I think I do.

Mr. GARNER. That is the kind of man we want.

Mr. STEELE. Mr. Rothschild can answer you in regard to that.

Mr. GARNER. We want to get from both of you a statement of the largest amount of money that we can get out of you by taxation so as not to put you out of business.

Mr. STEELE. My opinion is a personal one that the tax on jewelers should be levied when the article is sold to the consumer, when the highest value is on it. I would put a tax of 8 or 10 per cent on, and I think that would produce the largest revenue, and I think a much larger percentage than if a higher tax were put on.

Mr. MOORE. Mr. Garner is much closer to the Treasury Department than the rest of us, and he says they would like to have 50 per cent on your sales.

Mr. STEELE. I think the experience would be very similar to what the experience was in 1892, 1893, and 1894 when they jumped the tariff from 10 to 25 per cent on diamonds.

Mr. LONGWORTH. That is entirely different.

Mr. STEELE. And they got a much smaller revenue.

Mr. GARNER. Let me get you. You are of the opinion that the best way to get money from the jewelry trade is to levy it on the retailer when he sells the goods to the consumer.

Mr. STEELE. Yes, sir.

Mr. GARNER. And you believe that 10 per cent would get the largest amount of revenue?

Mr. STEELE. Yes, sir.

Mr. GARNER. You believe to go above 10 per cent would decrease the revenue?

Mr. STEELE. I think it would some.

Mr. GARNER. Well, I am sorry to hear you say that. What is your opinion, Mr. Rothschild?

Mr. ROTHSCHILD. Representing, as I do, practically the jewelry trade, I have tried to think the thing out as to what we should say—some constructive ideas. It is not my business to give away any

other man's business, but my own personal opinion is that the tax, whatever you gentlemen will decide, is a collectible tax, and it is a business proposition which you can get not from the jewelers alone but from a group of men which includes 19 industries now. We are willing to take whatever you will tax us if you will also tax the automobile people, the sporting goods people, the chewing-gum people, and the people who sell fine laces. You do not want to destroy the industry for many reasons. But after you have talked it over, and you decide that you can get 20 or 50 or 100 per cent, we are willing to try.

Mr. GARNER. In other words, you are perfectly willing to have us levy a gross tax, such as would get the largest amount of money into the treasury?

Mr. ROTHSCHILD. Yes, sir.

Mr. GARNER. Could you give me a rough estimate of the gross sales of jewelry in the United States in one year?

Mr. ROTHSCHILD. We also went over that. None of us had thought that over. One of our members went to the board of trade and figured out that there were about 35,000 jewelers in the United States. Lots of them are little fellows, men who started in the watch repairing business and grew up.

Mr. LONGWORTH. You mean retail jewelers?

Mr. ROTHSCHILD. About 4,000 wholesalers and manufacturers, and about 35,000 retailers.

Mr. LONGWORTH. None of you gentlemen are retailers?

Mr. ROTHSCHILD. Yes, sir. And in that connection just now I would like to have Mr. Hoffengle, who is president of the United Jewelers' Association, read those resolutions.

Mr. GARNER. But before he does that I wish you would give me an estimate of the gross sales of jewelry.

Mr. ROTHSCHILD. It is so large that I hate to give it.

Mr. GARNER. The larger it is the better.

Mr. ROTHSCHILD. Mr. Washburn went over those figures. It includes all cases, those where they probably sell \$1,000 worth, \$5,000 worth, and upward, and it totaled about a half a billion dollars sold by retailers. I think those are extravagant figures.

Mr. MOORE. It has been figured as high as \$800,000,000.

Mr. ROTHSCHILD. It may be. We have no way of judging.

Mr. GARNER. Let us get at that now. Say it is half a billion dollars. Now, to levy a tax of 50 per cent, and if the sales were an equal amount next year, that would net \$250,000,000.

Mr. ROTHSCHILD. "If," you suggest.

Mr. GARNER. I am putting the "if" in. If we levy a 50 per cent tax, how much would you sell?

Mr. ROTHSCHILD. There is where the psychology enters into it. If a man wants to buy a piece of jewelry and there is a 10 per cent tax on it, and he knows there is a 10 per cent tax on certain things, he says, "I am a good patriot, and I had better take this and give the revenue to the Government." But if you put a 50 per cent tax on it, about 90 per cent won't buy, so you would kill the goose. Not only that, but you have got 35,000 people in the industry. Assuming that there are only two or three men employed, it may be half a million people, depending upon this industry somehow or other, a perfectly legitimate industry, and they are dependent on it.



Many of those engaged in the industry would like to make munitions and help the Government and make money for themselves, but they are in the jewelry business, and if you levy a tax of that kind, you will hit men many of whom have sons in the trenches, who are doing their bit, putting burdens on them which are unfair, and I do not think you want to do that. I believe a reasonable tax, which will also be collected upon automobiles and other things of a like nature, but limited to what the commodities can pay without being unduly hampered, ought to be put on.

Mr. GARNER. That is a very liberal spirit. Let us get back to the practical feature of it. That premise is all right.

Mr. GOUGH. There are not annual sales of jewelry amounting to \$500,000,000 at retail in the United States. There are \$500,000,000 worth of goods sold by retail jewelers, but those \$500,000,000 of goods consist of silverware, watches, china, umbrellas, fountain pens, and anything that the dealer chooses to carry. Those are his sales, but he doesn't sell \$500,000,000 worth of jewelry.

Mr. ROTHSCHILD. I will accept that amendment.

Mr. GARNER. We will not quarrel about the amount, whether \$500,000,000 or \$800,000,000. It makes little difference except the amount of money we will get.

Mr. Rothschild, this committee of Congress does not want to destroy your business. It is a legitimate business, and it is not the purpose to put a tax on it which will destroy it. It may be the purpose of Congress to put a tax on certain people in certain industries that will cause them to go into other business that is important to the war, business essential to the war.

Mr. ROTHSCHILD. You are taking every available man to-day.

Mr. GARNER. This committee is not doing that. That is the executive branch of the Government. What we want to do is to levy a tax on your business so as not to destroy your business but to get the largest amount of money into the Treasury, and if it happens to drive some people out who are not making much now, it would be a good thing for the country. I want to get the greatest tax receipts that will do just what I said. I have got to get somebody's advice as to how to do it. I want you gentlemen and the Treasury Department to advise me.

Mr. ROTHSCHILD. My answer has been 10 per cent, because I believe 10 per cent would probably give you the maximum amount of revenue from the jewelry industry.

Mr. GARNER. I think I can outargue you and Mr. Steele on that. We will take \$400,000,000 as a basis; 10 per cent on that would be \$40,000,000, that is if you sold \$400,000,000 worth. Let us say we levied a 20 per cent tax, and your sales decreased to \$300,000,000. Still the tax would be \$60,000,000, although you had decreased the gross sales \$100,000,000, yet we get \$60,000,000 into the Treasury.

Mr. BUFFINGTON. As a retailer, I want to say that I think if you increased your tax to 20 per cent, your sales would decrease one-half.

Mr. GARNER. That, as I say, gentlemen, is a matter that we have got to determine, between your opinion and that of the Treasury.

Mr. FORDNEY. Before you go, Mr. Rothschild, I want to say that the people of each and every industry of the country that is affected by legislation here are criticized and accused of lobbying, if they come here properly to present the questions to the committees of Congress affecting their industry in which they are engaged, except

one great organization. That organization has lobbyists here by the score, and we never hear any criticism. I do not want Congress, never did and never will, to prevent any man legitimately engaged in business coming here and presenting to Congress his views about legislation affecting his industry. But, as I say, one great organization right now has lobbies here by the score, and there is never any criticism of them. You all know what organization I mean.

Mr. GARNER. What organization is that?

Mr. FORDNEY. Mr. Gompers. Can you ask me that? Every man connected with your party knows it.

Mr. MOORE. I would like to remind Mr. Rothschild that President Wilson delivered a message to Congress a short time ago, in which he declared that lobbies existed, and that they should be exposed. I do not think that ought to be kept out of the record at this particular stage of the proceedings. There is high authority for the charge that there are lobbies. I take the ground that Mr. Fordney does, that a business man has a right to come to his Representatives at any time, and have a fair hearing on any question.

Mr. FORDNEY. And not be termed a lobbyist.

Mr. ROTHSCHILD. I hope I have convinced you gentlemen present by a simple statement that there has been no transaction of any kind whatever with this committee nor with any Member of Congress and that we have not done any of the things which are commonly known as lobbying, or which might be called in the slightest lobbying.

(Thereupon the committee, at 1 p. m., took a recess until 2.30 p. m.)

#### AFTER RECESS.

The committee met pursuant to adjournment at 2.30 p. m.

Mr. RAINEY. The committee will be in order. Is Mr. Rothschild here? I am calling your attention again to these resolutions discouraging the use of white gold. I want to read you a part of it to see whether the jewelers have been following it or not.

*Resolved.* That in the best interests of the jewelry trade, white gold should not be used in the manufacture of jewelry or other precious stones, but when used for other purposes it should be properly stamped with the quality and description.

Was it Mr. Steele who was talking about this?

Mr. ROTHSCHILD. I think he was. I was not at the meeting and know nothing about it.

Mr. RAINEY. Is Mr. Steele here?

A VOICE. He has not arrived yet.

Mr. ROTHSCHILD. I think I could help a little by calling attention to the fact that white gold is, as I understand it, of different kinds. You could have 14 karats white gold, or 16 karat or 18 karat depending like all other colored gold, upon the amount of other alloys.

Mr. RAINEY. Is Mr. Steele here now? Very well. You were discussing the question of white gold as a substitute for platinum. The resolutions adopted at the meeting of May 22, protested against the use of substitutes contained the clause:

*Resolved.* That in the best interests of the jewelry trade, white gold should not be used in the manufacture of jewelry or other precious stones, but when used for other purposes it should be properly stamped with the quality and description.

This is the resolution adopted?

Mr. STEELE. Yes, sir.

Mr. RAINEY. The resolution then declares against the use of white gold in the manufacture of jewelry which contains precious stones, whether it is stamped or not.

Mr. STEELE. Yes, sir.

Mr. RAINEY. And if it is used for any other purpose than that, it should be stamped. Now, did you send out this resolution?

Mr. STEELE. This resolution was sent out; yes, sir.

Mr. RAINEY. To how many?

Mr. STEELE (continuing). By the business committee. I do not know the exact number that went out. It was handled by the business committee.

Mr. RAINEY. When was it sent out?

Mr. LARTER. It was not sent out.

Mr. STEELE. I beg your pardon?

Mr. RAINEY. As a matter of fact it was not sent out at all, was it?

Mr. STEELE. No, sir.

Mr. RAINEY. You think this resolution was adopted for the purpose of keeping up the standard of the goods so that the public should not be deceived?

Mr. STEELE. For this reason.

Mr. RAINEY. Well, I do not care for the reason.

Mr. STEELE. White gold is a substitute for platinum, and white gold can be used for a certain number of articles, but there is a certain amount of attrition in the use of some articles, such as a watch chain or a finger ring where it rubs against the finger, which makes it impossible to use it for those things.

Mr. RAINEY. I understand that, but did not these reasons exist before we got into this war?

Mr. STEELE. White gold has been used——

Mr. RAINEY. Was not there the same reason before the war for the use and nonuse?

Mr. STEELE. They could make a better white gold then than they could before.

Mr. RAINEY. Did not the same reason exist before the war as existed then?

Mr. STEELE. No, sir.

Mr. RAINEY. It did not exist then?

Mr. STEELE. No, sir.

Mr. RAINEY. They could make white gold then?

Mr. STEELE. They could make a white gold of palladium before we entered this war, but they could not get the palladium in recent years to make the white gold in any great quantities. White gold made of palladium is a much better white gold than that which would have to be made now.

Mr. RAINEY. You said that white gold was not used for war purposes at all?

Mr. STEELE. It has been commandeered; and further than that, as late as last January we tried to get quotations from the representatives of the French syndicate for the purpose of getting palladium into this country, and we could not get it.

Mr. RAINEY. Since the war you could not get it?

Mr. STEELE. No, sir.

Mr. RAINEY. Was that sent out to the trade?

Mr. STEELE. No; there was some reason, I believe.

Mr. RAINEY. Did you attend a meeting at the Hotel Biltmore on September 12?

Mr. STEELE. I was present.

Mr. RAINEY. Protesting against these resolutions which you say were adopted because you say you wanted to keep your trade—

Mr. STEELE. I was in favor of those resolutions.

Mr. RAINEY. Of what resolutions?

Mr. STEELE. Of the resolutions passed at the Biltmore, not to use white gold.

Mr. RAINEY. Then you were not in favor of these resolutions which were adopted at the meeting of the prominent retail jewelers?

Mr. STEELE. I was in favor of these resolutions; yes, sir.

Mr. RAINEY. You were in favor of the resolutions of May 22?

Mr. STEELE. Yes, sir.

Mr. RAINEY. And were you in favor of the subsequent resolutions which were adopted at the Hotel Biltmore?

Mr. STEELE. Those were the resolutions in question, that I was in favor of—the ones adopted at the Hotel Biltmore are the resolutions that I was in favor of—the ones you have just read:

That white gold should not be used in jewelry where precious stones were to be set, and declaring against substitutes for platinum, substitutes being open-market substitutes for platinum.

Mr. RAINEY. Was that May 15?

Mr. STEELE. I do not know the date at the Biltmore.

Mr. RAINEY. Yes; held at the Hotel Biltmore, May 15, on the fourteenth floor. Were you present, and were you in favor of them?

Mr. STEELE. Yes, sir; I was in favor of them.

Mr. RAINEY. Were you in favor of the resolutions also adopted at the Hotel Biltmore on a later date—a week later?

Mr. STEELE. I do not know of any other meeting at the Biltmore.

Mr. RAINEY. Yes. Let me read it to you. I read from the Jewelers' Circular-Weekly as follows:

That there is considerable difference of opinion in the jewelry trade of New York as to the use of white gold as a setting for precious stones was indicated at a meeting of manufacturers held late last Thursday afternoon in the directors' room of the National Jewelers' Board of Trade, 15 Maiden Lane, New York.

That is where this meeting was held.

Criticism of the action taken at the meeting at the Hotel Biltmore, Forty-third Street and Madison Avenue, May 15, was freely offered, and it was argued that the resolutions adopted at that meeting did not express the united opinion of all the members of the jewelry trade.

Then at this meeting which seemed to have been called also by Mr. Larter, of the jewelers' vigilance committee, these resolutions were adopted:

Whereas resolutions passed at a meeting held in New York May 15, under the auspices of the jewelers' vigilance committee, in regard to restricting the use of white gold in certain classes of jewelry, have been published; and

Whereas we feel that the publication of these resolutions was a grave error and calculated to harm the manufacturing jewelry interests of the country; and

Whereas the above-mentioned meeting was not a truly representative gathering of all the various branches of the manufacturing, wholesale, and retail trade; and

Whereas the Government has not encouraged the further use of platinum in jewelry; and, therefore,

Whereas a legitimate substitute of precious metal is not only desirable from the standpoint of the consumer, but bound to be looked upon with favor by the Government; and

Whereas we believe that it is perfectly legitimate, and not against the interests of the trade as a whole to use white gold in the manufacture of all kinds of jewelry, with or without diamonds, when the karat quality of the gold is stamped and when it is offered strictly for what it is and not sold under any other name than gold: Therefore be it

*Resolved*, That the jewelers' vigilance committee be requested to cooperate in taking action at once to counteract the harmful effects that may result from the publicity given the resolutions, which resolutions, in our judgment, are not in general.

Are you in harmony with those resolutions?

Mr. STEELE. I am very much opposed to them, because I believe—

Mr. RAINEY. Those resolutions are in favor of the substitution of white gold in jewelry, set with or without diamonds. Your resolution is opposed to it?

Mr. STEELE. Yes; I am opposed to it.

Mr. RAINEY. These resolutions favor the use of white gold because the Government is conserving platinum. Then these resolutions which were adopted in response to or in contradiction to the resolutions of May 15 do not meet with the favor of the jewelers' vigilance committee; is that true?

Mr. STEELE. I do not think it is a matter of the jewelers' vigilance committee. I think it is a matter of the kind of trade we want to do. I do not want to put out things that will keep their color for a certain length of time only, and I do not want to manufacture any white gold because I do not know any white gold that will keep its color, and I do not want to manufacture any jewelry that in the course of a short time is going to come back to me all discolored.

Mr. RAINEY. The truth is that the more white gold you use the more platinum you save?

Mr. STEELE. The platinum is not a question of saving; because all the platinum is commandeered. There is no more platinum available. I have not three pennyweights of platinum in my factory at the present time to work with.

Mr. RAINEY. Then why do you discourage the use of platinum substitutes?

Mr. STEELE. The platinum substitutes in question were base metal substitutes.

Mr. RAINEY. Let me read you this resolution. This was submitted to a committee of three. It is supposed to have been submitted to the jewelers' vigilance committee. Have the jewelers' vigilance committee ever taken any action in regard to it?

Mr. STEELE. That would have to be answered by Mr. Larter.

Mr. RAINEY. These resolutions I read you last that have been submitted to the jewelers' vigilance committee, protesting against the action of this meeting, have those resolution ever been acted upon by the jewelers' vigilance committee?

Mr. LARTER. May I answer that, Mr. Chairman?

Mr. RAINEY. Yes.

Mr. LARTER. We did not send out a resolution because there was a difference of opinion.

Mr. RAINEY. What was the difference of opinion?

Mr. LARTER. One was in favor of not using white gold in setting precious stones, and some of the smaller jewelers, who were trying

to put on the market some jewelry thought that it was a mistake to send out the results of the Biltmore conference.

Mr. RAINEY. And you did not send them?

Mr. LARTER. We did not send either one.

Mr. RAINEY. So that you have done nothing to prevent the use of platinum in jewelry?

Mr. LARTER. Up to the present time. We will, probably.

Mr. STEELE. That was in the Jewelers' Circular, which goes to all the jewelry trade.

Mr. RAINEY. So that both of them were published in the Jewelers' Circular, which reaches the entire jewelers' trade?

Mr. STEELE. Yes, sir.

Mr. RAINEY. Now, are you familiar with the letters recently written by Government experts on the subject of platinum? I have got them here somewhere.

Mr. STEELE. Do you mean the letters written by the War Industries Board?

Mr. RAINEY. No; written by Dr. Manning.

Mr. STEELE. I have read all those.

Mr. RAINEY. Here is a letter written by Dr. Van. H. Manning on May 16. He is the Chief of the Bureau of Mines. In this letter he states as follows:

I consider the use of platinum in jewelry is due to an entirely false conception, as there are a great many metals which could be used in the production of jewelry which would be used for that purpose to-day except for the fact that they are not so costly as platinum. When the price of platinum was practically that of gold, there was very small use of platinum with the possible exception of the slight use as the setting for jewels.

Do you agree with him on those propositions?

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

Mr. RAINEY. You do not think 50 per cent is used?

Mr. STEELE. I do not know what percentage of the platinum of the country is used by jewelers, but I know that no white metal can be used in the place of platinum for the making of jewelry, as a practical manufacturer.

Mr. RAINEY. Now, I want to read to you from a letter of Prof. J. M. Hill, geologist in charge of the platinum department, dated May 15, 1918, in which he states as follows:

It is my impression, based on such information as is available to the United States Geological Survey, that the platinum situation is not better at present, but is far worse than it was six months ago. At that time a shortage of platinum metals for war purposes was indicated. Many plans made at that time have been enlarged and still further extensions of the war program are included by Secretary Baker's statements to Congress.

In view of these facts, it seems most unwise to permit the use of these metals in nonessentials, such as jewelry. To permit the continued utilization of 25 per cent of the stocks held by manufacturing jewelers at the present time appears to me to be the height of folly, since our stocks are low, demands for war purposes increasing with each addition to our Army, and our source of new materials strictly limited.

Yours, very truly,

J. M. HILL,

*Geologist in Charge, Platinum Statistics.*

Do you agree with him as to the conservation of platinum?

Mr. STEELE. I believe that the 25 per cent saved of unmanufactured platinum he has allowed only to the manufacturers and he has not allowed to any retailers, and all those quantities of platinum in the hands of manufacturers have been put in use.

Mr. RAINEY. I have no doubt they have been, by now.

Mr. STEELE. Permission was given to them to use that, because the War Industries Board felt that they did not wish the entire jewelry business of the country to be stopped the minute these war commandeering orders were received, and all of the workmen to be thrown out of work.

Mr. RAINEY. Do you believe that the platinum situation is worse than it was six months ago?

Mr. STEELE. I believe so, because I had a letter from Mr. Hill in January, in which he stated that there was no reason at that time for any drastic action in the way of commandeering platinum. I have a record here of such a conference held in January with Mr. Hill.

Mr. RAINEY. I want to ask Mr. Rothschild a few questions.

Mr. Rothschild, you delivered an address in May, 1917, to the jewelers' vigilance committee, in which it was reported you said this:

Though denying the scarcity of platinum for war purposes, the vigilance committee pledged itself to get the trade to cut the use of platinum in heavy articles and in unnecessary parts and findings.

You are correctly reported in that?

Mr. ROTHSCHILD. I believe I made the address there before the jewelers' vigilance committee, in which I made such a statement. I made that statement; yes.

Mr. RAINEY. Let me read again. [Reading:]

The jewelers' vigilance committee was barely organized and not yet incorporated when the platinum question came up; this assumed such important dimensions that an immediate call was sent out for the executive committee, and within a few hours thereafter a special platinum committee was appointed and a mass meeting arranged to place this matter before the trade.

That is correct?

Mr. ROTHSCHILD. That is correct, Mr. Rainey.

Mr. RAINEY. Were you here the day Mr. Longworth tried to get his amendment adopted in the House?

Mr. ROTHSCHILD. Yes.

Mr. RAINEY. What was the occasion for your visit to Washington at that time?

Mr. ROTHSCHILD. A Washington correspondent for one of the jewelry papers sent an interview which he had with Mr. Rainey to this paper—I think it was the Keystone Weekly, of Philadelphia—and it was to be released in a few days. This article was brought to the attention of the platinum committee, as it contained a certain statement that steps would be taken, I believe, to put a 250 per cent tax on platinum, or something to that effect. It looked like a very serious situation for the jewelers, and we immediately sent two telegrams, one to Congressman Rainey, asking for a hearing, I think, on Monday—I think we got this on Saturday—and the other to Secretary Redfield asking for an appointment. We came to Washington, a small committee, I do not remember how many, probably three or four—had an interview with the Secretary of Commerce and showed him this statement.

Mr. RAINEY. You knew the bill was under consideration then?

Mr. ROTHSCHILD. Why, surely. We showed him the statement, and the Secretary read the statement and wrote two letters, one to Congressman Rainey, which he handed to me to deliver, and another letter which was practically in the nature of an open letter which we

could use in general to repel what seemed to be apparently a systematic attack upon the jewelry industry in regard to platinum.

We saw Mr. Rainey, as I said this morning, and presented the letter of Secretary Redfield. He read it and there was a very short interview and Mr. Rainey went into the House, and we went to the gallery to listen to the proceedings, because we were very much interested, as our schedule, No. 600, was then coming up and under discussion. We would not have come to Washington to listen to the discussion on our schedule had not this matter brought us here. It was only incidentally that we heard of the intention to tax platinum as I have said.

Mr. RAINEY. The Jewelers' Weekly says:

Fortunately, on the very day of the debate a special committee had hurried to Washington and visited Secretary Redfield to get from him a true statement of the facts in regard to the Government's need of platinum. This committee, sent under the auspices of the vigilance committee, consisted of Harry Larter, chairman of the vigilance committee, Robert B. Steele, secretary of the Platinum Smiths' Association; M. D. Rothschild, chairman of the platinum committee of the jewelry trade and of the platinum committee of the vigilance committee; David Belais, president of the National Federation of Manufacturing Jewelers' Associations, and T. E. Wilson, editor of the Jewelers' Circular.

That is the committee that was here?

Mr. ROTHSCHILD. It is my recollection there were four or five men.

Mr. RAINEY. Fortunately you got here just at the psychological moment?

Mr. ROTHSCHILD. We got here because we got your advance sheet of your speech or your interview.

Mr. RAINEY. You did not get any advance sheet of any speech I made.

Mr. ROTHSCHILD. It was advance sheets of an interview to be released; of an interview with Mr. Lind, who sent it to one of his constituents.

Mr. RAINEY. I never gave out any interview in advance to be released. If I gave out any interview on platinum, it was not with any intention of its being held and released. Let me read, here, again [reading]:

As the debate proceeded and no one in the House was able to answer Mr. Longworth, Harry Larter, chairman of the jewelers' vigilance committee, took the letter written by Mr. Redfield earlier in the day, and calling out Congressman Lehlbach of New Jersey from the floor, explained to him that the facts before the House misrepresented the Government's needs and asked him to have this letter read. Just before the vote on the amendment was about to be put Mr. Lehlbach obtained the permission to have the letter read by the Clerk of the House.

And here they quote the letter in full. (Reading):

It is needless to say that the letter put an entirely different aspect upon the situation, and leader Kitchin, of the Democrats, rallying to the support of Secretary Redfield's suggestion, opposed the amendment, which on a final vote was beaten.

Mr. MOORE. That is to say, the courier arrived just in time to prevent the execution.

Mr. RAINEY. Yes; the courier got here just in time. I believe that is all I want to ask.

Mr. LONGWORTH. In the first place, Mr. Rothschild, I would like a little explanation of what a gentleman said here purporting to be representing a part of the jewelry industry, a few days ago. He was Mr. Charles Goldman, of 41 Park Row, New York City, and his testimony begins on page 1539 of our printed record. He stated that he



represented the United Retail Jewelry Storekeepers' Association and the Diamond and Jewelry Merchants' Association. I asked him this question:

Mr. LONGWORTH. Are either of your associations connected with the so-called jewelers' vigilance committee?

Mr. Goldman answered as follows:

Mr. GOLDMAN. I am happy to answer that they are not.

I then asked him this question:

Mr. LONGWORTH. Have you ever at any time been connected with them?

Mr. Goldman answered as follows:

Mr. GOLDMAN. I am happy to answer that in the same way.

Can you tell me why Mr. Goldman made use of that expression?

Mr. ROTHSCHILD. I can only explain that no organizations are members of the jewelers' vigilance committee. I think I described this morning the method in which the jewelers' vigilance committee was formed. There were 30 individuals who had been suggested by the organizations, who owed no allegiance to the organizations; and it is a kind of vigilance committee in the broadest sense of the word; and so far as Mr. Goldman is concerned, he is an attorney and would not have been eligible for membership on the vigilance committee. If he had been nominated and had been sufficiently desirable, he might have been invited. Otherwise, I have no means of explaining it.

Mr. LONGWORTH. Why did he express happiness that he was not a member?

Mr. ROTHSCHILD. Well, you saw Mr. Goldman, and you know. I have never met the gentleman, and I do not know his associations. They are incorporated, I believe, and I assume they exist therefore: I sent out notices and asked the people who keep track of the associations to give me the names of every jewelry organization in the United States, including the labor organizations, such as the cutters, and so on, and asking that the presidents of every organization be included as a member of that committee. Had we known of the two organizations that have been recently formed, they would have been invited. I do not know anything about them. They are little, East Side organizations—East Side of New York—and it is quite proper for them to organize to protect whatever interests of theirs they feel from time to time to be in jeopardy.

Mr. LONGWORTH. A little later on in his testimony Mr. Goldman made use of what I regard as a rather extraordinary expression. I read from his testimony as follows, on page 1551 of the record:

Mr. LONGWORTH. Do you know Mr. Rothschild?

Mr. GOLDMAN. I have never met the gentleman.

Mr. LONGWORTH. We expected him here to-day.

Mr. GOLDMAN. I was so informed, and that made me all the more delighted to be here.

Mr. LONGWORTH. Do you know why he isn't here?

Mr. GOLDMAN. I don't want to be boastful and say that he isn't here because I am here; but I do think he wanted to know first what would be said.

Why do you suppose that Mr. Goldman would say any such thing as that?

Mr. ROTHSCHILD. I have no idea, Mr. Longworth. I have not seen the gentleman, but I might suggest that he thought it might please

somebody to hear a remark of that kind. You know the old story about "Give a man a bad name and hang him"; but I have never met him. I assume that he is a perfectly reputable practitioner, and he was here representing his clients and doing what he could in their interests. It might have been, in good faith, best to have developed that a little farther so as to find out why he thought I would prefer to have him come here first.

Mr. LONGWORTH. Some other gentlemen asked him questions. Mr. Fairchild asked him some questions in the course of his examination, and I read from his examination on page 1548 of the record:

Mr. FAIRCHILD. What class of jewelers comprise the jewelers' vigilance committee?

Mr. GOLDMAN. Well, they represent the wholesale dealers, the importers, and the cutters. They represent the very large concerns.

Now, are those all the concerns represented by the jewelers' vigilance committee?

Mr. ROTHSCHILD. No; the jewelers' vigilance committee represents the jewelers of the United States.

Mr. LONGWORTH. Retailers?

Mr. ROTHSCHILD. Retailers as well as wholesalers; and there is no branch of jewelry represented officially on the jewelers' vigilance committee, but the jewelers' vigilance committee represents the jewelers of the United States; and appearing before Congress or before the Senate Finance Committee the jewelers' vigilance committee, or the war revenue tax committee of the jewelers' vigilance committee, were particularly anxious that the retail jewelers of the United States—the little man—should get proper treatment. They are the customers or the distributors; and for a large central body to represent only the top, would be, of course, obviously a mistake. There is nothing in that. The president of every State retail dealers association is a member, and you will see from the list that the president of the national retail dealers is a member of this committee. The vigilance committee could not possibly attempt to represent a class, and I do not believe that Mr. Goldman knows anything about the jewelry business, confidentially.

Mr. LONGWORTH. Then it is true that the retail jewelers are a part of your organization?

Mr. ROTHSCHILD. As any other branch, yes, sir.

Mr. LONGWORTH. Of course I assume this would be true of any tax such as was asked by Mr. Garner; it would be of no possible interest to any wholesaler or manufacturer how much the tax was on the retailer, except so far as it might retard production?

Mr. ROTHSCHILD. Well, if the tax was a sales tax, a consumption tax, it would make no difference to anybody along the line, except as you say, that it might destroy production or destroy sales.

Mr. LONGWORTH. In the morning you said that any tax that we would agree on here you would cheerfully pay?

Mr. ROTHSCHILD. Any tax that the Congress would put on like industries. In the present law we have been grouped with the automobile people and chewing gum people and sporting goods people, and some nine or ten commodities.

Mr. LONGWORTH. I am now speaking of a retail tax, not on the manufacturer.

Mr. ROTHSCHILD. These people also are retail distributors.

Mr. LONGWORTH. Of course, you would not pay that tax.

Mr. ROTHSCHILD. I beg your pardon.

Mr. LONGWORTH. I say, you would not pay that tax?

Mr. ROTHSCHILD. We are talking now for the whole trade. We are talking for the retailer. The retailer must consider it. It must affect his business in some way, and we say that anything the Congress does in a group way, in a commodities way, if the other people can stand it we will try to stand it.

Mr. LONGWORTH. Of course, it is one thing to stand it, and another thing, pay it.

Mr. ROTHSCHILD. Of course, we will pay any tax that you place. I do not want to have it understood that we will not do that.

Mr. LONGWORTH. Commenting on resolutions that your association passed in regard to conserving platinum, etc., Secretary Redfield remarked of your action:

This is wise, patriotic, and unselfish action, for which the merchants and manufacturers are highly to be commended. It will take time to work out fully its beneficial effects to the country. It will disarm adverse criticism of the jewelry trade in this respect and lead to general cooperation with them. Such is the earnest desire of the department. The jewelry business is a part, and an important part, of our commerce. It has acted fairly, its normal needs should be considered fairly. Platinum is required for many uses. Every use has its just claim. None may urge an exclusive demand. All have a part in our common country, and the Government of that country seeks, through the Department of Commerce, to secure for all a due and proper share. To this end the considerate course taken by the jewelers will directly contribute.

Do you agree with what Mr. Secretary Redfield says there?

Mr. ROTHSCHILD. I did agree with it; yes, sir.

Mr. LONGWORTH. Do you agree with the statement that platinum is required for many uses and that every such use has its just claim, and that none may urge an exclusive demand?

Mr. ROTHSCHILD. At that time I agreed with it.

Mr. LONGWORTH. You do not agree with him now?

Mr. ROTHSCHILD. No, sir; the conditions have changed. They have changed every month since then, practically.

Mr. LONGWORTH. Of course, that statement was made a year ago.

Mr. ROTHSCHILD. Exactly, Mr. Longworth; it was made in the face of a statement by the Army and the Navy and every branch of the Government, that the Government did not want an ounce of platinum then, and knew of no particular large demands in the near future. That was the time it was made.

Mr. LONGWORTH. Oh, yes; but he said a great deal more than that. He said that none could urge an exclusive demand. That would mean that the Government in time of war could not urge an exclusive demand.

Mr. ROTHSCHILD. Some remarks made by Secretary Redfield at that time would very much temper that, because he told us, and that was understood by us, that if the war requirements made platinum necessary, we would be required to give up the platinum; and as chairman of the war committee I went the limit on promising the Government that when they wanted the platinum they could take it; that they could take it without a murmur of objection on the part of the jewelers. And they have taken it that way. Now, we could have come down here and objected. We did not. We could have asked the Government, "What are your requirements? Tell us? We have the right to know something—some general statement." We did not ask that. We do not know what the

requirements are to be. We gave up the platinum when the Government asked for it, as much as they asked for. They commandeered 75 per cent. We said, "Commandeer 100 per cent." I think that would have been the wiser thing. I think they should have commandeered 100 per cent; but they did commandeer 75 per cent. That is my personal opinion.

Mr. LONGWORTH. You would agree, then, that the statement when the country was at war, coming from a high official of this Government, that no one had the right to an exclusive use of platinum, was justified?

Mr. ROTHSCHILD. I do not think that is a fair explanation of Secretary Redfield's statement, in view of the other remarks which he made to us at the time, which we very well understood. We understood him to mean during a time when there was no paramount war demand. This was a remark made for publication. Of course I do not know how he qualified it. I presume the Secretary can speak for himself.

Mr. RAINEY. I do not know whether it is justified, but at any rate conditions have changed now, and to-day that is not a justifiable statement.

Mr. ROTHSCHILD. Oh, absolutely.

Mr. LONGWORTH. Now, I want to ask you a very few questions, because Mr. Rainey has covered a great deal of ground, and other gentlemen have asked you some and others will want to ask you some questions, but I am just going to read an editorial that appeared in the last number of the Jewelers' Circular Weekly for July 3, and ask for your comments on it as I go along.

Mr. ROTHSCHILD. Excuse me, Mr. Longworth; the editor is here. Will you promise me protection?

Mr. LONGWORTH. I will promise you protection.

Mr. ROTHSCHILD. All right; now I will comment freely.

Mr. MOORE. Mr. Longworth is a good "protectionist." [Laughter].

Mr. LONGWORTH. This is supposed to be the instructions of the retail jewelers, evidently, to combat the theory that it is hardly the most patriotic thing in the world to do to buy platinum jewelry at this time. It begins this way:

The retail jewelers who are annoyed or whose business is interfered with by the misinformation in regard to platinum that has been disseminated by the newspapers at the request of the officials of the chemical societies will find it absolutely necessary to counteract the impression made on some of their customers who have been led to believe that platinum jewelry is unpatriotic and that the Government officials do not want it purchased or worn. The only way to meet this condition is by telling the customers the exact truth, no more or less, and leave it to the customers' common sense whether he or she will any longer allow themselves to be misled.

Do you think it is a fair statement to say that any statement made in regard to the scarcity of platinum in this country and its absolute necessity for war purposes is misinformation disseminated by the newspapers at the request of the chemists?

Mr. ROTHSCHILD. Just that statement alone would be absolutely fair; that there is a scarcity of platinum in this country for certain purposes, that statement would be perfectly fair.

Mr. LONGWORTH. I am not referring to that statement; I am referring to this statement, that it brings annoyance to retail jewelers

and interferes with their business to have misinformation in regard to platinum that has been disseminated by the newspapers at the request of the officials of the chemical societies. Now, do you think that is a fair statement?

Mr. ROTHSCHILD. I think it is the truth.

Mr. LONGWORTH. You think that there is nobody else in this country that feels it his duty to call the attention of the people to the scarcity of platinum than merely newspapers who are paid to disseminate that misinformation for chemists?

Mr. ROTHSCHILD. I do not know enough about it. Occasionally certain news items are released by chemical societies or by the Journal of Chemical Engineering, which is the organ of the society, and those articles are released to newspapers, and those articles have contained misinformation, or half information—half truths—no doubt about that, as I stated this morning in my formal statement; and we are willing to be put to the proof on that point at any time.

Mr. LONGWORTH. Then the only information that the public is now getting as to the scarcity of platinum and the need of the Government for platinum is misinformation, disseminated by officers of the chemical societies for their own interests, is that what you mean?

Mr. ROTHSCHILD. I would not say that. They are getting misinformation from the chemical societies. I would say this, that the only misinformation, or the only information, and that is the information with which the jeweler has to deal, is the information which comes to him in a practical way.

Mr. LONGWORTH. Then the motive of the officials of the chemical societies in all this matter is purely one of self-interest?

Mr. ROTHSCHILD. That was admitted, practically, at a meeting held in Secretary Redfield's office where two prominent chemists in Government employ admitted that the price of platinum was too high—even \$30 would be too high to pay for platinum—and they wanted cheaper platinum, and the Secretary of Commerce openly rebuked those statements.

Mr. LONGWORTH. Is it not true, or is it true, that the chemical societies have advocated a complete Government control of all platinum?

Mr. ROTHSCHILD. That I do not know. The American Chemical Society advocated at its annual meeting at its convention, I think in January, 1917, that the jewelers should not be permitted to use platinum in jewelry. That I understood.

Mr. LONGWORTH. Did they not advocate that the Government should control all of the metals?

Mr. ROTHSCHILD. I do not remember, but that is possible.

Mr. LONGWORTH. That would indicate that they were not wholly unpatriotic?

Mr. ROTHSCHILD. What is it?

Mr. LONGWORTH. I say that that would indicate that they were not entirely unpatriotic?

Mr. ROTHSCHILD. I say that their principal drive at platinum seems to have been in the effort to get cheaper platinum. They could always go into the market and buy platinum at the same price as the jeweler.

Mr. LONGWORTH. Well, we will not pursue that any further. I read further from the same matter from which I last read:

It will do the jeweler no good to get excited or protest against the action of the chemists or to deny the general stories that have been going around about the scarcity of platinum or its important uses as a war material. He must admit the scarcity of platinum, its importance to the Government, and emphasize the fact that the jewelry trade has been working in close touch with responsible Government officials and its members, and have only met every demand made upon the industry for platinum.

I presume that word "only" should be "also," so that it will read "and have also met every demand made upon the industry for platinum." [Continuing reading:]

In fact, they have suggested even more drastic regulations in regard to platinum than the Government officials have felt were necessary.

That I have read only as indicating a complete reversal of the situation described by the Secretary of Commerce about a year before.

Mr. ROTHSCHILD. The situation became acute in November and December, and seemed to become very grave in the early part of this year.

Mr. LONGWORTH. Then he goes on:

The jeweler should intelligently explain to his customer, that as a result of the increase in the war program and the breakdown in Russia, the conditions regarding platinum are decidedly different from what they were a year ago, or even six months, and it has therefore become necessary to commandeer the platinum in raw and metallic form, also that the jewelers have worked with the Government to get such platinum where it will be available. However, the point that the jeweler must forcibly impress upon his customer is that the War Industries Board has never contemplated, nor does it consider in any way, the question of commandeering platinum that has been manufactured into jewelry, nor will the responsible agents of the Government either accept as a gift or purchase platinum that appears in manufactured form.

Is that statement wholly true?

Mr. ROTHSCHILD. I would like Mr. Steele, or the gentlemen who have been in contact with Mr. Summers and Baruch to answer that. I believe it is true, but they can tell you absolutely whether it is or not. Mr. Steele can tell you that, I believe. I believe it is true, from hearsay, at least.

Mr. LONGWORTH. I want to read a little further and then I will ask a question. [Mr. Longworth here read further from the statement referred to.] Do you regard the members of the society known as the Daughters of the American Revolution as misguided women?

Mr. ROTHSCHILD. The editor can tell you whom he refers to. I believe he refers to this National Society for the Conservation of Platinum, of which Mrs. Spier is the president.

Mr. LONGWORTH. Yes; but the Daughters of the American Revolution have been for it.

Mr. ROTHSCHILD. I assume he referred particularly to those people, because the Daughters of the American Revolution have not made a strong campaign like the members of this other society; well-meaning and patriotic women, who feel they are doing their bit, who have made a strong campaign, and are doing it; and the jewelers are feeling it.

Mr. LONGWORTH. Then, any society of strong, patriotic women who make a campaign against the use of platinum in jewelry are misguided?

Mr. ROTHSCHILD. But the Chemical Society admit that they fathered it. In the statement of June 16, given out by the Bureau of

Mines, the statement is made that the American Chemical Society and that organization of women did that. They say that frankly and freely, and they undoubtedly have instructed these women, who believe these statements and are perfectly justified on the statements in doing what they have done. We question the statements and we question the propriety of the giving out of those statements by men who know better or ought to know better.

Mr. LONGWORTH. Then it is a very foolish thing to do, giving information to any patriotic society of women in this country to discourage the use of platinum?

Mr. ROTHSCHILD. Discouraging the use of platinum is one thing, but to say the Government does not want women to buy platinum jewelry is saying something which there is not the slightest evidence that the Government ever could say or will say or will stand for.

Mr. LONGWORTH. What do you mean by the Government?

Mr. ROTHSCHILD. I mean so far as we know the organization to-day—the Government arm that has the power and the duty of getting platinum for Government purposes, which I believe to be the War Industries Board, or had it up to the time this thing was written—the War Industries Board has distinctly stated that they will not take platinum even from the manufacturing jeweler. This goes several steps further, to the manufacturing jeweler and the retail dealers, and to the general public. Now, if it is unpatriotic for a woman to buy platinum jewelry, it will be unpatriotic for her to wear it. What is she to do with her jewelry? What is the jeweler to do with that jewelry, and what is the wholesaler to do with it? The Government will not buy it at present and pay the wholesaler or the retailer what it cost them, which would only be partial compensation. Now, if the Government was ready to do that, or whenever they are ready to do that, and they want that platinum jewelry they can undoubtedly get it. They can go a step further, and get all the jewelry in the hands of the retail jeweler, and pay whatever it cost the retail jeweler, without a profit.

Mr. LONGWORTH. That does not cover the question. "At all hazards, women must be urged not to buy platinum jewelry."

Mr. ROTHSCHILD. They may be urged not to buy platinum jewelry, but they should not be urged on the theory that the Government needs platinum and that the Government does not want them to buy it.

Mr. LONGWORTH. You see that is an absolute statement of truth. You would advise retail jewelers to make it plain to all their customers that the only suggestion that platinum should not be worn is from these misguided women or from the organizations who prompted their action. You say that is true?

Mr. ROTHSCHILD. I would not phrase it that way. I think that is too exact. I think that statement should be made more general, because suggestions probably have come from other sources.

Mr. LONGWORTH. Whether the Government shall absolutely commandeer all platinum, or whether the jewelers think otherwise or not, you think it is wrong to encourage women not to buy platinum jewelry now, under the circumstances?

Mr. ROTHSCHILD. I think it is wrong to tell them not to buy platinum jewelry, because the Government does not want them to buy platinum jewelry; yes, sir.

Mr. LONGWORTH. If one branch of the Government has been derelict in its duty do you think every other branch, including the legislative branch, should be derelict? If we believe, or if any one of us believes, that it is to the interest of this Government that the sale of platinum jewelry while the war is on should be discouraged, do you not think we ought to take the opportunity in revising this revenue bill to so discourage it?

Mr. ROTHSCHILD. Not unless you take over the existing platinum jewelry. There is no more platinum jewelry being made. There are hundreds of men who should be ruined if you took any such step, and without any benefit to the Government.

Mr. LONGWORTH. Let us read this editorial, the latter part of it. [Mr. Longworth here read further from the editorial referred to.] Is that a statement of fact?

Mr. ROTHSCHILD. I would prefer that Mr. Steele should answer as to that, because I do not know how positive the statement was on the part of the War Industries Board as to purchasing manufactured jewelry. I would prefer he should answer that.

Mr. LONGWORTH. All right, then. I would like Mr. Steele to answer that question. I will read two sentences from this, and then ask you my question. Here is the first one:

However, the point that the jeweler must forcibly impress upon his customer is that the War Industries Board has never contemplated, nor does it consider in any way, the question of commandeering platinum that has been manufactured into jewelry, nor will the responsible agents of the Government either accept as a gift or purchase platinum that appears in manufactured form.

Is that true?

Mr. STEELE. I believe these are all true statements.

Mr. LONGWORTH. Is it true as to what the Government has so far done, or what it may do?

Mr. STEELE. The attitude of the Government as expressed by the War Trade Board has been that they only contemplate taking the unmanufactured platinum. Well, it is possible that while they have not expressed any opinion as yet, or that they even contemplated taking the manufactured platinum, or may purchase in the hands of dealers or manufacturers or retailers, they might eventually, or in the future, change their attitude on this subject.

Mr. LONGWORTH. Would you feel justified in assuring one of your customers that the Government would not take as a gift during this war any manufactured platinum?

Mr. STEELE. We have a direct case where a man has written and offered to make a gift of jewelry—where a jeweler has written and offered to make a gift of a platinum crucible to the Government—and he has received a reply, of which we have copies, stating that there is no machinery by which the Government could either accept this crucible as a gift or could purchase it: but I can say this, that there are being arrangements made, I believe, at the present time by which any platinum available from such sources can be purchased through the Government agencies. At the present time the only way in which this platinum could reach the Government is through sale to a commandeered refiner, and when we have had people offer to sell to the war service committee any platinum, we have sent them to such a commandeered refinery or given them a list of a number of names so that they could sell it to a refiner, and in that



way it would have been made available to the Government, from the fact that every bit of the platinum entering into such a refiner's hands had to be turned over to the Government.

Mr. LONGWORTH. That is not the distinction I am drawing. I am drawing the distinction between manufactured and unmanufactured metal, and I am asking you if it is a fair statement to make to any customer that you can assure them that the Government has not purchased or will not purchase or accept as a gift any manufactured platinum, and that therefore it is a perfectly patriotic thing to buy it for the purpose of jewelry?

Mr. STEELE. I believe that is a true statement.

Mr. LONGWORTH. Are you not aware of the fact that every government engaged in this war has been using manufactured as well as unmanufactured platinum?

Mr. STEELE. In regard to the War Industries Board, we have had a statement that up to the present time they have never contemplated taking the manufactured article, one statement made being that they did not feel that it would be good judgment to pay \$10,000,000 for \$500,000 worth of platinum. That was one of the statements.

Mr. LONGWORTH. Who made that statement?

Mr. STEELE. That was made by one of the people at the War Industries Board.

Mr. LONGWORTH. Who was it?

Mr. STEELE. It was one of the assistants to Mr. Connor, expressing this as the view at that time.

Mr. LONGWORTH. And so that is the responsible official that is representing the views of this Government now as to platinum, I presume. Are you aware of the fact that a bank in New York is exchanging war savings stamps for platinum by direct arrangement with the Secretary of the Treasury?

Mr. STEELE. I believe so; yes, sir.

Mr. LONGWORTH. Yes. The Government is not recognizing the manufacture of platinum there?

Mr. STEELE. Those are supposed to be old articles, turned in.

Mr. LONGWORTH. What?

Mr. STEELE. Those are old articles of jewelry.

Mr. LONGWORTH. What is the difference between old articles and new articles, so far as the use of the platinum goes?

Mr. STEELE. People who wish to, can bring in anything containing platinum to what is called the War Savings Stamp Metal Market, on the corner of Fortieth Street—

Mr. LONGWORTH. No, that is not the point. You have not got the point yet. The point is that to-day jewelers are justifying the use of platinum as jewelry, claiming that it is a perfectly patriotic thing for women to buy all the platinum jewelry they want, because this Government can not use and will not use—will not buy or take as a gift—any manufactured platinum. Now, there is the point.

Mr. STEELE. The Government is not buying this platinum at the war savings metal market. The statement of the War Industries Board has made plain, through Mr. Connor and through Mr. Summers, that they did not propose to buy the manufactured platinum articles which are held by the jewelers; and on the other hand, they have already stated that there is no reason why the jewelers should not sell these articles which have been left in their hands, and which

are not commandeered, and they do not think that anybody should take any steps to prevent their marketing these manufactured articles, which were not commandeered, which were released for sale by direct special waiver; because when the commandeering order was sent out with it went a form of waiver of which Mr. Rainey spoke, and that waiver released for sale any manufactured articles which were on hand when the jeweler received the commandeering order and gave him full and free permission to dispose of them. In other words, the jeweler has full permission from the Government, from the responsible officials of the Government, who have the disposal of the platinum in their hands, to dispose of their manufactured articles of platinum.

Mr. LONGWORTH. I am not insinuating for a moment that that is illegal, but I contend that you are saying—that the jewelers are saying—that every woman is doing right to buy all the platinum jewelry she wants, and that you are giving her the direct and definite assurance that the Government has not purchased or accepted, and will not, during the period of the war purchase, or accept as a gift, any manufactured platinum.

Mr. STEELE. I would not make that statement, Mr. Longworth. I would not want to be understood as making that statement. I would say this, that the jeweler has a perfect right to tell his customers that his manufactured articles he has a perfect right to dispose of. I think he could also say, truthfully and honestly, that there has been no arrangement made up to the present time by which the Government could buy platinum articles or receive them as gifts. There are two answers, in other words, to your question—one in regard to the sale of the manufactured articles by a jeweler and the other answer that there has been no arrangement up to the present time by which these articles could be purchased by the Government.

Mr. LONGWORTH. But you, of course, would not insinuate that the time might not arrive when the Government would purchase such articles?

Mr. STEELE. I would not insinuate that the time might not arise when the Government needed them.

Mr. LONGWORTH. But you say, only that up to the present time there has been no arrangement?

Mr. STEELE. No, sir; there has not.

Mr. LONGWORTH. That is all.

Mr. RAINEY. This suggestion occurred in the Jewelers' Circular of April 3, just after the commandeering orders were made:

The platinum situation in the jewelry trade is unsatisfactory. The propaganda of the women fanatics, asking the public to give up platinum jewelry, has not been contradicted by the Government officials, who know it to be founded on erroneous statements, because those officials are "sore" on the jewelers.

Your organization sympathized with that statement—that this campaign for the conservation of platinum was carried on by women fanatics?

Mr. STEELE. We believe that these ladies who are conducting this campaign are honest, patriotic ladies, and they have a perfect right to state that it is not patriotic to buy platinum jewelry, if they want to do it, or to express it as their opinion; and that we do not object to; but in all this propaganda there is the insidious implication that the Government does not wish people to buy platinum

jewelry, which has been released for sale and which the Government recognizes the perfect right of the jewelers to sell.

Mr. RAINEY. You think they are not warranted in saying that on account of the position taken by Dr. Manning, speaking for the Bureau of Mines, that department of the Government which has charge of all metals, when he says that the use of platinum as jewelry is not an essential use of platinum—

Mr. STEELE. We do not recognize Dr. Manning as the official who has charge of platinum.

Mr. RAINEY. You recognize the War Industries Board?

Mr. STEELE. The War Industries Board; yes, sir.

Mr. RAINEY. And I agree that the platinum situation has been mismanaged by the War Industries Board from the start, with you and your organization acting as their advisers; and you are aware that it has been taken away from them in the last few days?

Mr. STEELE. I beg your pardon.

Mr. RAINEY. I say, you are aware that dealers in platinum are to be licensed now?

Mr. STEELE. Yes.

Mr. RAINEY. And are to be taken away from the War Industries Board even?

Mr. STEELE. Yes.

Mr. RAINEY. And you are aware that it has been turned over to the Bureau of Mines now?

Mr. STEELE. I have read so.

Mr. RAINEY. And that is the bureau of the Government which you say ought not to have been recognized before by any of these organizations?

Mr. STEELE. If the authority has been given to them now, we must recognize them as the authorities, but up to this time the authority has rested in this board, and they were the people who gave us our orders.

Mr. RAINEY. You agree, now, that the platinum situation is changed? You agree to that?

Mr. STEELE. Yes.

Mr. RAINEY. And you were contending a year ago that it was not and could not be; that is, your organization.

Mr. STEELE. I do not think that is the statement, but the statement I think Mr. Rothschild made was this: I was present at the conference with Secretary Redfield when there were present representatives of every branch of the Government.

Mr. RAINEY. You contend now that Secretary Redfield, acting upon your advice, did the proper thing or the wise thing in sending that letter down here advising the country and the Congress that the steps you had taken were the only steps necessary to conserve platinum? Do you think that was wise, looking back at it from the distance of a year?

Mr. STEELE. I think Mr. Redfield took his action upon several other things; that is, the supply abroad, and other things mentioned in his letter.

Mr. RAINEY. But looking at it now, you think that was wise—that letter that you induced him to write a year ago?

Mr. STEELE. I thought so.

Mr. RAINEY. But do you think so now?

Mr. STEELE. I think that conditions have changed, absolutely.

Mr. RAINEY. Then it is agreed that your action of a year ago was unwise?

Mr. STEELE. I do not think so. We acted upon the light and the information that we had at that time.

Mr. MOORE. Had the Russian Government fallen at that time, when that letter was written?

Mr. STEELE. No, sir.

Mr. MOORE. And we were still obtaining platinum from abroad?

Mr. STEELE. Yes, sir.

Mr. MOORE. So that at that time when that letter was written there was a very greatly different situation?

Mr. STEELE. Another fact in connection with that was that at a conference held in October, at which Mr. Larter, Mr. Rothschild and I were present, with the officials of the Council of National Defense, the statement was made that 48,000 ounces of platinum were then available for the supply of this Government, from Russia, and the conference decided and recommended that the United States Government use every means in its power to secure this 48,000 ounces of platinum, of which 21,000 ounces that were brought in in November or December were part. The gentlemen who brought this into this country we had luncheon with yesterday, and he told us that when he made the arrangements with the War Trade Board he stated to them that the other 27,000 ounces could be secured provided a price of \$105 an ounce was paid, but in view of the fact that a price of only \$90 an ounce was made, he was not permitted to go back and get this additional supply which he stated he could get.

Mr. RAINEY. I know, but back of and through all these elaborate speeches you gentlemen have been putting into the record to-day is the fact that a year ago, immediately after this war broke out, you organized your platinum committee, and you did not organize it until after that, and you sent your committee down here for the purpose of preventing the conservation of platinum, of preventing a tax on platinum jewelry, which would have prevented the conservation of platinum; and for several months after that you say you were in constant communication with the Secretary of Commerce and with the War Industries Board in your various reports here, and as a result no effort at all was made to commandeer platinum until quite recently, or to conserve it, other than the efforts which you undertook yourself and which the Secretary of Commerce said was sufficient. In other words, the situation is that the Nation is in great peril now on account of the fact that my efforts and Mr. Longworth's efforts, which you boast that you feel a year ago were not successful, and on account of the fact that for several months jewelers had the right to use platinum in the manufacture of jewelry; and you criticized these women who during that period of time tried to conserve platinum as "women fanatics," and you agree now that the situation—

Mr. MOORE (interposing). Mr. Chairman, I just beg to put in the record at this time that these gentlemen have not done that. This is an editorial referred to by Mr. Longworth and an editorial referred to by you by which these gentlemen are not necessarily bound. I do not think any one of the witnesses indicated that.

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Mr. GARNER. May I break in for just a moment?

The CHAIRMAN. Just a moment, and then I am going to let Mr. Hill in.

Mr. FORDNEY. I do not want to interfere with your question, but there is a great deal to be asked those gentlemen yet.

Mr. MOORE. These gentlemen have had a four-hour ordeal on the other side, and I think it is pretty near time they had a chance to talk about their side.

Mr. GARNER. If Mr. Hill will indulge me and those who desire to hear him—

Mr. MOORE. If anyone here does not agree it is right to give platinum—

Mr. GARNER. Let me get at this platinum matter. I am interested in taxation more than in platinum. The platinum situation is about a thing of the past, as jewelers are not using platinum in the manufacture of jewelry?

Mr. STEELE. No, sir.

Mr. GARNER. Then, so far as the future is concerned, the jewelers have got nothing to do with the matter of taxation or conservation of platinum.

Mr. STEELE. No, sir; manufactured platinum has been commandeered.

Mr. GARNER. As to what your position in the past may have been is a disputed point between various gentlemen?

Mr. STEELE. Yes.

Mr. GARNER. So it makes no difference what tax is levied on the jeweler who is not now using platinum, it would not get any money?

Mr. STEELE. Except on the sale of the manufactured article.

Mr. GARNER. I mean, except on the sale of the manufactured article.

Mr. STEELE. Yes, sir.

Mr. GARNER. I will say very frankly that so far as I am concerned, I can see no reason, unless the Government can say it needs the platinum in manufactured jewelry, why you should not sell it. I want to suggest to you, Mr. Steele, and you gentlemen associated with him from the various States, two methods by which we can tax you: One is in the present bill and whatever rate they may determine; the other is the method suggested by one of you gentlemen. But we have not a suggestion as to the verbiage and language you would like to have in that bill, and I would like for you to put it in the record as to what you think the language should be and the rate which you think should be imposed, so that we may take into consideration your suggestions as to levying this tax against jewelry.

Mr. STEELE. Would it not be better for us to write you, after consultation?

Mr. GARNER. I do not care, so you put it in the record, in order that we may have some basis for getting your views as to the method of levying taxes against jewelers. It has got to be against the manufacturer, the retailer, or some other method.

Mr. STEELE. I believe that Mr. Rothschild and the committee would be glad to give you a suggestion.

I would like to state, Mr. Rainey, in the first place, that the war service committee have recommended on three separate occasions that all unmanufactured platinum in the country should be commandeered. In the second place, last year when we attended this

conference in Secretary Redfield's office, I would like to make very plain to you that there were present there representatives from every branch of the Government. We did not know the requirements of the Government at that time, and I do not believe any member of the jewelry business has since learned what the requirements of the Government were in platinum at any particular date. We heard with our own ears every department of the Government state that there was no need in their department for one ounce of platinum. On this later occasion Mr. Redfield gave us this letter stating that they had investigated other sources of supply and that they were satisfied from what they had learned—all of which was embodied in the letter to you—that there was no occasion for any uneasiness at that time about platinum. The Russian situation had not developed then, and we did not know what was going to happen in the future. For that reason, when Mr. Longworth asked the question about my personal views in regard to the future attitude of the Government toward manufactured articles of platinum jewelry, I could not honestly say anything except "my views up to the present time"——

Mr. LONGWORTH. What demand was it which caused the very great increase in the price of platinum?

Mr. STEELE. The law of supply and demand.

Mr. LONGWORTH. Was it not the demand on the part of the jewelers?

Mr. STEELE. I do not think so, Mr. Longworth. If you want to know what my real honest opinion is about the price of platinum and the advance in it, there can be only one reason—and I think it is capable of proof; you can investigate it yourself—the demand by the chemical interests of the country for the purpose of making war materials. At the time the war broke out, in 1914——

Mr. LONGWORTH (interposing). What was the price of platinum 20 years ago?

Mr. STEELE. In 1914 the price was \$40 an ounce, about.

Mr. LONGWORTH. What was it before 1914?

Mr. STEELE. Before 1914 there were varying prices.

Mr. LONGWORTH. What was it in 1900?

Mr. STEELE. I have a record here of the prices back to 1880, if you would like to have it. But the point is this: There has never been an open market price on platinum in America, since practically all of the source of supply was controlled by one interest, which, either through ownership of mines or through contracts made with producers, controlled practically the entire Russian supply; and there never was a price made in New York City on platinum in the last 25 years which was not based on the price that was made by the representatives of the syndicate.

Mr. RAINEY. What interests was that?

Mr. STEELE. That is the French syndicate. The Compagnie Industrielle de Platine. This syndicate was formed about 25 years ago, the main moving factor between the French house of Rothschilds, and they got control practically of 75 per cent at that time of the production of platinum. They were able to increase this control afterwards through confiscations of mines, through the arrangements



they made with other mines, so that they controlled the price absolutely, until the fall of 1917, after the Russian collapse, when platinum could not come here from Russia.

Mr. RAINEY. Reserve your statement at that point, and we will allow Mr. Hill to go on; and we will be glad to have you resume later.

Mr. RAINEY. Mr. Hill, state your full name, residence, and the interests which you represent.

**STATEMENT OF WILLIAM H. HILL, PRESIDENT OF THE W. H. HILL CO., DETROIT, MICH.**

Mr. HILL. My name is William H. Hill, president of W. H. Hill Co., proprietors of Hill's Cascara Bromide Quinine Tablets, a remedy of 22 years' standing for colds and la grippe, and an annual business of approximately 100,000,000 tablets.

In justice to myself I wish to say at the outset that I am not here as a representative of any organization, association, corporation, or even my own firm, merely as an individual; and I wish to make clear to you that my object in coming before your committee is not in the hope or with an idea of getting my taxes reduced or of dodging them in any way.

In a conversation with ex-Congressman Samuel W. Smith, I remarked that I believed I might suggest a plan to your committee so that the Government could obtain three or four times the amount of excise taxes it now receives on the proprietary line of business, yet distribute the burden in such a way that no one would feel it.

I might state that I am not a novice in the proprietary line, having had 40 years of experience, and traveled into every nook and corner of the United States. I do not think there are many angles in this business with which I have not had experience. I refer to this merely for the purpose of acquainting you with the fact that I talk from an angle of experience, rather than inexperience or theory.

To save the committee's time, which I know to be valuable, I have put my ideas in type, as follows:

In the proprietary line of business 90 per cent of the goods are put up in 25-cent, 50-cent, and \$1 sizes.

Manufacturer's prices are as follows: For the 25-cent size, \$2 per dozen or \$24 per gross; for the 50-cent size, \$4 per dozen or \$48 per gross; for the \$1 size, \$8 per dozen or \$96 per gross.

Manufacturers' selling prices are usually 10 and 5 per cent or 15 per cent off list. Therefore, taking the \$1 size at \$96 per gross less 15 per cent (\$14.40) the selling price of this is \$81.60. The present excise tax is 2 per cent on this \$81.60 or \$1.632, which is what the Government now receives per gross on \$1 goods.

If I understand correctly the Government desires the greatest amount of revenue possible, with the least disturbance to general business and to so spread the taxes that the burden will be felt as little as possible.

As I understand it, the present Canadian plan is this: The consumer, when purchasing a package, is told that the price is 25 cents, 50 cents, or \$1, plus the Government stamp. When the package is sold the dealer places the proper stamp on same and cancels it, which amount is added to the selling price, thereby distributing the tax in such a way that it is a burden to no one.

During the Civil War the excise tax was one cent for every 25 cents, or fraction thereof.

If your committee adopts a plan similar to the Canadian, with the Civil War rate, you will obtain the following results:

Taking the \$1 size for illustration, \$1.6 per gross less 15 per cent is \$1.36, on which the present excise tax at 2 per cent is \$1.632. If the plan suggested is adopted, the Government would receive 4 cents on every package—144 packages to the gross—or \$5.76, which is \$4.128 per gross more than the Government would receive than it now does. This would be over 3½ times the present revenue on the same volume of business done in this line and will distribute the tax in a way which can be a burden to no one.

I will be pleased to answer any question which is within my power to do.

As I have remarked here, I have had years of experience in the line. I remember well the Civil War tax, which I paid for a good many years after I got in business, which had not been done away with at that time.

Mr. FORDNEY. I have read the statement you prepared, and I do not believe there is anything I want to ask.

Mr. CRISP. I understand you to say that under your plan the consumer would pay the tax?

Mr. HILL. Yes, sir.

Mr. CRISP. Does not the consumer do it under the existing law?

Mr. HILL. Yes, sir.

Mr. CRISP. And the wholesaler and retailer pass the price on to the consumer?

Mr. HILL. They do not in a large majority of cases.

In further answer to that, I would say that before you or I were born these prices were established. For instance, a cold cure was sold for 25 cents as far back as I can remember, going back into the history of our line of business. There has been some candy cold-cure drops which have a medication in them which have been sold as low as 10 cents. While it is true that a few manufacturers have added an increase, calling it 30 cents to the consumer and charging a trifle more for their goods, it is also true that it is an odd price and disturbs one's business beyond measure.

Mr. CRISP. We have heard that argument by all who have come before the committee and we have heard you can not raise the price 5 or 10 or 15 per cent, and yet they have all been added to, and in my judgment—speaking from my own personal opinion—90 per cent of all taxes levied are passed on to the consumer.

Mr. HILL. It is not true in the majority of cases in our line of business.

Mr. GARNER. Suppose we wanted the consumer to pay it, Mr. Hill, and you have a box of patent medicine here that you sell for a dollar. Suppose the Government says, "All right, Mr. Hill, we will not bother you, but we will just add 50 cents on that dollar and have the consumer pay \$1.50."

Mr. HILL. The consumer would not do it.

Mr. GARNER. That is what I am getting at, and that is just what these gentlemen told us this morning. We say to them, "All right; we are willing for the consumer to pay this, and we are going to make the consumer know that he pays it; we are going to provide that

when he buys that he pays so much to the Government." But when we go to levy the tax, we are told that we are going to cut down the production, and everybody throws up their hands and says it is going to ruin their business. You say we can not transfer this to the consumer, and we are between the devil and the deep blue sea in regard to this tax.

Mr. HILL. May I play the Yankee and ask you a question in return?

Mr. GARNER. Sure.

Mr. HILL. I am going to illustrate it in a larger way, if you will allow me to use what I have heard to-day. If you went in to buy a watch for \$100 and the jeweler said to you, "That watch is \$100, but the Government requires you to pay \$50 more for the privilege of buying that," would you buy it?

Mr. GARNER. If I wanted the watch bad enough, I would.

Mr. HILL. Yes; but if the Government asked you to pay \$10, would not 10 people buy where 1 bought at \$50? That same thing applies to our business. You go into a store and say you want a bottle of proprietary medicine which is \$1. The Government asks you to pay 50 cents tax, and you say, "I don't want it." But if the tax you pay were 4 cents, 99 out of every 100 would buy and not squeal. They do it that way in Canada. There is not a manufacturer in the United States who has an average of two packages of his article sold to each family in the United States. Do you mean to say to me that the consumer will kick on paying 8 cents—and I am taking the dollar size—as long as I have paid this war tax? I would like to see that consumer.

Mr. GARNER. Probably not.

Mr. HILL. Excuse me. We have a large output. We put out over 100,000,000 tablets a year, which means between five and six million packages, and yet we card our business in every little four-corner town. I can step into my office and show you in an instant a card stating how many circulars have been sent to Podunk or Squeedunk; how many packages we have sold in that town. The two best States that we have only show a little over two boxes plus to the average family in the State. Do you mean to say to me that if they had to pay the Government 2 cents war tax because the two boxes of Hill's Cascara Quinine Tablets, anybody is going to kick? But you say to them, "That package is 25 plus 12½ cents war tax, and they will not touch it. It is unreasonable. You and I do not refuse to be loyal to our country, and I do not believe there are many but what are willing to do their bit in the war; but when the Government asks us to do unreasonable things, then we are apt to back up.

Mr. GARNER. Mr. Hill, in order to get at the method of taxation that you advocate, if I understand it, you want to change the present method?

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

Mr. GARNER. You want to keep the method that is down in the law?

Mr. HILL. I am perfectly willing to pay my tax on the present basis. I made that clear in my statement. I came here because Mr. Smith wrote the committee—both to Mr. Fordney and your chairman—stating that he thought what I had in mind should be presented to the committee, and they invited me to come.

I wish to say to every gentleman here that I am willing to pay my share of this war tax every time, but I want in that connection, while you are on that subject, to say to you that there are very few manufacturers that can stand any more than you are charging them to-day—2 per cent on gross receipts, and then pay in our business eight other different kinds of taxes, requiring us to have one clerk especially to figure out how to pay them.

Mr. GARNER. You think 2 per cent tax on your gross receipts is as high a tax as you can afford to pay?

Mr. HILL. It is a matter of record over in your Treasury Department that this year on our volume of business, which is quite large—\$350,000—we made less than 8 per cent. And that was before we had to pay these new taxes. As our fiscal year commenced March 31, we paid our present basis of taxes in June. That reduced us to less than 7 per cent on our gross receipts. To save anybody asking me, "What is your earning on your investment?" I would say there is just \$25,000 in our business less than our gross business—that is, we have \$325,000 invested and get 8 per cent, and I ask you, as business men, can our concern do business on less than that, when it is a fact that I can sell out and loan my money on mortgages at 6 per cent?

Mr. OLDFIELD. And take no risk of loss.

Mr. GARNER. I do not exactly understand you, I am frank to say.

Mr. HILL. I want to make myself plain. I want to clear the gentleman's mind of just one thing: I am not here to dodge one penny of tax.

Mr. GARNER. You have said that two or three times; and I want to say as one member of the committee that I am glad to have you here, but I think you ought not to be offended if I undertake to give you my views and get such information as I want. You are in the patent-medicine business, and we have selected that in the last bill as the subject of taxation. Do you think that is a legitimate business to be taxed?

Mr. HILL. I do.

Mr. GARNER. And you are willing to pay whatever rate of taxation will get the largest amount of money in the Treasury?

Mr. HILL. Provided it does not drive us out of business.

Mr. GARNER. Driving you out of business will not get any money in the Treasury. I say, you are willing to pay whatever rate of taxation will get the largest amount of money in the Treasury on what is a legitimate subject of taxation?

Mr. HILL. Yes.

Mr. GARNER. Do you not believe that if we did levy that tax directly on the consumer and did not levy any gross receipts tax on you at all—allow you to sell your medicine to whoever and at what price you pleased—but say to the consumer, "When you buy this medicine of Mr. Hill's, we are going to charge you so much money." What do you say about that theory of taxation applied to your business?

Mr. HILL. I believe it is the proper way to get at your tax.

Mr. GARNER. Probably the only thing we disagree on is the rate?

Mr. HILL. Probably.

Mr. GARNER. And you realize, Mr. Hill, whenever you begin to tax business, you must in the very nature of things decrease that business to an extent.

Mr. HILL. Not necessarily; no, sir.

Mr. GARNER. I can not understand how any business would not prosper a little bit more if you did not have any burden fixed upon it. The larger the burden the more the decrease in the business.

Mr. HILL. No; I do not agree with you. It may be the larger the burden the greater the decrease of profits, but it does not necessarily mean that it decreases the business, provided you do not put that burden on so heavy you can not get the consumer to purchase.

Mr. GARNER. That is what I am talking about—unless you decrease the volume of business to such an extent you can not make any money, the consumer would naturally pay the tax.

Mr. HILL. Not in our business.

Mr. GARNER. I am not talking along the present tax system. I am talking with reference to the taxing system I have suggested to you. When I purchase a bottle of medicine on which is laid 12 cents or 15 cents tax; then it could not interfere with your business except to decrease the volume of the business?

Mr. HILL. Do not get me wrong as to that 8 or 12 or 15 cents. I used that amount in this connection, that the proprietary medicine house—I do not know of a single concern in this country that has got an output of one package to the family in the United States—I therefore said that it would not be a tax on the consumer to exceed 1 or 2 cents, or on a dollar preparation 4 or 8 cents. I did not put it the other way.

Mr. GARNER. I am just trying to get your idea.

Mr. HILL. Let me clear up your idea. When I am talking business I am very earnest, but I am not in any way annoyed; I am not built that way.

Mr. GARNER. I am just going to illustrate. Your business has \$350,000 gross sales?

Mr. HILL. Yes, sir.

Mr. GARNER. And this year we levied on each bottle of medicine how much?

Mr. HILL. On each package?

Mr. GARNER. On each package.

Mr. HILL. I do not know. It would be so small, just 2 per cent of the gross receipts. For instance, we sell \$100 worth of goods and we pay Uncle Sam \$2.

Mr. GARNER. That would be 2 cents on a bottle if it sold at a dollar a bottle?

Mr. HILL. No; it would be less than one-eighth of a cent a package. You must remember that we only get a trifle over 10 cents a package for our goods.

Mr. GARNER. How much do you sell your goods at?

Mr. HILL. They sell at \$2 a dozen, less 15 per cent to the jobber, and the jobber makes that 15 per cent; and the consumer pays 25 cents a package.

Mr. GARNER. I do not want a dozen bottles of your stuff; I only want one. How much do I pay?

Mr. HILL. You pay 25 cents.

Mr. GARNER. And you pay 2 per cent gross tax and sell it for 10 cents?

Mr. HILL. We get 10 cents for it; that is what the jobber pays for the goods, at that ratio.

Mr. GARNER. How much do you get for it, if I may ask you?

Mr. HILL. We get \$20 a gross net.

Mr. GARNER. How much is that a dozen packages, or a bottle?

Mr. HILL. We get 13 cents plus.

Mr. GARNER. You take off 2 per cent gross?

Mr. HILL. Yes.

Mr. GARNER. How much would that tax be on each bottle?

Mr. HILL. That is on each package? You have got to divide that 13 into 144.

Mr. GARNER. You do not pay as much as 1 cent?

Mr. HILL. No, indeed.

Mr. GARNER. It is near one-eighth of a cent.

Mr. HILL. I do not think it is one-eighth of a cent.

Mr. GARNER. Probably one-sixteenth.

Mr. HILL. Somewhere around there—in the neighborhood of one-eleventh.

Mr. GARNER. Mr. Hill, do you believe it would make any difference in the production and sale of your goods if we should tax them 1 cent and just let the consumer pay 26 cents instead of 25?

Mr. HILL. I believe it would go and not a word be said.

Mr. GARNER. You told us a minute ago that the Government was levying all the tax that your business could stand, and now we are proposing an increase of 1,100 per cent, by adding 1 cent, and yet a moment ago you said your business had all the taxes it could bear.

Mr. HILL. There is quite a difference, my friend, if you are starting to go down to the New Willard Hotel as to whether you go directly in the opposite direction a mile and then go around another mile. The difference is that you are putting that directly on to our goods, which I am not finding any fault with now. My position is that if you put it the other way you get nearly four times the amount of money you now get for the Government, and at the same time distribute that tax in such a way that no one pays over 1 or 2 cents. There is a vast difference.

Mr. GARNER. I am very glad to agree with you. I agree with you that the other method is the best, and I agree with Mr. Crisp to a large extent, that where you levy a tax directly on the consumer, as I have suggested, of 1 or 2 cents on 25 cents, or 5 cents on 50, or 10 cents on \$1, we will get 50 to 100 times more out of that business than we are getting now, and I believe it can stand it.

Mr. HILL. You will get four times as much, and you will not get any more, which means a good many million in a year.

Mr. STERLING. Mr. Hill, if you pay the tax now you say you do—

Mr. HILL. Two per cent gross at the present time.

Mr. STERLING. Do you think manufacturers of medicine generally pay the tax you do?

Mr. HILL. I think a very large majority—in fact, all of them to-day are paying it.

Mr. STERLING. Suppose we were levying that tax on gross sales; that would not interfere a particle with this additional tax on the consumer, would it, and why should not we impose both taxes?

Mr. HILL. If you want my opinion on that, I do not know of any reason. At the present time I would say there are many manufacturers that did not come out even as well as we did this year in

making 8 per cent, and, as a matter of fact, it does not seem to me that a man can afford, at less profit, to run the risk he does in our line of business, where we spent a quarter of a million dollars last year in advertising. We are willing, so far as I am concerned individually.

Mr. STERLING. I think you have been a very fair witness, and it occurs to me that under your statement the wise thing to do is to levy the tax that you are paying now, as a manufacturer, then let the consumer also pay, say, 5 per cent or 4 per cent, as you suggest, and it will produce the revenue, and that is what we are after.

Mr. HILL. I would like to answer that question in this way: If you are going to put it on to the consumer, do not put it in the way of a percentage basis. If you put it on the consumer, the easiest way to collect it—and this is the same plan they have in Canada, which I have investigated and they say it works out fine—is to use the tax stamp and let the dealer keep the stamp. The reason I suggest that is this, gentlemen: That when you realize we are carrying 8,000 or 10,000 gross, and we have to carry that in our stock room, it would have to be stamped—you have got that arranged so that we do not have to do that now. On the other hand, if you put that tax on a 5 per cent basis, the little retailer with his clerk is very apt to make a mistake.

Mr. STERLING. You advise requiring them to put a 4-cent stamp on a 25-cent package, or a fraction?

Mr. HILL. Yes, sir. If that is done, there is no reason why you could not levy the tax as it is.

Mr. CRISP. In Canada do they put the tax on the package before it leaves the manufacturer, or only when sold by the retailer to the consumer?

Mr. HILL. Their plan is that the druggist himself carries the stamps. When the consumer comes in and says, "I want a box of Dr. Pierce's Medical Discovery, What is the price?" The dealer says, "A dollar plus the Government stamp, which is 4 cents." If the customer takes the package, the druggist then puts on the 4-cent stamp and cancels it.

Mr. CRISP. The stamp is not put on until the package is sold?

Mr. HILL. No, sir. With your permission, I will only suggest this: In talking this over with some other gentlemen who were very thorough business men, one of them said: "Will not the Government object to that for fear the dealer will make the mistake of not putting the stamp on?" Being pretty familiar with the retailer, I will say that one-eighth of a cent profit to him, or even less than that, he never forgets to get. Therefore, you will never lose a stamp by failure to be placed on the packages, if you will make up your minds to sell those stamps to the retail druggist at one-eighth of a cent less, that is, seven-eighths of a cent, because they are always looking out for that one-eighth of a cent, and you have a good collector working for you all the time.

Mr. STERLING. How much have you got to pay this year on proprietary medicines?

Mr. HILL. The Treasury Department says they have not got it figured up yet.

Mr. CRISP. Was it your idea that the Government would sell these stamps to the retailers cheaper than to anyone else?

Mr. HILL. It was not my idea. I only answered that in this way—that it would be cheaper than it would to send a collector around to see that they were not missing stamps. The reason I suggested that was this: That during the Civil War I was standing in a drug store in Pittsburgh when one of the Government inspectors came in and bought a bottle of Hoyt's cologne, which should have had a 1-cent stamp on it. He took the package and went out; was gone about 20 minutes; came back and arrested the druggist and imposed a fine upon him—I do not remember the amount—and yet he showed where he took the bottle out of the box and the stamp was laying in the box. It had got dry and come off there. What I mean to illustrate by that is this—it is only a suggestion, not my idea: that is, you sell the stamps to the retailers at a fraction less, that they would make mighty good collectors, and it would not cost the Government as much as inspection would.

Mr. CRISP. I was interested in your suggestion and I especially noticed that proposition. I do not think the Government has ever, as a matter of fact, sold its bonds or stamps to any class of individuals below par.

Mr. HILL. No; I do not think so.

Mr. STERLING. It sold documentary stamps to the banks and allowed them 1 per cent commission.

Mr. HILL. I have suggested one-eighth of a cent commission.

Mr. STERLING. The Government sold to the banks at \$99 for \$100 documentary stamps.

Mr. CRISP. That was a commission for handling them.

Mr. STERLING. That is his idea with reference to this.

Mr. FORDNEY. Mr. Hill, I will keep you for just a moment. There is a question, is there not, in a business man's mind, how far Congress can go in taxing an industry and get the largest amount of revenue without injuring the industry?

Mr. HILL. There certainly is.

Mr. FORDNEY. That is the thing for this committee to bear in mind?

Mr. HILL. That would be my impression.

Mr. FORDNEY. This year is not the only year we have to raise these taxes. If the war goes on, we will have to raise more. It is now estimated by the Secretary of the Treasury that our expenditures this fiscal year, beginning the 1st of July, will be \$24,000,000,000, \$6,000,000,000 of which we are expected to loan to our allies, leaving leaving our actual expenses for the Government \$18,000,000,000. I want to know if you agree with me. I do not believe we ought to raise \$8,000,000,000 in taxes this year. No country in the world ever raised any such sum; no country in the world ever raised 30 per cent. No country in the world now is raising that much except the United States. I believe we ought to raise a larger amount from the sale of bonds and tax the people less money than \$8,000,000,000, and I want to know what opinion, what you think this committee ought to do. For instance, if our actual expenses this year are going to be eighteen billion, not including our loans to the allies, none of which we ought to raise by taxes—we ought to borrow it all, because we expect the allies to pay the rate of interest we have to pay for that money and pay the principal and interest when due—what portion of our expenses do you think we ought to raise by taxes and



what proportion do you think we can raise without injuring the industries?

Mr. HILL. Perhaps I could answer that question better by stating that I was asked to speak before some business men in our city on that very subject.

Mr. HILL. I made this statement, which I firmly believe, that in view of the fact stated in the President's letter, that this country is fighting for democracy—that means, if it means anything, that we are fighting for posterity. That being true, it seems to me that posterity should do the same as we are doing to-day, even, help pay for this war. I do not believe that this Government or any other Government on earth can stand what our Secretary of the Treasury has proposed 40 per cent cash basis in this war and 60 per cent loans. If this war lasts, as some people think it will, anywhere from—and I read one article in a very reputable magazine, the North American Review, in which the gentleman who wrote the article said he would not be surprised if the war lasted 50 years; but if it lasts from 5 to 10 years this country will be bankrupt. The German country, the statement was made in their Reichstag that their wealth was \$75,000,000,000, and they have already drawn on it for \$74,000,000,000.

Mr. FORDNEY. Is that taxes or loans, or everything they have taken in?

Mr. HILL. That is taxes and loans. They have taxed very little.

Mr. LONGWORTH. About 10 per cent.

Mr. HILL. About 10 per cent as I understand it.

Now, my judgment is this: That we should not tax over 10 per cent and borrow on bonds the difference. We are loaning to nations that are practically bankrupt to-day. There is already a strong sentiment in this country to-day to give the French Government their securities when the war is over. I had occasion to appear before the National Congress of the Sons of the American Revolution in the last few days. A resolution of that kind was brought before the congress. It was held at Rochester, N. Y. The resolution was to petition Congress to send to France, or to refund the money—

Mr. MOORE. Do you think that is a wise thing to advocate at this time, at the very entrance of the United States into the war?

Mr. HILL. Just a moment.

Mr. MOORE. To advocate the refunding of a debt to any country at this time?

Mr. HILL. I am just coming to that. I had occasion to state, as I tried to say in that Congress, that I thought it was a very unwise thing to talk about such a proposition at this time; and the majority of the Congress agreed with that view, and it was voted down. I only spoke of that here for the purpose of showing that there is such a sentiment developing in this country.

Mr. MOORE. Pardon me, but that is propaganda. Somebody gives expression to a thought like that, and the country is aflame. At the very inception of the entrance of this country into the war, when the country is almost bleeding in taxes and high prices, to say that we are going to forgive anybody their debts is, in my judgment, most unwise.

Mr. HILL. I am glad you stated that; you are using almost entirely the identical language I used in the Congress, and I believe it.

To answer your question. We are loaning to nations that are certainly hard up; we all know that, and how many years will it be before they will ever be able to pay their debts? Now, it does seem to me—I never have got into politics very much, but I am quite a political student—and it does seem to me to be a mistake to tax, at the very beginning of this war, so heavily that you will eventually kill the goose that lays the golden egg. I thank you.

Mr. RAINEY (presiding). We thank you, Mr. Hill, for your statement.

**STATEMENT OF MR. ROBERT B. STEELE—Resumed.**

Mr. STEELE. Mr. Chairman and gentlemen, I was in the midst of a statement that I never believe that there ever has been an open-market on platinum which was not dictated by the people who had control of the supply of platinum in the entire world. This syndicate was formed, as I say, about 25 years ago, and it organized by having three branches for the distribution of the platinum. There was the Johnson-Matthey Co., which is an English house, which had the sale in England; and there was a French house, the De Modis Co., which had the sale of platinum for the French and Latin countries; and there was a German, Harmua, who was given the sale of platinum in Germany and in the United States of America; those were his countries for the selling of platinum.

Now, there was other platinum produced in the United States of Colombia, although that has been increased something like two and a half or three times under the needs of the war. But practically all of the platinum, and certainly the price of platinum in all the markets of the world, was controlled by the French syndicate, as it is called.

Mr. MOORE. May I interrupt you? I have some figures before me; see whether they will be confirmed by you. The normal Russian supply was 300,000 ounces; is that correct?

Mr. STEELE. Yes, sir; approximately.

Mr. MOORE. Colombia about 30,000 ounces?

Mr. STEELE. I think that is about right.

Mr. RAINEY. Of the entire world.

Mr. STEELE. Before the war.

Mr. MOORE. What was the American production?

Mr. STEELE. Very small.

Mr. MOORE. 10,000 ounces?

Mr. STEELE. I think within 5,000 ounces.

Mr. MOORE. What would be the fair, normal production of platinum?

Mr. STEELE. I think the figures you first mentioned.

Mr. MOORE. Three hundred thousand ounces?

Mr. STEELE. A little over 300,000 ounces.

Mr. MOORE. About how much did the jewelers of the United States use in their heyday, or before the war?

Mr. STEELE. I have heard it stated variously at from 40,000 to 50,000 ounces a year.

Mr. MOORE. Out of a world production of over 300,000 ounces?

Mr. STEELE. Yes, sir.

Mr. MOORE. Now, that 300,000 ounces is not available to the United States to-day?

Mr. STEELE. No, sir.

Mr. MOORE. That is, the market is not open for that amount?

Mr. STEELE. No, sir.

Mr. MOORE. But it is open to certain allied countries, is it not?

Mr. STEELE. I don't think at the present time there is any chance for any of the allied countries to get platinum from Russia, except Germany, of course.

Mr. MOORE. The supply would be cut off?

Mr. STEELE. I think they have control now of what was in the trade before the war.

Mr. MOORE. I am not intending to interrupt you to any extent, but I would like you to state to what extent restrictions are put on platinum in the allied countries, Great Britain, France, and Italy.

Mr. STEELE. In 1915 Great Britain commandeered all the platinum, making it a misdemeanor to have it in possession by any person.

Mr. MOORE. Did that include jewelry?

Mr. STEELE. Unmanufactured platinum was my understanding. The price at that time was practically \$40 an ounce in the open market, and the English Government paid \$50 an ounce for what they took, and took possession of it.

Mr. MOORE. Did they take possession of it?

Mr. STEELE. Of all the unmanufactured platinum; the raw material.

Mr. MOORE. What became of the manufactured articles?

Mr. STEELE. I don't know. I suppose it was left to be disposed of; I don't know definitely.

Mr. MOORE. As you have been free to dispose of it here since the commandeering order?

Mr. STEELE. I believe that was the case. In France, when the war broke out—

Mr. MOORE (interrupting). Do you know whether they are still controlling it there?

Mr. STEELE. I think they are out of it. I think they are using a palladium jewelry.

Mr. MOORE. What is done with what is called scrap?

Mr. STEELE. Scrap platinum?

Mr. MOORE. Yes; scrap platinum?

Mr. STEELE. The scrap platinum is remelted by the jeweler and refiner.

Mr. MOORE. Is it accepted by the mints?

Mr. STEELE. On the other side?

Mr. MOORE. Yes.

Mr. STEELE. Johnson-Matthey Co. have entire charge of the platinum there.

Mr. MOORE. They act as a sort of a war board?

Mr. STEELE. They act as the agent of the English Government.

Mr. MOORE. What is done with scrap in the United States?

Mr. STEELE. The practice has been to send it to the refiner and have it melted, or for the jeweler himself to melt it and use it in another form.

Mr. MOORE. Has it been the custom of the mints to accept platinum?

Mr. STEELE. They will, since the free coinage silver act, accept articles for minting.

Mr. MOORE. That is, old spoons, and knives and forks, and such articles?

Mr. STEELE. Yes, sir.

Mr. MOORE. But not platinum?

Mr. STEELE. No, sir.

Mr. MOORE. To whom was the platinum of value before it was commandeered?

Mr. STEELE. To jewelers, dentists, refiners, and telephone companies; refiners would melt it and use it indefinitely.

Mr. MOORE. Are you in position to say—I do not want to embarrass you particularly, but I will take advantage of the opportunity now that I have started—Do you know, are you in a position to say, to what extent the Government requires platinum for motors in aeroplanes?

Mr. STEELE. I don't think I am, sir; I am not familiar with the requirements, but I know how much platinum is involved.

Mr. MOORE. I would like to know, in view of the contention raised here, how far an ounce of platinum will go in equipping aeroplanes for Government use, 1 ounce, now worth \$105?

Mr. STEELE. One ounce would make 165 magneto points, of which there are possibly six on an average.

Mr. MOORE. How many aeroplanes—you can make the calculation there—can be equipped by the use of 1 ounce of platinum?

Mr. STEELE. I would figure 100, so far as the magnetos are concerned.

Mr. MOORE. Have you had any conference with anybody in Washington on the subject of the use of platinum in aeroplanes, as a concrete proposition?

Mr. STEELE. No, sir. My information on that is purely academic, as a matter of curiosity on my part.

Mr. MOORE. Mr. Rainey drove you quite hard awhile ago, and he drove his question farther with Mr. Rothschild. I want to know whether a year ago, or more, when the Secretary of Commerce, Mr. Redfield, wrote that letter to the jewelers' committee, and another copy that was submitted to the Congressional Record, whether the Government at that time expressed any concern whatever over the necessity for platinum for aeroplanes?

Mr. STEELE. There was nothing of that kind expressed at that time.

Mr. MOORE. Had the question arisen, so that it gave you and those with whom you were conferring here any concern?

Mr. STEELE. I don't think the aeroplane question was then to the fore.

Mr. MOORE. The latter was then a letter written out of a clear sky with reference to a business in which you were engaged.

Mr. STEELE. It was written with reference to the needs of the Government as expressed by the representatives present at that conference, representing the departments.

Mr. MOORE. Were you present?

Mr. STEELE. I was present.

Mr. MOORE. Who else were present?

Mr. STEELE. Mr. Hill, of the Geological Survey.

Mr. MOORE. He was quoted by Mr. Rainey.

Mr. STEELE. Dr. Parsons, of the Navy Department; the representative of the Bureau of Mines; Dr. Stratton, of the Bureau of Standards, and Dr. Hillebrand, of the Bureau of Standards, and also the representatives of the Ordnance Department of the United States Army and the Navy.

Mr. MOORE. Had the question of the construction of aeroplanes arisen at that time?

Mr. STEELE. It had not. I didn't know that it was discussed.

Mr. MOORE. Did we have anybody in Washington considering that question at that time?

Mr. STEELE. Not to my knowledge.

Mr. MOORE. No board here considering that question at that time?

Mr. STEELE. No, sir; not to my knowledge.

Mr. MOORE. Well, the War Board was represented at that conference?

Mr. STEELE. Yes, sir.

Mr. MOORE. May I ask how it came about that that conference was held? Was it called by the jewelers or by Mr. Secretary Redfield?

Mr. STEELE. It came about in this way: Representations were made by certain interests to Mr. Redfield that there was an alarming shortage of platinum—

Mr. MOORE (interrupting). Then, he must have had some knowledge of the subject.

Mr. STEELE. And Mr. Redfield called this conference, and it showed that the situation, as it then existed, had been in the minds of the chemists, who had access to the market, and it was shown in this conference, and when Dr. Hillebrand stated that only 7 per cent of the normal platinum in this country was used by the jewelers, it was then that Secretary Redfield rebuked the chemists—

Mr. MOORE (interrupting). Was the American Chemical Society represented at that conference?

Mr. STEELE. There were three important and prominent members of the society present.

Mr. MOORE. By invitation of Mr. Secretary Redfield?

Mr. STEELE. Yes, sir.

Mr. MOORE. Was there any secrecy in that conference, or was it held in the open?

Mr. STEELE. It was held in the open. And in spite of the rebuke to the chemists at that time by Secretary Redfield, the jewelers went in and agreed voluntarily to restrict the use of platinum by the elimination of many articles and also by the elimination of heavy plated articles.

Mr. MOORE. How long did that conference last?

Mr. STEELE. Two hours.

Mr. MOORE. Were speeches made there by different persons, or who did most of the talking?

Mr. STEELE. Secretary Redfield conducted the conference.

Mr. MOORE. He presided?

Mr. STEELE. He presided; and he asked the various departments, each in their turn, whether platinum was needed in that department.

Mr. MOORE. And each department of the Government then reported?

Mr. STEELE. Each department then reported.

Mr. MOORE. And the volunteer bodies, like yours, were they called upon?

Mr. STEELE. Yes; we were called upon.

Mr. MOORE. And asked—

Mr. STEELE (interrupting). Asked as to the possible supplies that might be reached.

Mr. MOORE. And then, following that open and voluntary conference, Mr. Secretary Redfield wrote to your committee a letter, and gave another to—who was it?

Mr. RAINEY. To me.

Mr. MOORE. Stating to Mr. Rainey that there was no great urgency in the matter of platinum at that time?

Mr. STEELE. Yes, sir.

Mr. MOORE. That is correct, is it?

Mr. STEELE. Yes, sir.

Mr. MOORE. And the letter to your committee was handed to a Member of Congress who, wholly within his rights, read it into the Record?

Mr. STEELE. Yes, sir.

Mr. MOORE. Is that right?

Mr. STEELE. Yes, sir; in addition to that, on April 30, 1917, Secretary Redfield made a statement, in commenting upon the resolutions adopted by the vigilance committee of the jewelers volunteering to restrict the use of platinum in the manner I have heretofore described, in winding up his statement said:

This is wise, patriotic, and unselfish action for which the merchants and manufacturers are highly to be commended. It will take time to work out fully its beneficial effects to the country. It will disarm adverse criticism of the jewelry trade in this respect and lead to general cooperation with them. Such is the earnest desire of the department. The jewelry business is a part and an important part of our commerce. It has acted fairly; its normal needs should be considered fairly. Platinum is required for many uses. Every such use has its just claim. None may urge an exclusive demand. All have a part in our common country and the Government a due and proper share. To this end the considerate course taken by the jewelers will directly contribute:

Mr. LONGWORTH. That is the statement I read.

Mr. STEELE. I didn't hear that.

Mr. MOORE. That is, Mr. Secretary Redfield's mind at that time was wholly in favor of the continuance of the use of platinum in the jewelry trade as before?

Mr. STEELE. Yes, sir.

Mr. MOORE. And he saw no real danger at that time?

Mr. STEELE. No, sir.

Mr. MOORE. Now, may I ask you this: I may not get a chance again. It has been charged—I do not mean offensively charged—that jewelers are using 50 per cent of the platinum available in the United States. What truth is there in that?

Mr. STEELE. I don't think there is any truth in that.

Mr. MOORE. I have been told, and I am asking you for confirmation, that the latest figures obtainable are that jewelers have not used but one-sixth of the platinum.

Mr. STEELE. I don't know about that, but you can get it from the War Trade Board, which has certificates signed for all the platinum used since fall.

Mr. MOORE. You are all under Government control now?

Mr. STEELE. Yes, sir; absolutely.

Mr. MOORE. Is there any attempt on the part of jewelers of the United States to deceive the Government?

Mr. STEELE. There have been a few cases, and where small amounts are involved, but nothing extensive.

Mr. MOORE. Are you familiar with any instance where a reputable jeweler has purchased platinum contrary to the Government's commandeering order, since the order was issued?

Mr. STEELE. I am not.

Mr. MOORE. Are they generally respecting that order?

Mr. STEELE. They are, sir.

Mr. MOORE. And doing what they can to go along with the Government's wishes in the matter?

Mr. STEELE. Yes, sir.

Mr. MOORE. I would like to know before you leave the stand, Mr. Steele, because I would like to talk to Mr. Rothschild a little bit, if in view of the wide extent of your organization, covering everything in the trade, as it does, except the National Wholesale Jewelers' Association, what would you association or whatever actuary committee now exists, do if you learned that some individual jeweler connected with the association was buying or selling platinum in violation of the Government's commandeering order?

Mr. STEELE. If these cases came to your knowledge it would be brought to the War Industry Board's knowledge and action asked. It has been done in some cases.

Mr. MOORE. You have done that since the order was issued?

Mr. STEELE. Yes, sir.

Mr. MOORE. And that is your purpose, to respect the law, and have those for whom you speak to observe it in the future?

Mr. STEELE. It is, sir.

Mr. MOORE. Can you help us at all in the matter of revenue by telling us whether we have reached—this is a little aside from the main questions brought up by you—but can you tell us whether we have reached in the present law all articles which the public denominates as jewelry, and which the jewelers hold, and which have not been reached by the language as expressed in the law?

Mr. STEELE. I don't believe that all the articles which might be reached have been reached. I believe our proposal that a tax shall be put on all sales by the retailer will bring a full return to the Government.

Mr. MOORE. I want to be fair to you, and also to the committee.

Mr. STEELE. I am speaking personally in regard to that.

Mr. MOORE. I have been advised that our 3 per cent tax does not cover everything that a jeweler, in the common understanding, handles, and that perhaps we might derive more revenue by making it more explicit.

Mr. STEELE. I think that this request of Mr. Garner for a suggestion from us can be carried out in such a way that everything can be covered.

Mr. MOORE. You intend to bear that in mind, as to how we may make it a little more water-tight?

Mr. STEELE. Yes, sir.

Mr. MOORE. The effect of the commandeering order has been to disturb the trade, in that it did not cover the entire trade; is that correct?

Mr. STEELE. It is, sir.

Mr. MOORE. What would your suggesting or recommendation be as to the most effective and beneficial commandeering order?

Mr. STEELE. I think that has already been covered by the third commandeering order issued by the War Board just recently, and commanders not only those who were under the commandeering language until June 30, but it extends it until January 1; it also practically commanders all of the other stocks of the country who would buy or sell or in any way use unmanufactured platinum. I think that has practically covered the situation.

Mr. MOORE. We have it unofficially that jewelry is a luxury. I suppose you will dispute it, and contend that a collar button is a necessity, and that a watch is a necessity, especially in war times; but it is regarded by some as a luxury, and it is contended that we should levy a 50 per cent tax on jewelry. I want you to think that over and say whether you think the business could stand a tax of 50 per cent, or whether the purchasers would withdraw from the market if we should do that, and that we would put a large number of your people out of business?

Mr. STEELE. It is absolutely my belief that a tax of 50 per cent on jewelry would kill the sales of jewelry to such an extent that it would bankrupt a large number of the jewelers of this country.

Mr. MOORE. It would mean that a \$100 watch would cost \$150; that a \$50 watch would cost \$75?

Mr. STEELE. Yes, sir.

Mr. MOORE. Would the effect be such that the purchaser would withdraw from the market and not buy?

Mr. STEELE. Yes, sir; I think it would.

Mr. MOORE. I would like you to think that over and make as careful an answer as you can for the record.

Mr. STEELE. I have thought it over since the suggestion was made here this morning of a 50 per cent tax, and I can't see any other result than that the great dropping off of the sale would bankrupt a large number of the jewelers of the country.

Mr. MOORE. I can say to you, I think, for all of the committee, that nobody on the committee wants to injure business. But it is absolutely necessary, in view of the statement of the President, that we must tax to the limit, and we must tax until it hurts. There is absolutely no escape from it. The question is, How far can we tax a great industry like the jewelry industry without putting the business men out of the business.

Mr. STEELE. I believe the tax suggested this morning—that is, 10 per cent, which is three times the tax of the last bill, 3 per cent—would give the greatest revenue for the country.

Mr. MOORE. You were engaged in a discussion of the foreign situation.

Mr. STEELE. I only wanted to cover one more point, and that is what has caused the high price of platinum in the last few years. In 1914, when the war broke out, or at the international conference in France, it was found that when the war broke out all the platinum jewelry in Paris was bought up and went to Switzerland, and where it went to from there we can all guess. And there was none manufactured, for the fear that it would get into one of the countries at war.



Mr. RAINEY. That is, Germany?

Mr. STEELE. Yes, sir; Germany. Now, then, they have permitted the manufacture of platinum jewelry at times since then under license, and while at intervals they have shut this off there have been numerous times during which the manufacture of platinum was allowed.

Mr. LONGWORTH. Before you go into that will you state when platinum first came into general use?

Mr. STEELE. I think the renaissance of platinum came in 1900, when it was found that iridium could be used as an alloy, and which made its use possible in a way that it could not be used before. Up to that time only platinum was used which had 1 or 2 per cent of iridium; soft and pure platinum could not be used. In order to get the strength in the jewelry a thick plate of gold was used, which was not desirable, as it made a yellow backing. When it was found that the iridium could be used as an alloy and that it did not interfere with the use of the platinum, but that it made it desirable for jewelry, made it malleable and ductile, and so on, then the beginning of the present platinum jewelry came. And about the time, 1908 or 1909, the idea of making jewelry of all platinum, which had not been done up to that time, was imported from France, using a high class of iridium with the platinum, which enabled the modern delicate jewelry to be made. In spite of this the price did not vary greatly, and in 1914 the price was about \$40 an ounce, when the war broke out. The price stayed about that until the following year, when the chemists, who had large contracts for powder, began to buy it up and make it very short, although it then did not go up greatly. The result was that, in 1915, the Du Pont Co. wanted a large amount, which they could not buy in this country; this was secured from the English Government; it was bought and sent to this country in the care of J. P. Morgan & Co; these facts can all be verified; 40,000 ounces was purchased, and this was brought in with the understanding that it should not be used in any other way, except by the people who bought it for powder manufacture. In other words, they couldn't sell it in this country; the supply was very scant. We continued to purchase for chemical purposes, and the price began to drop again, and then advanced. In the following spring the price was somewhere around \$60 an ounce, but then purchases for all kinds of industry began, with the result that platinum got up to its present high standard.

Mr. LONGWORTH. Now, from the time platinum came into general use in jewelry and the time the war broke out, it had increased nearly three times?

Mr. STEELE. I would have to see the figures on that.

Mr. LONGWORTH. Nearly three times?

Mr. STEELE. Yes, sir.

Mr. LONGWORTH. That was due to the fact that there was such a demand for it?

Mr. STEELE. I think one company controlled it.

Mr. LONGWORTH. Yes, but they couldn't have raised the price unless there was a demand for it?

Mr. STEELE. They couldn't have raised the price unless there was a demand to warrant it. Now, in 1917—I get this from several refining interests—the jewelers purchased very little in October,

November, and December, in December buying practically no platinum, and in December, 1917, the price of platinum took a jump, which I was told at the time was due to purchases by chemical interests.

Mr. FORDNEY. Mr. Steele, since this great world war has broken out supply and demand has increased practically everything in use, and platinum has not gone far in advance of other products, has it? For instance, wheat was selling for 75 and 80 cents a bushel before the war, and it is now \$2.20. Flour was selling for \$11 and \$12 a barrel, and now it is \$17 and \$18. Cotton was selling for 10 cents a pound, and now it is 30. Wool was selling for 25 and 30 cents a pound, and now it is 65. So platinum has not advanced beyond the price of other things, where there is a great demand for it, has it?

Mr. STEELE. It doesn't seem to have. In fact, from the time we entered the war, in 1917, until this year the price of platinum has been substantially at the same level. I don't think there has been \$2 an ounce difference between the price last spring a year ago when we entered the war and January of this year when the commandeering order went out at a lower price than the market price at that time.

Mr. FORDNEY. Supply and demand, or monopoly of an article, is always responsible for advanced prices?

Mr. STEELE. I believe it, sir.

Mr. HAWLEY. Reference has recently been made, in the course of this discussion, to the use of platinum in jewelry, and the amount that has been used. Do you know how many ounces are now in the hands of the trade made up in jewelry in some form?

Mr. STEELE. I don't know, but you can secure that information from the War Industries Board.

Mr. HAWLEY. Can you make an estimate?

Mr. STEELE. I couldn't make a sensible estimate, but this information is in the possession of the War Industries Board, from the fact that in the census it was called for, and a statement had to be made by each jeweler of the amount of articles he had on hand, and of the weight of each article he had in his possession when the commandeering order was received. So the War Industries Board can tell you the amount and the weight in the hands of the jewelers in this country.

Mr. MOORE. Mr. Steele, if the jewelry trade were forbidden to-day to sell platinum, what would the effect be on the trade?

Mr. STEELE. Manufactured platinum?

Mr. MOORE. Yes; manufactured platinum.

Mr. STEELE. I can speak for myself. It would mean bankruptcy.

Mr. MOORE. That is very important, and I would like to have you pause for a minute to have that soak in. How much manufactured platinum is there in stock to-day that was manufactured before any commandeering order came out?

Mr. STEELE. It was bound to be a large part of it, for the reason that from the time the commandeering order was first issued in February, the operation of it has in the meantime used up practically all of the supply of platinum.

Mr. MOORE. Now, let us take a given stock of \$500,000; how much of that would be in platinum manufactured?

Mr. STEELE. You mean now \$500,000 with the stone in?

Mr. MOORE. Yes, jewels and all, what would be the platinum value of a \$500,000 stock?

Mr. STEELE. The platinum itself?

Mr. MOORE. The platinum value?

Mr. STEELE. I would say possibly \$50,000.

A VOICE. Oh, less than that.

Mr. STEELE. I have not figured this at all.

Mr. MOORE. I want to give you credit for the danger that confronts the trade if the propaganda that has been referred to here is successful.

Mr. STEELE. This would depend on what class of stock you refer to, whether wholesale or retail.

Mr. MOORE. Take a wholesale stock of \$500,000, how much would be the proportion?

Mr. STEELE. I would say 10 per cent, or less.

Mr. MOORE. Then that would be \$50,000 to \$100,000?

Mr. STEELE. I should say \$50,000, or less.

Mr. MOORE. Then if the propaganda conducted by these patriotic ladies that has been referred to here should be successful and the Government should shut down on your manufacture, and any one who was seen in the theater or on the street with jewelry would be accused of being pro-German, by having platinum on their persons, it would mean that you would have to shut up your business?

Mr. STEELE. It would have that result, sir.

Mr. MOORE. What would be the effect of that propaganda in revenue to conduct this war?

Mr. STEELE. It would mean that the Government would lose the revenue on that part that could not be sold.

Mr. MOORE. Then the fact that we have platinum made up and which the Government apparently doesn't want, or has not taken it, if by reason of some outside interference you are prevented from selling it at all, and have to shut it up in your strong box, you get nothing?

Mr. STEELE. That is the result. May I read a copy of a letter?

Mr. MOORE. Is it that letter of June 16? If it is I want to ask you, who is the author of it? What is fair for the goose is fair for the gander. If there is a question of propaganda on the one side it is fair to bring up a question of propaganda on the other; this is what I have been after for four hours, to bring this up. I am speaking now of the question that confronts these gentlemen, with jewelry made up, which they are told by this propaganda they must not use, and if they do that, it is good-bye revenue.

Mr. STEELE. This letter was written upon American Chemical Society letterhead; northeastern section, publicity committee; chairman, Robert W. Neff, 22 India Square; publicity representative, William C. Bamburg, room 1259 Little Building, Boston, Mass., February 14, 1918. The letter is as follows:

AMERICAN CHEMICAL SOCIETY,  
Boston, Mass., February 14, 1918.

Mr. CHARLES F. KUNZ,  
Care of Tiffany & Co., New York, N. Y.

DEAR SIR: The editor of the Boston Post has referred to us your inquiry regarding the statement made in their columns mentioning your resolution regarding the conservation of platinum.

The article sent by this office to the Post was written as an interpretation of what we understood to be the absolute intention of your resolution dated January, 1918.

Our article contained three separate news items regarding platinum, (1) the transportation of the 21,000 ounces from Russia; (2) the special attempt being made by various societies to conserve platinum; (3) your own resolution. In the latter item we find the word "forbidden" was unquestionably erroneous, and we regret any annoyance that occurred to you as a result of the apparent misquotation. The word was used in a desire to accentuate the exigencies of the situation, and the reference to you was not intended to be interpreted as your attitude toward jewelry settings.

Yours, truly,

ROBERT W. NEFF.  
W. C. RAMBURGH.

Mr. Neff is the husband of one of the ladies who is in this league.

Mr. MOORE. Well, to give these ladies full credit. Whether they are going to contribute to the killing of the goose that lays the golden egg, I don't know. But as long as you are on the stand, let me ask you whether you know anything about this: In certain sections women's organizations have been formed to oppose the wearing of platinum jewelry, and in a recent publication of one of the journals of the society—I think this refers to the Chemical Society—it has been noted that an appropriation of \$2,500 has been made to continue this work?

Mr. STEELE. This appropriation was arranged for in April or May of this year.

Mr. MOORE. What society arranged for the appropriation of this money?

Mr. STEELE. The American Chemical Society.

Mr. MOORE. The American Chemical Society. I am asking you if it is a fact that the American Chemical Society, or any other society, made an appropriation of \$2,500 for an organization of patriotic women to urge that platinum be not used as jewelry?

Mr. STEELE. This, I believe, was stated, and Mr. Rothschild spoke of that point this morning, did you not, that this was a—

Mr. ROTHSCHILD (interrupting). I called attention to the fact that in a statement given out for release on June 16, at the Bureau of Mines, there was a statement about this organization.

Mr. MOORE. This statement was given out on June 16 at the Bureau of Mines in Washington?

Mr. ROTHSCHILD. It contained a statement that the Chemical Society had fostered, or fathered, an organization of women to discourage the use of platinum jewelry. I could give you the exact words.

Mr. MOORE. I was going to ask you to come back when we have finished with Mr. Steele, and you can refer to it then.

Mr. ROTHSCHILD. Yes; I can give it to you then.

Mr. MOORE. When we are discussing lobbies that are appearing here we might as well discuss these patriotic ladies. It is just as well that we understand their motives as that we understand the motives of the business men who are endeavoring to perpetuate their trade. I am saying this without prejudice to the American Chemical Society; they have a right to be heard on that subject.

Mr. STEELE. One of the immediate effects of this league is this: When my wife went to a meeting of a society the other day she heard a lady who stated that her husband had presented her with a handsome necklace and platinum chain, which she had very promptly made him take back to the jeweler. The Government lost the revenue on the sale of that, which was probably 7 per cent of platinum, and hundreds of dollars worth of diamonds.

Mr. RAINEY (presiding). When was this organization perfected which gave the control of platinum to Germany?

Mr. STEELE. This didn't give it to Germany; there were three agencies, one for England, one for France and the Latin countries, and one for Germany and America. Whether they agreed to buy a certain proportion I don't know, because that is a private arrangement, or whether each undertook to dispose of all he could in a given time is not known.

Mr. RAINEY (presiding). What year was this?

Mr. STEELE. It is not possible, although I have tried hard to find out the exact date, but I should say 20 to 25 years ago, in the nineties. There are concurrent circumstances that make me think the early nineties was the period that that was formed, although there is no particular proof and no one seems to be able to tell you when it was formed, although every one knows of its existence.

#### STATEMENT OF MEYER D. ROTHSCHILD—Resumed.

Mr. ROTHSCHILD. Before I am examined further I would like to ask permission for Mr. Haffnagle, president of the New York Jewelers' Association, to read these resolutions.

Mr. MOORE. Can't you insert them in the record?

Mr. RAINEY (presiding). Without objection they may be inserted in the record.

Mr. ROTHSCHILD. Very well.

Mr. MOORE. Mr. Rothschild, Mr. Rainey, my distinguished colleague, is a very good lawyer and a very forceful cross-examiner; you gentlemen are entitled to know that, if you have not already discovered it. He is interested in the subject of lobbies, and that is a subject that is being discussed in Washington, but he is not altogether to blame if he is more forceful to-day than he might have been, because the President of the United States, in bringing this matter of revenue to our attention on May 27 last, made this statement:

I, for one, am always confident that the people of this country will give a just verdict upon the service of the men who act for them when the facts are such that no man can disguise or conceal them. There is no danger of deceit now. An intense and pitiless light beats upon every man and every action in this tragic plot of war that is now upon the stage. If lobbyists hurry to Washington to attempt to turn what you do in the matter of taxation to their protection or advantage, the light will beat also upon them. There is abundant fuel for the light in the records of the Treasury with regard to profits of every sort. The profiteering that can not be got at by the restraints of conscience and love of country can be got at by taxation. There is such profiteering now and the information with regard to it is available and indisputable.

A little further on the President says:

The task to which I invite your immediate consideration will be performed under favorable influences if we look to what the country is thinking and expecting and care nothing at all for what is being said and believed in the lobbies of Washington hotels where an atmosphere seems to make it possible to believe what is believed nowhere else.

Now, that was the President of the United States, and I think it is fair to Mr. Rainey and some of these other gentlemen who made statements that you have objected to, that that address should be read so that the responsibility would be understood.

Mr. RAINEY (presiding). You read it once or twice before.

Mr. MOORE. Yes; I think it should be read several times. The President has said that.

I went to my office a little while ago and found there, amongst others, in mail that had just come in, two letters. One was from the Pennsylvania Federation of Labor, which has an organization in Pennsylvania, and which frequently writes to me upon matters of legislation, demanding that I vote this way or that way upon a bill. Do you think the Pennsylvania Federation of Labor has a right to address me as a Representative from the State of Pennsylvania?

Mr. ROTHSCHILD. Certainly.

Mr. MOORE. I think so, too. Do you think that I as a Representative in Congress, and representing my district, at least, should be unduly exercised because a person in my district asks my consideration of a certain measure?

Mr. ROTHSCHILD. No.

Mr. MOORE. The test is in the method employed. If they would use money, or attempt to use money, it would be reprehensible.

Mr. ROTHSCHILD. Certainly.

Mr. MOORE. This association has not attempted to use money in any way, has it?

Mr. ROTHSCHILD. In the statement I made this morning, I tried to be as specific as my power in the use of the English language would permit me in being, that not a penny was used, and that no one was hired, attorney, or agent, or anyone, to speak to anybody in connection with the interests we had in Congress.

Mr. MOORE. I want to say for your body that for four weeks we have been here and have heard attorneys on all sorts of questions, some far afield from the question of revenue, and the question of lobby was never raised. Amongst other letters was a letter from a proprietor of a large manufacturing concern. It stated that in his judgement the million dollars which it was proposed by the House to appropriate for the developing of an employment bureau should be increased to \$7,000,000, and the inference is that the Department of Labor would be very well satisfied if it was made. I presume that the manufacturing company had the hint to write me that letter. Still, do you see anything wrong in a manufacturing concern in my district writing to me and urging my consideration of that subject?

Mr. ROTHSCHILD. I do not.

Mr. MOORE. Do you think it is entirely proper for the Government of the United States to start a propaganda in favor of a certain measure it desires passed by Congress?

Mr. RAINEY (presiding). What do you mean by the Government?

Mr. MOORE. I mean any department or bureau of the Government. It may not be wise to ask that. I will not press that.

Mr. ROTHSCHILD. I would rather not.

Mr. MOORE. I will say, one or two jewelers' associations have been represented here. Do you see anything wrong about that?

Mr. ROTHSCHILD. No, sir; not in the slightest.

Mr. MOORE. The only difference is that yours is larger; that is a fair statement.

Mr. ROTHSCHILD. It is a fair statement.

Mr. MOORE. Now, I have in hand this article that was sent out from somewhere, an article for publication in the Sunday morning papers of June 16.

Mr. ROTHSCHILD. I have an article——

Mr. MOORE (interposing). You and I have not seen each other before, so we have not talked about this matter.

Mr. ROTHSCHILD. I have an article here headed "For Release June 16," the first page is written and the succeeding pages are type-written.

Mr. MOORE. Have you traced that article to its source?

Mr. ROTHSCHILD. Not except from the context. I know the song.

Mr. MOORE. It has been said that it came from the Bureau of Mines.

Mr. ROTHSCHILD. Yes; I asked Mr. Wilson, and he said that his representative in Washington, Mr. Lamb, sent it to him.

Mr. T. EDGAR WILSON. Mr. Lamb stated that it came to him in the ordinary way, with a statement on top of it that it came from the Bureau of Mines; he was given to understand that it came from the Bureau of Mines.

Mr. MOORE. Now, when Mr. Rainey was putting you through his very interesting cross-examination—I know Mr. Rainey appreciates this, because he is a lawyer, and I am not a lawyer, and he knows I know a good lawyer when I see one—he referred with great emphasis to the committees you had formed, the jewelers' vigilance committee, which I understand still exists; was there anything sinister or crooked or dishonest underlying that, and the creation of that committee?

Mr. ROTHSCHILD. There was not.

Mr. MOORE. Is there any reason why a vast industry like the jewelers' trade, in fact of the tax and the war, should try to get together and should try to do something as an organization?

Mr. ROTHSCHILD. There was another reason, and if you will bear with me I will tell you what it was. We have an organization known as the National Jewelers' Board of Trade, a thousand wholesalers all over the country; we had a good and welfare committee, which was contemplated to do work in the lines of national stamp and reforming views, and the men who were most active in this good and welfare committee, I think it was in the fall of 1916, found that their efforts were hampered, because, like all industries, certain interests felt that certain steps were or might be unwise and other steps wise. In other words, certain particular people took the attitude that the money of the National Jewelers' Board of Trade should not be expended in carrying on State work—in looking after State legislation, because if a stamping act is passed in New York, which does not operate in Ohio or Massachusetts, or some other State, the man who sells his merchandise in those other States might be at a disadvantage. They claimed this fund should be used only for a national act. The good and welfare committee was advised that the best and most effective way to get a good and effective stamping law was to get a few States like Illinois and Pennsylvania to pass acts as models, and if they were passed and were good they could come to Washington and get a national act passed. We would have to be free to do that thing. To work in a way that no part of this National Board of Trade could object to, this independent committee was formed, without being hampered in any way, their main business to look after New York matters, but their measure was to reach all over the country. Those are the facts of the organization,

and the few active men who has been on the good and welfare committee——

Mr. MOORE. Is it possible that you were organized to evade the antitrust laws?

Mr. ROTHSCHILD. That is the sincere intimation. I don't see how they could have evaded them.

Mr. MOORE. Is it possible that you were organizing or had organized for the purpose of controlling prices so that one jeweler might not be free to dispose of his products as he saw fit?

Mr. ROTHSCHILD. There was no such idea and it would not have been possible.

Mr. MOORE. I want to get at the worst side of it to see what the hellish purpose was in organizing the jewelers' vigilance committee in time of war.

Mr. ROTHSCHILD. This was before the war, and I have given the exact reason. The reason, as I told you, was to look after stamping acts, and they have not done it because there haven't been any stamping acts.

Mr. MOORE. There is no real secret from the trade as to what you were doing in your vigilance committee?

Mr. ROTHSCHILD. I think there was a little too much hornblowing; little too much publicity, from the accounts read here to-day. The newspapers were given all of the matter and it was published and republished.

Mr. MOORE. Sometimes they would write editorials which would irritate you and tie you up with somebody else?

Mr. ROTHSCHILD. The editor expressed his own views.

Mr. MOORE. Considerable stress has been given to the fact that you made trips to Washington in order to confer with the Secretary of Commerce and also the War Trades Industries Board. I think in your original statement you came down here three or four times and that was built up by your cross-examiner till it appeared to be about 18 times.

Mr. ROTHSCHILD. I think there was a mistake there. I think the report which our chairman sent to the papers included the trips to New York and also to Washington. I only had in mind my trip to Washington.

Mr. MOORE. Let's concede it was 18 times. You were here on business of interest to the Government as well as yourself?

Mr. ROTHSCHILD. In every case.

Mr. MOORE. And you visited those in authority to confer over matters of general concern?

Mr. ROTHSCHILD. Absolutely.

Mr. MOORE. When you heard all of these eloquent addresses in the House of Representatives proposing to tax platinum \$250, trying to put it out of business, you looked into your safes, knowing you had platinum manufactured and ready for sale and you might not be able to sell if the tax was put on. Were you guilty of trying to interfere with business in coming to Washington to see Congressmen?

Mr. ROTHSCHILD. We came to confer with Congressman Rainey and try to impress upon him that the facts that he was acting upon were not sound.

Mr. MOORE. But you did see the Secretary of Commerce and after this free and open conference about which we have heard, you



obtained two letters, or two letters were written by him, one of which was handed to you?

Mr. ROTHSCHILD. They were both handed to me.

Mr. MOORE. Did anyone of your party carry that letter up to the House of Representatives, where this steam roller was about to be pushed over the jewelry business?

Mr. ROTHSCHILD. Yes, sir.

Mr. MOORE. And deliberately hand that to a Member of Congress with a view of trying to save the platinum business?

Mr. ROTHSCHILD. That is a matter of record.

Mr. MOORE. Some one handed that letter to Mr. Lehlbach, a Member of Congress from New Jersey?

Mr. ROTHSCHILD. Mr. Larter did.

Mr. MOORE. What particular crime is it for a committee representing a large industry, seeing it is likely to be put out of business, handing a letter from a Secretary in the President's cabinet to a Member of Congress to be read in the open on the floor of the House? What kind of offense is that? You have been very alert in all of your answers. I would like to know how you would feel if your constituents came down and told you they would like for you to read a letter on the floor.

Mr. ROTHSCHILD. If it was a proper letter, I suppose I would do it.

Mr. MOORE. I think that is exactly what Mr. Lehlbach of New Jersey did, and I think he did exactly right, and I think I would do exactly the same under the same circumstances.

Mr. GARNER. Now, Mr. Chairman——

Mr. MOORE (interposing). Wait just a minute. These gentlemen have had four hours and I haven't had half an hour yet. I am not willing to put these gentlemen out of business without a fair show.

I want to ask you this: You have seen the statement of June 16, more or less celebrated now in these hearings here?

Mr. ROTHSCHILD. Yes, sir.

Mr. MOORE. And your information is now that that came from the Bureau of Mines. Would not the issuance of a statement to be released for the Sunday newspapers June 16 indicate that whoever instigated that statement was conducting a propaganda?

Mr. ROTHSCHILD. The contents of this statement indicate it.

Mr. MOORE. Will you let me read one or two sections because I expect to put the whole of this in the record with the consent of the chairman:

The Bureau of Mines is pleased to lend its effort to those of the American Chemical Society in such a patriotic endeavor.

Do you recall that section in a circular sent out for publication in such newspapers as received it on Sunday, June 16?

Mr. ROTHSCHILD. Yes, sir.

Mr. MOORE. What do you think actuated that statement:

The Bureau of Mines is pleased to lend its effort to those of the American Chemical Society in such a patriotic endeavor?

They were endeavoring to curb the sale of this manufactured platinum that was in your safes and in your show cases, is not that a fact?

Mr. ROTHSCHILD. Undoubtedly.

Mr. MOORE. Do you know who paid for the sending out of this information? Was it some individual? Was it the American Chemical Society or was it the Government of the United States? And if the Government of the United States, by whose authority is money expended for this purpose?

Mr. ROTHSCHILD. I can't answer those questions because I don't know.

Mr. MOORE. I ask you at this point to insert the statement for publication in Sunday papers of June 16 in the record as part of your testimony. Will you do that?

Mr. ROTHSCHILD. Why certainly. I see I have here this statement consisting of eight pages, which is headed "For release June 16." I personally do not know anything about the Sunday papers or anything of that kind.

Mr. GARNER. You don't care for that to go into the record as your statement, do you?

Mr. ROTHSCHILD. No, sir; not as my statement.

Mr. MOORE. I will ask you to permit me to insert this in the record without objection.

Mr. RAINEY (presiding). Without objection.

FOR SUNDAY MORNING PAPERS.

WASHINGTON, D. C., June 15.

The newest type of slacker and one who is doing his country a great amount of harm is the man or woman who buys, or even encourages the purchase of, platinum jewelry, according to the Bureau of Mines, Department of Interior. For the country is, and for many years will be, desperately in need of the scarce and precious platinum in its industrial work, and must have it if the war machine is to go full speed ahead.

A plan proposed by the Federal officials would stop the use of platinum in jewelry not only for the war but for all time. Officials of the Government who are in close touch with the situation are filled with apprehension as to the future supply of platinum. As far as can be learned, it is believed that aside from the large amount of platinum metals in the form of manufactured jewelry, a large part of which is in private ownership, there is less than 25 per cent of the normal stock of unmanufactured platinum in this country available for the needs of the war.

In an effort to fill the immediate pressing needs of the Government in its war program, the War Industries Board has ordered that 75 per cent of the stock of platinum in the hands of manufacturing jewelers be commandeered, and also the complete stock held by refiners, importers, and dealers, but this, it is said, will only fill a small gap and that temporarily.

It has been hoped by Federal officials and chemists throughout the country who understand the seriousness of the situation that the whims of fashion might yield to national needs and that purchasers of jewelry would demand gold and silver or a white alloy and so release platinum for its highest use, but the results have been disappointing.

The American Chemical Society, an organization composed of the leading 12,000 chemists of the country, which is also back of this movement, has issued an appeal to the people not under any circumstances either during the war or after the war to use platinum jewelry, but to conserve this unique and fast-dwindling metal now priced at five times the cost of gold for the exclusive use of the chemical and other necessary industries. The first purpose will be to obtain a sufficient supply of platinum for the needs of the war, and then to retain the production of the future for the industries. It is claimed that even before the war, as a result of this unreasonable craze for platinum in jewelry, the highly important work of the chemists has been curtailed and research work, especially in the universities, handicapped by inability to meet the constantly rising price for platinum.

"The utmost importance of the entire country coming to a full and serious understanding of the dire need of platinum in the industries, and especially the war industries, is apparent to all technical and scientific men," said Van H. Manning, director of the Bureau of Mines, but, unfortunately, the people generally have not the proper

conception of the situation. This condition has risen naturally through the insistent advertisement of platinum jewelry, the buyers being unaware of the need of platinum in the industries.

The scarcity of platinum throughout the world and its high price is apparently due almost solely to the fact that the women of this and other countries have been recently led to consider it a choice article for adornment. I believe this to be due to an entirely false conception, as there are other white metals equally available for the setting of gems and the production of jewelry, which would be used in jewelry to-day except for the fact that they are not so costly as platinum. When the price of platinum was less than that of gold there was practically no demand for it in jewelry and only a slight use as a setting for gems. Over 50 per cent of the country's supply of platinum is now used annually for jewelry, an entirely unessential purpose. No jewelry is more easily imitated than platinum, and much white metal jewelry is now on the market which can not be told from platinum by the uninitiated.

"It is inconceivable to me that any woman would wear a lead-colored ring or bracelet or adorn herself with lead-colored jewelry, except that its artificially produced high price has been made to give it a false value in her eyes. When our basic war needs for platinum are going to be met only with the greatest difficulty, I certainly can not consider the purchasing of platinum jewelry patriotic now, and it appears to me to be very doubtful good taste at any time.

"I am most heartily in favor of any crusade that will have for its purpose the banning of platinum for jewelry for all time and under all circumstances. I believe that the women of the country are as patriotic as in any other country, and that when they understand the situation they will decline to purchase platinum jewelry, and also, if the occasion ever arises, give up all platinum jewelry they now have.

"The Bureau of Mines is pleased to lend its efforts to those of the American Chemical Society in such a patriotic endeavor."

A movement among the women of the country to discourage platinum in jewelry has been initiated by the American Chemical Society. The Women's National League for the Conservation of Platinum has been formed as a national organization with Mrs. Ellwood B. Spear, Cambridge, Mass., as chairman. State councils have been formed in 14 of the leading States of the Union, and even the efforts of the college women have been enlisted. Already throughout the country thousands of women have signed the following pledge: "I will neither purchase nor accept as gifts jewelry and other articles made in whole or in part of platinum, so that all possible supplies of this precious metal shall be available for employment where they can do the greatest good in the service of our country; and I further pledge my influence to persuade others to take the same patriotic stand."

"The patriotic crusade to stop the use of platinum in jewelry has already had a splendid effect," said Dr. Charles L. Parsons, secretary of the American Chemical Society. "It is some months ago that the society recommended that an appeal be made to the women of the United States to discourage the use of platinum in jewelry and that all citizens be urged to avoid its use for jewelry, for photographic paper, and for any purpose whatever, save in scientific research and in the making of articles for industrial needs. The National Academy of Sciences adopted a resolution to this effect and the Daughters of the American Revolution at their recent meeting pledged themselves by formal vote to refuse to purchase or accept as gifts jewelry made in whole or part of platinum, so that the available supplies of this precious metal shall be available for employment where they can do the greatest good in the service of our country.

"I believe the only thing necessary is to show the women of the country what really bad taste it is to wear a metal which certainly in the form of rings, bracelets, mesh bags, etc., has no beauty over lead to recommend it and no advantage over many other cheaper metals, except its one item of high cost. The country is very short of platinum and we can not see where the necessary supplies are coming from. Of course, the jewelers do not wish to see their profits slip away from them. Platinum ought not to be used in jewelry either in war time or in time of peace. It is too greatly needed for the development of chemical science and industry. The Russian mines, from which 95 per cent of the platinum comes, are reported to be nearly exhausted. The Russian supply is now virtually in German hands. The United States has not nearly enough in sight for its probable war needs during the next two or three years, and as the jewelers now use over 50 per cent of the platinum that comes into commerce, they must be held responsible for its scarcity.

"Platinum, in my opinion, should be 'tabooed' by all American women who wish to see their country successful in this war and successful after the war in keeping its lead in the industrial and scientific developments. The opal has been considered unlucky. Accordingly, it carried in the feminine mind little value as a gem. I

believe that without ever using the phrase, the Women's League for the Conservation of Platinum has already begun to instill into the minds of American women what really 'bad taste' it is to wear a metal that looks like lead in rings, bracelets, etc., simply on account of its high price. I also believe that the 'slacker wedding ring' made of platinum will soon be a thing of the past.

"It is perhaps not realized by the public that platinum is necessary in the production of nitric and sulphuric acid, the essential in all explosives.

"It is absolutely essential in the manufacture of special pyrometer, and no gun can be made without the use of a pyrometer.

"Some necessary signal instruments are dumb without platinum.

"Platinum is essential in the composition of certain delicate gun mechanisms.

"The rapidly growing chemical industries, engaged in war work, need platinum in their laboratories.

"Platinum is required in the new plants the Government is erecting with such feverish haste for the manufacture of nitrates from the air, these nitrates being needed for fertilizers and munitions.

"Without platinum all experiments in gases would be greatly handicapped.

"The so-called platinum used in electrical work is like the jewelers' platinum, an alloy of platinum and iridium, but with the difference that the proportion of iridium is ordinarily greater in electrical platinum than in jewelers' platinum, and for some work may be as high as 50 per cent. Unless one is informed he does not realize that each telephone and telegraph instrument has platinum contacts, that every high-grade magneto for aeroplane, automobile, motor boat, or gas engine has from two to six contacts of platinum, and that the multitude of contacts on the telephone switchboard, on the relay instruments of both the telephone and telegraph lines are of platinum.

"There are a large number of different kinds of electrical control systems in which platinum is used, one of the most important of which are the thermocouples for the electrical control of heat in furnaces and ovens for a variety of purposes. While the actual quantity of platinum in any single piece of electrical equipment is very small and its value almost negligible in comparison to the value of the whole instrument, yet the great number of these instruments, which have been and are being made for the Government work, calls for an unbelievably large quantity of platinum and iridium for their construction."

The marvelous ductility of platinum, one of the elements that make it so necessary in industrial work, is better conceived when it is considered that out of a single troy ounce of the metal it is possible to make almost infinitely slender wire that would reach about 1,800 miles. To draw out platinum into so extremely a fine wire it is covered with a thin layer of gold. This new wire is drawn to the thinness of the former one, and the gold is dissolved away. A small section of this second wire is then given a coating of gold, redrawn, and the gold covering dissolved. After this process has been several times repeated the wire, finally secured, is still intact but virtually invisible.

Mr. MOORE. Turn to page 5 and read that sentence there. I will read it from my copy if you can't find it. "Rapidly growing chemical industries for use in war work need platinum in their laboratories." Now I want to ask you this, we have made a very large appropriation for Mr. George Creel, Director General of Publicity for the Government. Do you know whether any of the money we have appropriated to Mr. Creel went into the issuance of this document or like documents to go out from the Bureau of Mines?

Mr. ROTHSCHILD. I don't know.

Mr. MOORE. The Bureau of Mines wanted \$50,000,000 to prospect for ores in the United States. They came into Congress a short while ago and as Mr. Garner very properly said, they didn't get \$50,000,000; they got ten; that is, as the bill stands now. Do you know whether or not their purpose in asking for that sum of money was to undermine the jewelry business or any other business?

Mr. ROTHSCHILD. I have no knowledge on that point.

Mr. MOORE. Do you think it is proper for any committee or any department of the Government to apply money appropriated in any way to a propaganda for undermining any industry in the

United States, or to apply it to propaganda for building up such an idea?

Mr. ROTHSCHILD. I would like to state I do not believe it proper for any bureau or official to undermine or attempt to injure any business in the United States.

Mr. MOORE. Having this article for publication of June 16 in hand, would you say that this society, if it shall be organized, if the patriotic societies were carried out to their ultimate end, they would not affect the jewelry business?

Mr. ROTHSCHILD. They would affect the jewelry business very seriously.

Mr. MOORE. Suppose the purpose herein indicated, which is to prevent the use of platinum in jewelry, or effectuate it, through letters coming into Congress from patriotic societies urged to act everywhere, would they be able to get much revenue from the jewelry business from the plans adopted?

Mr. ROTHSCHILD. You wouldn't get any revenue from the platinum jewelry, and as that is the principal jewelry in the hands of high-grade jewelers you would probably get very little.

Mr. MOORE. We would probably lose revenue by it, wouldn't we?

Mr. ROTHSCHILD. Undoubtedly.

Mr. MOORE. And we would lose revenue because one of the departments of the Government was engaging in a course of action that would take revenue away from the Government and undermine the business; is that a fair statement?

Mr. ROTHSCHILD. That is undoubtedly a fair statement.

Mr. MOORE. You are assisting the War Trade Board in its work?

Mr. ROTHSCHILD. Yes, sir.

Mr. MOORE. You have been invited to cooperate with that board as I understand it, at \$1 a year?

Mr. ROTHSCHILD. Yes, sir.

Mr. MOORE. You suggested, taking the statement you previously made, that every effort was made as suggested before the commandeering order, I understand, to obtain a supply of platinum from Russia before Germany got a hold there. Is that correct?

Mr. ROTHSCHILD. The suggestion to obtain a supply of platinum from Russia was made at a conference which was held in Dr. Boyett's office, who was the immediate chief of Prof. James Louis Howe, at which conference Mr. Hill, of the Department of the Interior, the Geological Survey, and Dr. Hildebrand, were present, and at that conference I very strongly urged that the supply of platinum be obtained from Russia rather than through England, because in those days it was suggested England had the facilities for buying it and our going in to buy it would disturb the price. I suggested it about the time we got in direct commercial touch with Russia. We expected to do a great deal of business with her in the future; we were lending her money, that while the platinum was not a very large business in itself, I thought it was a very good thing for Americans to do everything they could to build up trade direct with Russia; that if we looked to England to buy it or attempt to buy it from Russia, it might result in a virtual monopoly by some of our allies after the war, and I didn't think that was good business.

Mr. MOORE. About what time was that?

Mr. ROTHSCHILD. I haven't the date here, but I should say some-time in October.

Mr. MOORE. Of last year?

Mr. ROTHSCHILD. Yes, sir.

Mr. MOORE. The Russian Government was still intact at that time, wasn't it?

Mr. ROTHSCHILD. I assume it was so, because if it had not been I wouldn't have made the statement at the time.

Mr. MOORE. The suggestion was made at a time when it was possible to go to Russia and get platinum?

Mr. ROTHSCHILD. Yes, sir. It was at such a time.

Mr. MOORE. We could have gotten platinum at that time from Russia had we made an effort to get it?

Mr. ROTHSCHILD. I was not certain.

Mr. MOORE. Let us be sure it was before Germany had such a stronghold on Russia that we could not get in there to get the platinum.

Mr. ROTHSCHILD. I can tell you in a minute. I have the date here I believe. I have a report here dated October 4, which is the report by Mr. Howe to Dr. Boyett, recommending that 30,000 ounces, and preferably 50,000 troy ounces of platinum be purchased. That was made before the meeting, so it must have been made in—

Mr. MOORE (interposing). Who was that made to?

Mr. ROTHSCHILD. To Dr. Balston T. Boyett, chairman of the national research council.

Mr. MOORE. Chairman of the national research council of what?

Mr. ROTHSCHILD. I suppose of the Council of National Defense. That report was made by Dr. James Louis Howe.

Mr. MOORE. And Russia was still an open trade country so far as this is concerned?

Mr. ROTHSCHILD. I suppose that was so.

Mr. MOORE. We did not buy that 30,000 ounces?

Mr. ROTHSCHILD. I couldn't tell you.

Mr. MOORE. When did that commandeering order come on?

Mr. ROTHSCHILD. I think it was in February, 1918.

Mr. MOORE. Between October and whenever the Russian Government fell we had opportunities to get these 30,000 ounces, or whatever was necessary for war purposes in the United States, and we did not get it.

Mr. ROTHSCHILD. In answer to that I will say that Dr. Howe did not recommend we get it from Russia. He recommended we get 30,000 ounces as soon as possible. My recommendation before that was that we get it from Russia.

Mr. MOORE. The action was not taken?

Mr. STEELE. May I say that Mr. Larder and myself were also present at this conference, and the statement was made that 108,000 ounces were available in Russia, of which England proposed to take 60,000, and the discussion arose that if we were to take the other as to how it could be brought to this country, and we finally decided the only available method to bring it was toward the east through the Pacific, just as this 21,000 ounces were brought a few weeks later.

Mr. MOORE. Do you know whether or not they got the 60,000 ounces?

Mr. STEELE. I presume they did, because Mr. Draper, who brought the 21,000 ounces over, stated yesterday that there was still in Petrograd the same amount as he brought over, which he offered to secure, but which he said he could not bring here for under \$100 an ounce.

Mr. MOORE. Up to that I do not see how any blame could rest on the jewelry dealers of the United States. England knew that there was a supply in Russia, and although we didn't get it, a recommendation was made that we should get it.

Mr. ROTHSCHILD. I find here a formal recommendation sent to me to sign. In section 6 Prof. Howe says:

There appears in Petrograd and Catrinburg a considerable stock, perhaps 50,000 ounces, which is undoubtedly purchasable by the United States Government.

Prof. Howe has been, I presume, the best posted man with the platinum industry in Washington or elsewhere. He had access to all of the reports in the various bureaus and everywhere.

Mr. MOORE. And instead of going after that 30,000 ounces which we could buy over there, apparently we were more anxious to get \$50,000,000 appropriated to prospect in the United States?

Mr. ROTHSCHILD. I would like to say I have no knowledge whatever of what action was taken on these recommendations. The only thing I know is that nothing was done because no platinum came over except the 21,000 ounces by this group of engineers.

Mr. MOORE. Was there any intimation by the Government authorities that you knew, or the gentlemen who interviewed you, that it would be necessary to sit down on the industry of platinum prior to commandeering it?

Mr. ROTHSCHILD. I was not in touch with the War Industries Board just prior to the commandeering order. Mr. Steele, of the war service committee, was. I can't answer that question.

Mr. MOORE. The fact is you got the commandeering order?

Mr. ROTHSCHILD. The jewelers got the commandeering order in February.

Mr. MOORE. Had you any instructions from the Government agencies up to that time that there was going to be such shortage of platinum as to justify the propaganda that women should give up their jewelry to be used by the Government if they were loyal?

Mr. ROTHSCHILD. I know it would not be necessary. But there was no suggestion of any propaganda.

Mr. MOORE. There was a good Government reason for issuing the commandeering order, I presume, in February?

Mr. ROTHSCHILD. The people who issued that order have not been engaged in propaganda.

Mr. MOORE. They issued that order for the purpose of checking up the supply and forcing a safeguard to the United States against a famine?

Mr. ROTHSCHILD. Undoubtedly.

Mr. MOORE. And to checkmate that commandeering order after the failure or neglect of the available opportunity to get a supply in Russia, that the Government didn't go after; is that correct?

Mr. ROTHSCHILD. That is my opinion.

Mr. MOORE. Then the burden fell back upon the jewelers of the United States; is that correct?

Mr. ROTHSCHILD. I think that is my conclusion

Mr. MOORE. Now, Mr. Rothschild, I don't know how much we got out of the jewelry business last year in taxes, but you are, as you said awhile ago, jumbled up here with automobiles, motorcycles, and so on. Could you tell about what the returns were on the 3 per cent tax?

Mr. ROTHSCHILD. I haven't the slightest idea.

Mr. MOORE. Will you make a statement to the committee as to those things dispensed by jewelers that have not been covered by the definition of jewelry as drafted in the act?

Mr. ROTHSCHILD. Silverware, silver plate ware, clocks, fine leather goods. Some jewelers carry so many lines.

Mr. MOORE. If we should extend the term jewelry to include those in some way or other, to what extent do you think the revenue would be increased? Would it be doubled?

Mr. ROTHSCHILD. At the same rate?

Mr. MOORE. Yes.

Mr. ROTHSCHILD. No; I do not think so.

Mr. MOORE. Then those goods that have been excluded from the definition are not the major portion of the goods sold by jewelers? They are the minor part?

Mr. ROTHSCHILD. Yes.

Mr. MOORE. You will join Mr. Steele and the other members in the preparation of that amendment making the term jewelry include other articles not now mentioned?

Mr. ROTHSCHILD. That would be very difficult. I suggest that we have this law so framed as to use the French method, or adopt the French method, giving the Treasury Department power to designate the articles to be taxed and appointing a committee of Treasury officials and different groups in order to designate the different articles. To tax the jeweler for everything he sells would be all right if it was not possible for the person to go to somebody else who sells the same article and did not have to pay a tax. You can't very well call a silk umbrella jewelry.

Mr. MOORE. You would be very glad to help the committee?

Mr. ROTHSCHILD. I would suggest the French method. They had a commission on luxuries and semiluxuries and the law was fixed that a final statement by this commission shall be the law on which the tax is made.

Mr. MOORE. Will you accept the boot to define the term jewelry?

Mr. FORDNEY. To put a tax on everything a jeweler sells—he sells fancy glassware and chinaware and leather goods?

Mr. ROTHSCHILD. And writing paper. The tax should be on the article.

Mr. MOORE. Have you conferred at all with the revenue collector?

Mr. ROTHSCHILD. No; I have not.

Mr. MOORE. I mean the trade?

Mr. ROTHSCHILD. I am quite sure the trade has not, because I am chairman of the revenue committee.

Mr. MOORE. The question has got to be faced and it would just as well be begun here. I thought possibly some of you gentlemen had discussed it with the revenue collector?

Mr. ROTHSCHILD. The English are handling their tax on luxuries, or commodities tax in practically the same way except they have a special committee of members of Parliament designating the articles by name; and I think in order to avoid the endless confusion in the



levy of the tax it should be made to apply to the article when sold by a hardware store or jeweler or anywhere else.

Mr. MOORE. Inasmuch as you are thrown generally with the public, in the luxury classes, will you define the word luxury as you understand it for the purpose of taxation? What about a watch?

Mr. ROTHSCHILD. An engineer is obliged to carry a watch that will run very closely, which is adjusted to a certain number of positions, and his job practically depends—perhaps the lives of his passengers depend—upon the action of that watch.

Mr. GARNER. Mr. Rothschild has been compelled to qualify as one of the greatest experts ever before this committee.

Mr. ROTHSCHILD. May I make this statement there before we go further? One important question was asked here that could not be answered; that is, in regard to the English practice in the selling of platinum jewelry. I have here a letter from the secretary of the speaker of the House of Commons, who happens to be the president of the National Association of Goldsmiths. This letter is dated June 18, 1918. In answer to some questions which Mr. Lauder asked him he said:

No platinum has been allowed to be used in the trade for over three years. All stocks of unmanufactured metals having been required, but manufactured metals were allowed to be sold or remain in stock.

Then, on the question of taxation, this may interest you. He says, Meanwhile—

I suppose he means the jewelry business—

a system by which taxes could be collected from customers of all commodities is made on the gross sales.

Mr. GARNER. I understood from Mr. Steele, I will get it from you, the Government now does not permit jewelers to use platinum in the manufacture of jewelry. That is out of business and so far as this committee is concerned we have nothing to do with that. That is in the past. Of course Mr. Moore has filled up the record in his own way, very properly from his standpoint, with the administration trying to get platinum. I would like for you to answer a question, as an expert in trying to assist us in levying a tax against jewelry and incidentally, as I understand it, representing about 35,000 jewelers in this country, which you have had about 10 minutes on that to-day and about four hours on something else. Do you favor the system now in vogue or the system advocated by Mr. Steele of levying it on the ultimate consumer direct?

Mr. ROTHSCHILD. I favor levying a tax on the sale of the article to the consumer when sold to the consumer.

Mr. GARNER. The Treasury can't determine anything except what this committee writes into the law. For instance, the articles to be taxed under the system you suggest must be enumerated in this bill in order for the Treasury Department to administer that law. We can't adopt the French system you suggest. What per cent, and I wish you would go as briefly as you can into detail, showing the per cent and no higher per cent, that can be levied on the ultimate consumer? For instance, the Treasury Department according to newspaper reports has suggested 50 per cent on jewelry, those articles to be enumerated, whatever they shall be. Some have said that is too high. I wish you would tell the committee what is the highest rate

you believe can be levied on the consumer without destroying the tax-producing power for next year out of the jewelry business.

Mr. ROTHSCHILD. I should say roughly, 10 per cent would not be considered a burden by the purchaser of any luxury or so-called semiluxury. It is possible a very much larger percentage could be levied and would not be considered a burden in many cases, but a feeling that the article is temporarily advanced so much in price because of the tax would have a very serious effect on the sales and if the sales drop off to any considerable amount the jeweler would be practically put out of business because these retail jewelers, these 30,000, and many of the wholesalers, have such a heavy overhead expense that unless they do a certain amount of business they make a loss. If you were to cut off one-third of the business as you suggested this morning and still get your full taxes or as much in taxes, that would be all right, but you would kill the retailer in doing it. If the retailer lost one-third of his business, many of them would go to the wall, because the retailer's overhead is so heavy he has to charge a very large percentage of his profit on most of his sales, especially on the sale of stuff very costly and goods that move slowly. That is one reason why the Government is going to get a very much larger revenue when they tax sales by the retailer and in some cases the expenses are so large I don't care to say in the record how large they are. They are idiotically large, because the average retail jeweler who may be considered by the public as a rich man because he is dealing in jewelry, his sales are small because of overhead expenses.

Mr. GARNER. Suppose this war should continue for five years, let's take the theory of taxation, and you should discontinue the jewelry sales of one-third of the jewelers in the United States, two-thirds of them should continue in business and you would get the same amount of tax as if they all stayed in business. Why would not that be a good economic problem for this Government? Assuming as some men have assumed that the jewelry trade is not essential for this war, therefore if we discontinue one-third of the jewelry trade of the country and continue two-thirds of it by taxation and out of the two-thirds we get twice as much revenue as if we continued the old system?

Mr. ROTHSCHILD. Briefly stated I should think it would be a suicidal policy on the part of the Government. I believe in a policy where you can say in event that one-third of a merchant class of 30,000 people on whom probably 100,000 people are depending is put out of business, is suicidal, is wrong.

Mr. GARNER. I am glad to hear you say that.

Mr. FORDNEY. Can you conceive of any law that will put one-third of the jewelers of this country out of this business that will not seriously cripple the other two-thirds?

Mr. ROTHSCHILD. Not only cripple the other two-thirds but would have a tendency seriously to cripple this Government in carrying on the war, any such unjust act.

Mr. GARNER. That is the reason I am drawing to your attention the importance of your organization assisting this committee in getting the right tax and if you don't do it and we levy 50 per cent and put half of you out of business, we are going to arrive at the same results you have suggested as suicidal and unless your organization

assists us, and you want to try to get the highest rate so that we may take your statement at 100 per cent and so that they won't say we recommended it at 10 per cent and they split it, put it 25 or 30 per cent and so on. I simply bring that out so as to show you the importance of your committee assisting this committee to get the greatest amount of revenue into the Treasury.

Mr. ROTHSCHILD. For the committee and for the trade I pledge every assistance.

Mr. GARNER. And see that you help this committee and help the Treasury get the greatest amount of revenue into the Treasury.

Mr. ROTHSCHILD. We believe it is going to be very serious for us to frame a law for ourselves. We believe that this bill can be framed so as to have a commodity clause with a commodity tax that will put a number of industries under it so that no one will be placed in a light as being so unnecessary that it will injure the business, and when you do that you don't get the tax.

Mr. GARNER. Any kind of tax that brings the most revenue into the Treasury will be a burden to the business to that extent.

Mr. ROTHSCHILD. I think that anybody who is able to buy jewelry is willing to pay a tax, but we want the tax based on automobiles and everything as before.

Mr. RAINEY (presiding). As stated in this interview with the officials of the Bureau of Mines to which Mr. Moore and yourself referred, it is true that the chemical industry engaged in war work needs platinum.

Mr. ROTHSCHILD. I don't know it.

Mr. RAINEY. You don't know that?

Mr. ROTHSCHILD. I do not.

Mr. RAINEY. Don't they have to have platinum?

Mr. ROTHSCHILD. They need it. I mean in the sense that they need platinum they can not get. They certainly need it; lots of it.

Mr. RAINEY. Do you think there is any harm in trying to conserve platinum so it can be used for our war industries?

Mr. ROTHSCHILD. A fine public work.

Mr. RAINEY. It is the same kind of work our Government is doing when it conserves sugar or when it conserves flour?

Mr. ROTHSCHILD. It is the method we object to, and not the policy of conservation.

Mr. RAINEY. The difference between the chemist and you is this, the chemist wants to use platinum for war work, and you want to use it for jewelry?

Mr. ROTHSCHILD. We do not want to use it for jewelry.

Mr. RAINEY. Your controversy with the chemists commenced a year ago and was carried through Secretary Redfield, and the question then was between you and the chemists—

Mr. ROTHSCHILD (interposing). On the question of price, and I think they have been the malign influence that has prevented platinum from being brought into this country in large quantities, on the question of price.

(Thereupon, the committee at 6 o'clock adjourned until Thursday, at 10 o'clock a. m.)

# REVENUE BILL

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No. 23

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## HEARINGS

BEFORE THE

## COMMITTEE ON WAYS AND MEANS

HOUSE OF REPRESENTATIVES

WITH REFERENCE TO

## THE NEW REVENUE BILL

[THIS PRINT OF THE HEARINGS IS SUBJECT TO REVISION  
BEFORE THE FINAL PRINT]

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JULY 11, 1918



WASHINGTON  
GOVERNMENT PRINTING OFFICE  
1918

COMMITTEE ON WAYS AND MEANS.

HOUSE OF REPRESENTATIVES.

SIXTY-FIFTH CONGRESS, SECOND SESSION.

CLAUDE KITCHIN, North Carolina, *Chairman.*

HENRY T. RAINEY, Illinois.	JOSEPH W. FORDNEY, Michigan.
LINCOLN DIXON, Indiana.	J. HAMPTON MOORE, Pennsylvania.
CORDELL HULL, Tennessee.	WILLIAM R. GREEN, Iowa.
JOHN N. GARNER, Texas.	CHARLES H. SLOAN, Nebraska.
JAMES W. COLLIER, Mississippi.	NICHOLAS LONGWORTH, Ohio.
CLEMENT C. DICKINSON, Missouri.	GEORGE W. FAIRCHILD, New York.
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GEORGE F. O'SHAUNESSY, Rhode Island.	ALLEN T. TREADWAY, Massachusetts.
JOHN F. CAREW, New York.	
GEORGE WHITE, Ohio.	

JOHN E. WALKER, *Clerk.*

# REVENUE BILL.

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON WAYS AND MEANS,  
*Thursday, July 11, 1918.*

The committee met at 10 o'clock a. m., Hon. Claude Kitchin (chairman) presiding.

There were also present Representatives Rainey, Dixon, Hull, Garner, Collier, Dickinson, Oldfield, Crisp, Fordney, Moore, Longworth, Fairchild, Sterling, Martin, and Hawley.

## STATEMENT OF MR. CHARLES H. HERTY, OF NEW YORK CITY.

The CHAIRMAN. Doctor, give your full name and address and whom you represent.

Mr. HERTY. Charles H. Herty. I am the editor of the Journal of Industrial and Engineering Chemistry, the official organ of the American Chemical Society.

Mr. Chairman, it was not my purpose to participate in these proceedings when I came down from New York. I came down as an interested listener, but there were a number of developments during the course of yesterday's hearing that led me to believe that for the clearness of the record and the completeness of the issue I should add something to help to clarify the situation. I was courteously given yesterday a copy of Mr. Rothschild's brief, and I want to call attention to certain things in it which have given, or I think tend to give, a wrong impression, and I think this is a very bad time for a wrong impression to come into a situation of this kind, because this is a matter which directly affects the matter of our winning this war, and every good citizen of this country ought to feel disposed to get together and to keep the issue straight and to do whatever is best for the interests of this country, and for that alone.

We talked a good deal yesterday about the question of propaganda carried on by the American Chemical Society. To bear that out I want to call attention to two statements, one on page 7 of Mr. Rothschild's brief, where he speaks of the propaganda of a small group of chemists. That is also referred to again on pages 16 and 17 as "an unfair and misleading propaganda which was started by some member of the American Chemical Society soon after we entered the war."

Mr. Chairman, I would like to put in the record—unfortunately I did not bring any papers with me, because I did not expect to speak here, but I have gotten a copy of our Journal and had this copied from it, and if you desire it I shall file later with the clerk a copy of the Journal itself.

The CHAIRMAN. Just as you see fit about it.

Mr. HERTY. In fact, when Mr. Longworth comes in he has a copy of the Journal this is quoted from. I want to say, Mr. Chairman,

that we were in session in Kansas City just after war was declared, and on June 11 the following resolution was introduced at the council of the American Chemical Society, discussed by them, adopted unanimously, and on the following day was unanimously passed at an open, general meeting of the American Chemical Society:

*Resolved*, That the attention of the Council of National Defense be called to the scarcity of platinum under existing conditions and to the great need of the metal, more particularly in the prosecution of the war. We hold that its use at this time in the production of articles of ornament is contrary to public welfare. Therefore we recommend that an appeal be made to the women of the United States to discourage the use of platinum in jewelry, and that all citizens be urged to avoid its use for jewelry, for photographic paper, and for any other purpose whatever save in scientific research and in the making of articles for industrial needs.

Now, Mr. Chairman, that is not a movement started by a small group of chemists. That represents the unanimous vote of the members of an organization which embraces now some 12,000 and at that time 10,000 chemists from every section of the country, adopted after due consideration, and published in the official organ of that association.

I want now to take up another feature, and I wish some of our friends, the jewelers, were here this morning, because there are certain features of this which I think they do not understand, and that is the scientific-research part. I want to show the difference between the interest of the chemists of the country in this matter of platinum and the interest of any other body of men.

The men who are engaged in scientific research are university professors. The price of platinum does not affect them personally one particle. Their platinum is bought for them by their universities. They have given to them a certain amount of money as a budget by their university authorities. They buy their supplies out of that. When platinum is scarce and the price goes up for any reason their budget is hit just that much, so that the question of getting supplies of platinum for scientific research, from the chemist's standpoint, does not involve in any wise whatever his personal finances, but simply involves the question of his ability to carry on his work under the best conditions. In the industries, on the other hand, it is another matter. The great bulk of the platinum in the chemical industries is used in making those two most essential things in modern warfare, sulphuric acid and nitric acid, and that is where the bulk of the platinum goes.

A good deal was said yesterday about the propaganda carried on by the Women's National League for the Conservation of Platinum. It was read into the record yesterday that the American Chemical Society organized that league. Mr. Rothschild's statement is that it was initiated by the Chemical Society. I think the statement in his brief is a fairer statement than the statements that were used incidentally during the discussion. It was initiated by the American Chemical Society in that very resolution which I have read, urging and calling upon the women of the country to discourage the use of platinum in jewelry on account of its need in scientific research and for war purposes.

The statement was made further that a \$2,500 appropriation had been made by the American Chemical Society to support the propaganda carried on by these ladies. I wish to put in the record

here, sir, that every particle of the work those ladies have carried on, every letter they have written, every stamp they have used, every piece of stationery those ladies have used in their campaign has been paid by themselves. Not one cent of the American Chemical Society's money has been paid to aid these ladies in this campaign. That is simply to make the record clear from that standpoint, but I want to add this statement, that I am free to say myself, as a member of the American Chemical Society, I think it is a shame that the society has not aided financially these ladies in this praiseworthy undertaking to arouse this Nation to the question of the scarcity of platinum which confronts it at a time when we are expanding our armies and engaged in a war, and knowing that we are contracting our platinum supplies.

I am not trying to make this logical in the sense of a prepared address, but am simply taking it up in the order in which these statements appear.

A good deal of stress was laid yesterday upon a letter from Prof. James Lewis Howe, which is on pages 10, 11, and 12 of the brief, and it was mentioned in there that it was published in the Journal of Industrial and Engineering Chemistry, of which I am the editor. I want to say in this connection that so far as the mention of its occurrence there is concerned, that that journal is freely open to the opinions of any reputable chemist in this country who wants to publish his views about any matter; but that in the same number in which this appeared I editorially took issue with Dr. Howe upon this matter, and stated that in the midst of all this trouble he was giving the stock arguments of the jewelers about this situation. Unfortunately, I have not that copy of the journal with me, so that I can give you the exact words, but it was printed in the same issue in which the article appeared. In other words, I did not by publishing that letter indorse the statements of Dr. Howe in any wise, but simply said that he was giving the stock arguments of the jewelers.

In the next place, on page 13 of Mr. Rothschild's statement, he speaks of the 25 per cent of platinum that was allowed from the supplies turned over by the War Industries Board at the time of the last commandeering order. He says that most of this platinum probably has been used for special orders, and as the jewelers can not buy platinum to-day from any source whatever without holding it for Government use, it is fair to state that very little platinum is now being used in the manufacture of jewelry. I think it would be well to keep that situation clear. I understand that approximately 1,400 jewelers have been so commandeered. The commandeering orders apply only to such jewelers as have been commandeered, so that there are a great number of jewelers in this country to-day who are free to deal in platinum, if they can get it from any source whatever, buy it, sell it, and it is not against the law.

Mr. FORDNEY. And use it?

Mr. HERTY. And use it.

Mr. FORDNEY. He says not.

Mr. HERTY. I know, but I think that statement can be confirmed from the War Industries Board.

Mr. HAWLEY. Did not the last commandeering order affect all persons in the jewelry trade who had platinum?

Mr. HERTY. No, sir.



Mr. HAWLEY (continuing). And held it in stock in every section of the country.

Mr. HERTY. No, sir; it affected only such as had specific, individual commandeering orders forwarded to them by the War Industries Board. It seems that the War Department will not grant a general commandeering order; it has to be specific.

Mr. HAWLEY. I got the idea yesterday, probably an erroneous idea, that the first order was directed specifically to a certain number of people?

Mr. HERTY. The first order was directed to the importers and refiners, and the last order included the manufacturing jewelers who had not been included in the first, but in the application of that order only such were affected as those to whom individual commandeering orders were sent by the War Industries Board. The number totaled only about 1,400.

Mr. HAWLEY. Did your organization take any action regarding the platinum that was manufactured into jewelry in some form?

Mr. HERTY. This was the action which I read.

Mr. HAWLEY. I heard that.

Mr. HERTY. This is the only action that we have taken officially.

Mr. HAWLEY. Was there any action taken regarding the platinum that had been manufactured into jewelry?

Mr. HERTY. No, we recommended "that an appeal be made to the women of the United States to discourage the use of platinum in jewelry and that all citizens be urged to avoid its use for jewelry." That was the only official action taken on the subject.

Mr. RAINEY. No commandeering order has yet reached the scrap platinum in the hands of the Hebrew dealers?

Mr. HERTY. No, sir. I understand that many are disposing of their scrap platinum at from \$150 to \$200 an ounce.

Mr. RAINEY. There has been no commandeering or any other order made, unless the Bureau of Mines can control it, which will keep the manufacturing jewelers from getting their supplies from Hebrews who deal in scrap platinum?

Mr. HERTY. No, sir.

Mr. RAINEY. Then, they can continue manufacturing jewelry indefinitely by buying the scrap platinum from the Hebrew dealers?

Mr. HERTY. Any jeweler who has not been commandeered. I do not think, as I understand the situation, that a jeweler whose entire stock of unmanufactured platinum has been commandeered can buy it and use it.

Mr. OLDFIELD. Could not the War Department issue an order commandeering it?

Mr. HERTY. I was amazed when I found out the situation. I thought the Government had the right under the circumstances to say that the sale of platinum should stop. No man can sell a piece of platinum until a license is issued.

Mr. OLDFIELD. It seems to me they should know the situation as well as anybody else.

Mr. HERTY. They will not issue anything except an individual commandeering order. They have to get from the War Department itself a commandeering order on unmanufactured platinum.

Mr. FORDNEY. A gentleman told us yesterday that platinum is not used for the manufacture of jewelry at all now. Mr. Rothschild

said that one particular firm in New York had the absolute control of the purchase of crude platinum. What truth is there in that?

Mr. HERTY. I never heard of that.

Mr. LONGWORTH. I do not think that Mr. Rothschild said that.

Mr. FORDNEY. I may be mistaken, but my recollection is that Mr. Rothschild named the firm that had control of the platinum in New York.

Mr. LONGWORTH. The jewelers' war service committee has been designated as recipient for platinum of not less than 3 ounces in amount.

Mr. FORDNEY. He said that the jewelers had not been using platinum at all in the manufacture of jewelry. What have you to say about that, is he right or wrong in his statement when he says that the jewelers are not using platinum at all, and are not permitted to use it?

Mr. HERTY. I can not say.

Mr. FORDNEY. I am speaking now of crude platinum.

Mr. HERTY. I am not sufficiently in touch with what the jewelers are doing; that is out of my line. If I have some platinum myself I can go and sell it to a jeweler who has not been commandeered and he can use it.

Mr. FORDNEY. What I am speaking of is crude platinum; he made a distinction.

Mr. HERTY. I have never had any platinum which I had commandeered.

Mr. FORDNEY. Are you a manufacturer of platinum?

Mr. HERTY. No, sir.

Mr. FORDNEY. Do you manufacture jewelry?

Mr. HERTY. No, sir.

Mr. FORDNEY. Why should you be commandeered?

Mr. HERTY. I am a chemist and I have owned platinum in the past.

Mr. FORDNEY. Those gentlemen were speaking of the jewelry trade, and they did not mention what your rights were, but what their rights were, because the statement yesterday was about their rights under existing rules and regulations of commandeering orders.

Mr. HERTY. Everyone who has been commandeered, his rights—

Mr. FORDNEY (interposing). If they are using platinum they are using it contrary to that commandeering order!

Mr. HERTY. No; because they may have some of the 25 per cent left.

Mr. FORDNEY. I am speaking of that which has been commandeered; he says they are not using any at all in the manufacture of jewelry, and I should like to know whether you think that statement is correct?

Mr. HERTY. I do not know.

Mr. FORDNEY. I understood you to intimate that the statement was not correct.

Mr. HERTY. His statement was that very little platinum is now being used in the manufacture of jewelry.

Mr. FORDNEY. You do not know whether that statement applies to the platinum commandeered, or to the whole jewelry industry of the country?

Mr. HERTY. No. I do not know.

Mr. MOORE. You are still president of the American Chemical Society?

Mr. HERTY. No, sir.

Mr. MOORE. You are editor of the Journal of Industrial and Engineering Chemistry, to which reference has been made and from which Mr. Rainey and others have quoted?

Mr. HERTY. Yes, sir.

Mr. MOORE. Were you the author of the article in the June, 1918, number, entitled "The great gamble"?

Mr. HERTY. I was.

Mr. MOORE. In that article you argue very strongly against any stock argument of the jewelers and make a number of quotations from letters which you received in answer to a letter sent out by you stating that the jewelers were making an unfair use of platinum at this time. Do you recall that article?

Mr. HERTY. Yes, sir; I have it before me.

Mr. MOORE. In that article, on page 428 of the Journal, after referring to the necessity for winning the war, and that our Army may be increased to 5,000,000 men, and that the jewelers will seriously impede our progress if they continue to sell the platinum they have on hand, you say:

But, it may be argued, platinum was commandeered on March 1, 1918. So it was; and on May 15 the press throughout the country carried the announcement that platinum had again been commandeered. Why this duplication of commandeering orders. The answer is simple. In the preparation of the original order some one blundered in two regards—first, in failing to include iridium within the scope of the order; second, in assuming that manufacturing jewelers would comply with the spirit and intent of the order and hold hands off, which some did not, as set forth by excerpts from the jewelers' own publications in the May issue of this journal, in an editorial entitled "Platinum scraps."

A little further on in this same article, after you commend the Womans' National League for the Conservation of Platinum, under the able and fearless leadership of its chairman, Mrs. Ellwood B. Spear, of Cambridge, Mass., you conclude as follows:

Thus is begun the great gamble, under official authorization—

Which I take it to mean the authorization of the War Industries Board, which is the governmental body which has control of the distribution of platinum—

Between the paltry profits of the jewelers and the limitation of the number of men in our Army—unless some of the future drafts fight without ammunition and without supporting artillery, depending for their offense and defense upon the bayonet alone.

In all fairness, do you really think that the platinum situation is so serious that it would affect our Army of 5,000,000 men in view of the statements made by the jewelers here yesterday that their stock had been commandeered and that they were ready to deliver up anything that the Government would take and that they asked only for the right to sell that platinum which had already been manufactured and which the Government apparently did not want?

Mr. HERTY. That brings up, Mr. Moore, two points.

Mr. MOORE. We know you so well in this committee and esteem you so highly that I want to ask you if you consider the platinum situation so serious?

Mr. HERTY. I believe every word I wrote there. There is only one thing. When I spoke of the commandeering order, I thought it was a general thing. I have learned that it was a specific thing and that we have not any general commandeering order. The first part

of that article is a quotation from the President's speech in the New York Times, "Why limit it to five million?" Since that time Congress has granted him authority to indefinitely expand the Army. Secretary Daniels said in New York a few nights ago, "We will put 10,000,000 men in Germany, and 100,000,000 if needed." We are faced with the fact that Russia is shut off and that we have only a limited supply here and we are using that daily.

Mr. MOORE. In this same article you say that some one blundered in not making the commandeering order sufficiently drastic?

Mr. HERTY. Because the first commandeering order was so issued. I can not give you the figures. The order did not include scrap platinum, but it has since been put in; that is, scrap platinum which has not been manufactured.

Mr. RAINEY. I want to read an excerpt from a pamphlet which has been issued from the Department of the Interior, the United States Geological Survey, by Mr. James M. Hill, who is the statistician in charge of platinum, as I understand it. I want Mr. Moore to listen to this. This is the last expression from this department of the Government on the subject and confirms what Dr. Herty has said in the editorial to which you call attention.

During the war the United States has not been receiving so much platinum as is normally consumed here. New industries and machines that require platinum have been built at a much faster rate, the stock of platinum metals available for use during 1918 is evidently small and is constantly growing smaller.

The available supply of platinum metals can be increased somewhat by establishing a stable market at prices high enough to induce miners to save platinum and to stimulate imports of the metal—a step that has been taken by fixing the maximum price at which metal can be imported at \$105. The other means available is to husband the present supply of platinum metals. The supply is so short and the demand for essential war industries is so great that it may become necessary to commandeer stocks of partly manufactured platinum jewelry to meet the demand, though it is hoped that judicious administration of the metals already commandeered may obviate the necessity of such drastic action.

I read that because it made its appearance after your editorial and confirms the opinion you expressed in that editorial.

Mr. MOORE. I think no one disputes the necessity for platinum, but Congress has been making appropriations to the very limit of the demands of the departments for every resource required by the Government to prosecute this war, and it does seem, in view of the apparent dispute between the American Chemical Society and the jewelers, because that is as plain as the nose on your face, judging from the editorials in both their journals and their testimony here, it does seem as if we were fighting over straws when you bear in mind the great work that the Government has to do and the fact that Congress has done everything in the way of taxing people to raise money to permit the Government to get what it needs, and it was shown here yesterday that prior to this commandeering order we had an opportunity to get all the platinum from Russia that we needed and did not move while England stepped in and got what she needed, while England is an ally of ours and certainly could help us if she chose.

Mr. RAINEY. In reply I will say as to the controversy between the chemists and the jewelers that the chemists want to conserve platinum for war purposes and the jewelers want to use platinum for the purpose of making jewelry.

Mr. MOORE. The jewelers distinctly denied that yesterday. They want to dispose only of that which they have manufactured.

Mr. RAINEY. But they appeared before the Secretary of Commerce and induced him to write that letter which had the effect of permitting the manufacture of jewelry until the——

Mr. MOORE (interposing). No; the Secretary wrote that letter before this present controversy arose.

Mr. RAINEY. Which appeared exceedingly unwise on the part of the Secretary of Commerce and his advisers, and his advisers were the jewelers.

Mr. HERTY. May I answer Mr. Moore's question? I want to throw any light that I can on this matter. Mr. Moore asked me two questions. I do not know anything about this question of the platinum in Russia, and before I had any information——

Mr. MOORE (interposing). I should think having been at this conference you would know something about it, because your article shows that you were one of those that conferred with Dr. Manning and other celebrities.

Mr. HERTY. At which the subject of platinum was not discussed.

Mr. MOORE. You mean to say now that you know nothing about the world situation?

Mr. HERTY. I learned more about it yesterday, about this platinum in Russia, than I ever knew.

Mr. MOORE. I want you to think over that statement. Having started to encourage the women of the country to organize and prevent the sale of platinum jewelry, you now say that you do not know anything about the world conditions?

Mr. HERTY. About the extra 20,000 ounces. This gentleman got his information from the inside, the War Trade Board. I am not in the secrets of the War Trade Board.

Mr. MOORE. But in the article to which I have referred you have indicated that there is a shortage of platinum and that it involves the lives of 5,000,000 men.

Mr. HERTY. Undoubtedly.

Mr. MOORE. And yet you mean to say that you do not know what the world condition was in platinum?

Mr. HERTY. I had no knowledge of the platinum in Russia.

Mr. MOORE. You certainly knew that we got the bulk of the platinum from Russia?

Mr. HERTY. Undoubtedly; but do you think that I was to blame for not knowing what was taking place in the inside of Russia at that time?

Mr. MOORE. I do not know that anybody is. You are attempting to criticize the jewelers.

Mr. HERTY. For using platinum necessary for this Government?

Mr. MOORE. They have said that every ounce of platinum they have that is in crude form available for use by the Government is subject to use by the Government orders.

Mr. HERTY. Since this last commandeering order.

Mr. MOORE. And that such platinum as has been worked up into jewelry would be a dead horse on their hands which they could not sell, and if they could not sell it it would not bring any revenue to the Government, which is what this committee is after.

Mr. HERTY. You bring up a very interesting point, and that is one of the main things that led me to want to speak to you to-day. In the brief of Mr. Rothschild on yesterday he placed in the record a

letter which at the time I did not appreciate the complete significance of and so I will read that letter, because I do not know whether the members of the committee got the full import of that letter.

The CHAIRMAN. You may proceed.

Mr. HERTY (reading):

The first official request for platinum was received by the chairman of the platinum committee of the vigilance committee on January 22, 1918.

A number of days after the time of the Russian collapse, January 22, 1918.

This request, which was in the form of a letter from Mr. Waddill Catchings, chairman of the war service executive committee of the Chamber of Commerce of the United States, inclosed a letter from Mr. B. M. Baruch, chairman of the War Industries Board, which was as follows:

"Mr. WADDILL CATCHINGS.

*"United States Chamber of Commerce, Washington, D. C.*

"DEAR SIR: The shortage of platinum in the production of explosives is such that it is necessary for the Government to have command of every bit of platinum that can possibly be had.

"I wish you would express to the jewelry trade that it is the desire of the Government that no further use of platinum should be made in the manufacture of jewelry, and I should like to know where it is possible to obtain a supply of platinum.

"I should like to know how it would be possible to secure possession of all the platinum in the United States."

That letter is signed "Yours, very truly, B. M. Baruch," and it was written by Mr. Baruch as chairman of the War Industries Board. Now, let me go a little bit further. After stating that these communications were handed to a special subcommittee of the jewelers' vigilance committee, which had been conferring with Mr. Summers of the War Industries Board, he states that on January 25 the entire platinum matters were turned over to the jewelers' war service committee, and that the jewelers' war service committee called on Mr. Baruch and Mr. Summers in Washington and recommended that all the unmanufactured platinum held by jewelers be commandeered. That was an amazing statement. When I heard that statement yesterday I was amazed, and if that statement stands uncontradicted, then, in the next issue of my journal, I propose to give the jewelers credit for that fine stand.

Mr. MOORE. They said that that is what they stood for—to commandeer all the platinum.

Mr. HERTY (interposing). If it stands uncontradicted, we propose to give them credit for it.

Mr. MOORE. They said that that is what they said to them—to commandeer all the platinum, and not commandeer a part and leave the rest.

Mr. HERTY. If that statement is not contradicted by the War Industries Board, which is now handling this matter, I propose to give them a pat on the shoulder as heartily as I can. I think that was a fine stand for them to take.

Mr. RAINEY. I want to say that that statement surprised me very much, and I intend to bring it to the attention of the War Industries Board and ask them for their version of the statement. The idea that the jewelers have been self-sacrificing and have been demanding that the Government take over all of their platinum, while, at the same time, they have been manufacturing it as rapidly as possible—so rapidly that they admit that the one-fourth which was exempted

is now all manufactured—as I say, that statement is so incompatible with their own position in the matter and with the position that the War Industries Board took, that I am going to present the whole matter to the War Industries Board and ask them for a statement of the matter.

Mr. HERTY. Let me run over these points: First, it appears that Mr. Baruch says that the Government of the United States wants every bit of platinum, and he decries the use of it in jewelry. He says, "I should like to know how it would be possible to secure possession of all the platinum in the United States." Now, according to this statement they said that he could take it all. According to the statement here he could take it all. Then, according to Mr. Rothschild's statement, when the War Industries Board was informed of this recommendation that they could take every bit of platinum, the War Industries Board itself made the objection that they did not wish to disturb the jewelry industry to the extent of commandeering all the platinum and thereby throwing the platinum workers out of employment. Mr. Rothschild stated:

In the face of this objection, the jewelers' war service committee, without any definite knowledge of the actual requirements of the Government, was certainly justified in assuming that the 75 per cent commandeering order would suffice for the needs of the Government.

Now, all that I want to do is just to make my position clear, and to make it clear to Mr. Moore especially. All of that was news to me, and I was startled when I heard it yesterday. The chairman of the War Industries Board said that it was necessary for the Government to have command of every bit of platinum that could possibly be had, and the jewelers said, according to this statement, "take all of it." Then, according to this statement, the War Industries Board said, "No; we must not disturb the industry; you must have some platinum in spite of the war necessities."

Mr. FORDNEY. Who said that?

Mr. HERTY. Mr. Rothschild.

Mr. FORDNEY. He did not say that yesterday. He said, or those gentlemen who testified yesterday said, that they were ready to give up everything they had, manufactured or unmanufactured, but they said, "If you take away our manufactured platinum, we want you to pay the value of that property, or the value of the platinum that is connected with the jewelry." That is very valuable, and they did not want to give up the platinum that was manufactured without being paid for the loss that they would sustain. That was their statement. Now, the Government has the right to commandeer all of the platinum in the country. We have been sitting here for nearly two days listening to a dispute between jewelers and chemists, and I want to know from the chairman what it is that we are expected to listen to. We sat here all day yesterday listening to a dispute between those two industries, the chemists and the jewelers, and I want to know what we are sitting here to-day for. I want to know why we should sit here and listen to a discussion of platinum when the Government has a perfect right to commandeer it. That being true, I do not understand why we should listen to a dispute between the chemists and the jewelers. This same dispute is going on to-day, and, apparently, we will have to sit here for two days listening to a dispute between these two industries. I want to know what we are doing it for.

The CHAIRMAN. We have given them the time, and, perhaps, finally, before they get through, they will tell us something about taxes.

Mr. HERTY. I am coming to that point. That is what I am leading up to.

Mr. FORDNEY. Let me ask you this question: I do not want to prevent the chemists from answering statements made about them, but I do want to know this: I want to know something about what you, as chemists, and what the jewelers would recommend to this committee as to a tax upon jewelry or platinum.

Mr. HERTY. I am coming to that.

Mr. FORDNEY. We have had practically no testimony yet, except for just a few minutes yesterday from the jewelers, as to what sort of tax should be imposed upon jewelry. That is the main point that we are interested in here, and not in the dispute that we have been listening to for two days, when Congress is in a hurry to get this matter up for consideration.

The CHAIRMAN. It is possible that the chemists and others who are interested in the conservation of platinum for Government purposes fear that, perhaps, the Government can not commandeer that article fully and completely, and believe that we might impose upon jewelry of which it forms a component part a tax so high that it would be impossible to use it for that purpose, and that, therefore, it would be turned over to the Government.

Mr. FORDNEY. I would like to hear something about the question of taxation. I do not care anything about a controversy between the chemists and jewelers. I am willing to take it for granted that both of them are right. I am getting tired of listening to a row between these two bodies of men.

Mr. LONGWORTH. If we can not see in it anything more than a row between jewelers and chemists—

Mr. FORDNEY (interposing). That is all I have seen yet.

Mr. LONGWORTH. I regard it as one of the most important questions that this committee has to consider.

The CHAIRMAN. Really, Mr. Fordney is the only man I ever saw who did not like a row between men, animals, or anything else.

Mr. HERTY. Mr. Chairman, I have had only one motive in this matter.

Mr. FORDNEY. Let them wash their linen somewhere else.

Mr. HERTY. I do not think that there is any linen washing going on here. I have been engaged in a campaign to conserve for the Government every particle of platinum that can be obtained.

Mr. FORDNEY. I want to help the Government in every way I can, but I am tired of listening to this discussion. I am tired of this washing of dirty linen.

Mr. HERTY. I can not see any dirty linen in that. There has been some blundering done in allowing platinum to get into places where in order to get it back it will cost the taxpayers some money.

Mr. LONGWORTH. As a matter of fact, how much platinum does the Government use as compared with the amount that the jewelers use?

Mr. HERTY. That is a very difficult question to answer. There are no definite statistics along that line. For chemical industries, or in the chemical laboratories, I should say that the chemists probably use some 25 or 30 per cent of the platinum that comes in to the country.



Mr. HAWLEY. How many ounces of platinum are now manufactured in the form of jewelry? Have you any idea of that?

Mr. HERTY. I do not know.

Mr. HAWLEY. Are you in favor of taking that platinum that has been made up into jewelry? Are you in favor of taking that platinum and removing the stones or other materials set in the platinum and using it for Government purposes?

Mr. HERTY. That brings me to the point of the definite recommendation that I will now make about taxation. I think myself that no platinum ought to be where it can be taxed. I think that no platinum in this country now ought to be in a place where it can be taxed, but it should be in the vaults of the Subtreasuries of the United States. It should be placed there as quickly as possible.

Mr. MOORE. Do you think the jewelers would object to the Government's commandeering platinum if they commandeered all of it?

Mr. HERTY. I think they have an entirely wrong idea about that.

Mr. MOORE. If they took everything they had in that line, they would be satisfied, would they not?

Mr. HERTY. I think they are right in that position, that everybody ought to be commandeered. I agree with you fully on that point, and I do criticize the insufficiency and inadequacy of the measures taken.

Mr. MOORE. Inasmuch as Mr. Rainey interrogated those gentlemen yesterday for two hours and put questions to them that reflected upon their motives, if not upon their patriotism, I feel that it would be only fair that something should go into the record on the other side of the question.

Mr. HERTY. You have heard my statement.

Mr. MOORE. We know who you are and we have a very high appreciation of your professional standing and your standing as a man. I want to ask you whether it is a fact that the idea of organizing patriotic women in a movement to discourage the use of platinum in jewelry originated with the American Chemical Society?

Mr. HERTY. The idea did. I read that into the record this morning.

Mr. MOORE. The resolutions that you passed at the Kansas City convention?

Mr. HERTY. That was an appeal to the women.

Mr. MOORE. A specific appeal to the women. You made a specific appeal to the women of the United States to discourage the use of platinum in jewelry; that is a fact, is it not?

Mr. HERTY. Yes, sir; that is true.

Mr. MOORE. It was charged against those reputable business men who were here yesterday representing 35,000 business concerns of the United States that they had established and were conducting here a lobby, the activities of which were very severely questioned. That having been brought out in the evidence yesterday, I want to ask you whether or not it is equally fair to criticize those who conducted a lobby on the other side—for instance, the American Chemical Society?

Mr. HERTY. I think not. The American Chemical Society is working with all of its force and strength and united opinion to get platinum for the United States Government and not for itself.

Mr. MOORE. I want to ask you whether you wrote a letter to the Director of the United States Geological Survey some time in May,

to which you received an answer from Mr. George Otis Smith, the director, under date of May 16, 1918?

Mr. HERTY. Yes, sir; I asked Mr. Smith for a letter, and he wrote me this letter in reply to my request.

Mr. MOORE. In the concluding paragraph of the letter Mr. Smith says:

Of course, Mr. Editor, I indorse your protest against the halfway or a 75 per cent or even a 99 per cent restriction of nonessential use of platinum. No American with his eyes open to the facts can do less than stand behind you.

Now, would not that clearly indicate that you brought the matter up with the Director of the Geological Survey and inspired the idea?

Mr. HERTY. No, sir; every proposition that I made touching the matter of platinum from month to month—

Mr. MOORE (interposing). There is no question about your activity.

Mr. HERTY. Absolutely none.

Mr. MOORE. You conducted this propaganda against the use of platinum?

Mr. HERTY. Yes, sir; we have been doing that all the time. The American Chemical Society has done that.

Mr. MOORE. I will say to you, as I said to those gentlemen who testified yesterday, that I think you are entirely within your rights. You were entirely within your rights when you organized the women to stir up trouble for anybody, but I assume that the other gentlemen, or the business men who were affected, had a right to defend their interests. Now, you wrote a letter to the Director of the Bureau of Mines at about the same time you wrote to the Director of the Geological Survey, and you received a letter in reply to that under date of May 16, 1918, in which the Director of the Bureau of Mines indorses your propaganda. That is a correct statement, is it not?

Mr. HERTY. It is in the record.

Mr. MOORE. That letter is published in the Journal of Industrial and Engineering Chemistry. You also wrote a letter to Mr. J. M. Hill, the geologist in charge of platinum statistics, and you received an answer from him under date of May 15, 1918, which is also published in the Journal of Industrial and Engineering Chemistry?

Mr. HERTY. All of those letters came in response to verbal requests.

Mr. MOORE. But you were agitating on the subject.

Mr. HERTY. Yes, sir.

Mr. MOORE. You were agitating in this matter, just as I agitate in the matter of improved waterways. You were doing what you thought was the proper thing. You were at the same time inserting certain articles in the papers against which the jewelers were endeavoring to defend themselves. You criticised Mr. Larter, for instance. On page 420 of the June number of the Journal of Industrial and Engineering Chemistry there appears a letter signed by Hon. Henry T. Rainey, a Member of Congress, who has been very much interested in this question, and who made a speech on the subject on the floor of the House, against which the jewelers on yesterday attempted to defend themselves. In that letter, after reiterating the statement that the jewelers maintained an insidious lobby here, and that they had induced Secretary of Commerce Red-

field to commend their action as wise and patriotic, Mr. Rainey is quoted as saying in this letter to Mrs. Ellwood B. Spear:

The organization which maintained a lobby here in Washington ought to be held up to the contempt of patriotic citizens of the United States. Although I am a Democratic member of the committee which prepares the revenue bills, I did the unusual thing from a standpoint of a Democratic supporter of the measures which come from the committee, and joined with Representative Longworth in his attempt to amend the bill, which failed on account of the efforts of the jewelers' lobby.

Mr. OLDFIELD. It seems to me that the place for the jewelers' lobby to work would be with Mr. Baruch or the War Industries Board. It seems to me that they would lobby with Mr. Baruch and the War Industries Board in regard to platinum. It seems to me that they have gotten by with it, whether right or wrong.

Mr. MOORE. Mr. Rainey may be entirely right, but I think he is a little overzealous sometimes. I make that statement in fairness to the people I represent.

Mr. RAINEY. I can not be overzealous in the defense of the country at the present time.

Mr. MOORE. Is Mrs. Spear the head of the Woman's National League for the Conservation of Platinum?

Mr. HERTY. I understand so.

Mr. MOORE. She and her organization work in cooperation with the American Chemical Society, do they not?

Mr. HERTY. I do not know what you mean by cooperation. We are very sympathetic with her intentions.

Mr. MOORE. You work with her along sympathetic lines?

Mr. HERTY. Yes, sir; entirely so.

Mr. MOORE. You have denied that an appropriation of \$2,500 or any other sum was made by the American Chemical Society for the purpose of encouraging those women in sending out patriotic literature on the subject of platinum?

Mr. HERTY. Yes, sir; I did.

Mr. MOORE. How do you account for that statement, because the gentlemen who were here yesterday, when I interrogated them about it, stated that they had information that \$2,500 had been appropriated in order that these women might go on with this work of discouraging the use of platinum?

Mr. HERTY. Their information was altogether faulty. I was responsible for the appropriation of that amount, which was to be used in bringing the American public and the working chemists closer together by means of popular articles in the daily press. I know that not one cent of that money has gone to the work of those ladies. That information is altogether false.

Mr. MOORE. You deny it altogether.

Mr. HERTY. Yes, sir, I deny it absolutely; but remember that I say also that I think it is a shame that some of it has not gone to them. I would like to put that statement in the record, because they have done the most patriotic piece of work of any set of people.

Mr. MOORE. You would not say that that does not show animus?

Mr. HERTY. It shows the spirit in which we have gone about it.

Mr. MOORE. On the front page of the Journal of Industrial and Engineering Chemistry, dated May 1, 1918, I read:

All communications should be sent to the Journal of Industrial and Engineering Chemistry. Subscriptions and claims for lost copies should be referred to Charles L. Parsons, box 505, Washington, D. C.

I will ask you who Mr. Parsons is?

Mr. HERTY. He is the secretary of the American Chemical Society.

Mr. MOORE. He is the secretary of the American Chemical Society, which is opposing the jewelers on this question of the use of platinum in jewelry?

Mr. HERTY. He is opposing likewise the photographers or any other user of platinum, you will find in that resolution.

Mr. MOORE. Dr. Parsons—he is a doctor, I assume.

Mr. HERTY. Yes, sir.

Mr. MOORE. Dr. Parsons has his correspondence addressed to box 505, Washington, D. C. Is that box the box of the American Chemical Society?

Mr. HERTY. The American Chemical Society.

Mr. MOORE. Is Dr. Parsons connected with the Bureau of Mines?

Mr. HERTY. He is chief chemist of the Bureau of Mines.

Mr. MOORE. Does he receive a salary from the Government?

Mr. HERTY. He does.

Mr. MOORE. Do you know what his salary is? It is a matter of record.

Mr. HERTY. I could not answer.

Mr. MOORE. Is it \$3,500 a year?

Mr. HERTY. No, sir; it is not. At least, his salary from the American Chemical Society is \$3,500, or not to exceed \$3,500. It is on a commission basis, not to exceed \$3,500.

Mr. MOORE. At any rate, Dr. Parsons is the chief chemist of the Bureau of Mines under the direction of Mr. Manning, and is an employee of the Government of the United States?

Mr. HERTY. Yes, sir.

Mr. MOORE. And still retains his position as secretary of the American Chemical Society and is one of the editors of the Journal of Industrial and Engineering Chemistry?

Mr. HERTY. Not one of the editors; no.

Mr. MOORE. He has some connection with it?

Mr. HERTY. He is a director of the American Chemical Society. Through being its secretary he is ex officio a director.

Mr. MOORE. What sort of checks does he receive in box 505 and for what purpose are those checks sent to him?

Mr. HERTY. Dues in the American Chemical Society.

Mr. MOORE. Are they subscriptions?

Mr. HERTY. And subscriptions to its Journal.

Mr. MOORE. Does he receive any checks or subscriptions for the purpose of pushing this propaganda?

Mr. HERTY. No, sir; the American Chemical Society has spent simply its money out of its normal income. It has never received any outside money for any propaganda at all and never sought any.

Mr. MOORE. Is he associated with the society of which Mrs. Elwood B. Spear is chairman, or does he collect any money for that purpose?

Mr. HERTY. Not that I have ever heard of, and I feel sure he has not, because they have never had any money.

Mr. MOORE. But the fact remains that Dr. Parsons, an official of the Government and a director of the Journal of Industrial and Engineering Chemistry, of which you are the editor, is engaged with you in the work of urging that the sale of platinum by the jewelers be discouraged at this time?

Mr. HERTY. As all other members of the American Chemical Society stand committed.

Mr. MOORE. Do you know whether Dr. Parsons was the author of the press notice about which you heard yesterday, dated June 16, which was sent out for publication in the Sunday papers of June 16?

Mr. HERTY. I have a copy of that in my office which was sent to me, but I do not know anything about who wrote the article.

Mr. MOORE. Who sent it to you, doctor?

Mr. HERTY. I do not remember, sir. My secretary opens all my mail and puts it on my desk.

Mr. MOORE. Does the Bureau of Mines have a press agent?

Mr. HERTY. I know nothing about it.

Mr. MOORE. Does the American Chemical Society have one?

Mr. HERTY. It has a press and publicity committee.

Mr. MOORE. Did that matter emanate from the press and publicity committee of the American Chemical Society?

Mr. HERTY. No, sir; it did not. I have a copy of all of the sheets that they sent out. That is in an office right near me.

Mr. MOORE. Have you any means of ascertaining who sent out that press notice?

Mr. HERTY. I think to ask Dr. Parsons would be the easiest way. Summon him up here and he would tell you in a moment. He is very active in the campaign and very glad to be in the campaign, I know from his convictions, because we are all agreed on this point, and I would suggest that Dr. Parsons be asked to appear and answer that question.

Mr. MOORE. I would like to have him appear. While I am not the chairman of the committee, I would be glad and would suggest that he appear.

Mr. HERTY. I am very sure he would be glad to come before the committee and answer any questions.

Mr. MOORE. But I want to make it clear, since Mr. Rainey made such a vigorous assault upon the jewelers of the country, not only in his speech, but in his cross examination yesterday, because they sought to defend their business; I want to make it very clear, through you, that an official of the Government of the United States who is connected with an independent organization and cooperating with it is responsible for a propaganda and is actually at work lobbying on his side of the question.

Mr. RAINEY. I want to say that I hope you will make it very clear; because I can not think of anything more commendable for an official of this Government to do than to try to keep platinum from going into jewelry at the present time.

Mr. MOORE. Well, I know that is the gentleman's position.

Mr. HERTY. In order that the Government may have it, Mr. Moore.

Mr. MOORE. I am submitting to the judgment of fair men that if one has a right to assail a man in his business, and I will concede that right so far as he keeps within the law, it is wholly within the right of the man assailed to defend himself. That is the very principle of justice in the United States, and this situation is aggravated somewhat from the fact that officers of the Government of the United States associated with independent organizations evidently have

banded themselves together, on the ground that it is patriotic to do so, to disturb existing business conditions.

Mr. RAINEY. Do you question their patriotism?

Mr. MOORE. When business men come before this committee, Mr. Rainey, as they did yesterday, and say that they have given up what has been asked of them and that they are willing to give up everything that will be asked of them, I say it is not unreasonable that those men should say: "If you desire revenue from us, then give us an opportunity to dispose of at least that which is still in our hands and in our stock, which the Government will not take from us."

Mr. RAINEY. I am wondering whether you think revenue of the Government is more important now than platinum, which is a basic war metal?

Mr. MOORE. I agree with you fully as to the necessity for furthering this war and hastening it, but I also call to your attention, and will be glad to have it go into the record, that it was stated yesterday and confirmed by Dr. Herty, of the American Chemical Society, to-day, that some one in the Government blundered in not obtaining platinum when platinum could be had, and that this matter of—

Mr. HERTY (interposing). No; my statement was that some one blundered in issuing the first commandeering order.

Mr. MOORE. You admitted that.

Mr. HERTY. That is my statement there.

Mr. MOORE. In fact, you charged that in the article here.

Mr. HERTY. That some one blundered in the writing of the first commandeering order.

Mr. MOORE. The second commandeering order did not cover the situation.

Mr. RAINEY. I guess everybody knows that.

Mr. MOORE. While you dispute it, I observe that you quote here in your article of June from some jewelry concern that this 25 per cent of the total reserve stock, however, is enough to fill all war needs for five years, even under a much larger war program than outlined above.

Mr. HERTY. Will you read the sentence that follows that?

Mr. MOORE. And, of course, you dispute that?

Mr. HERTY. Will you read the next sentence? If not, I will read it myself.

Mr. MOORE. I prefer that you should read it, Doctor.

Mr. HERTY. I will read it. I would like to put it in the record. That is a statement made by a jeweler in Philadelphia.

Mr. MOORE. The company quoted there is a very reputable one. Read just as much of it as you care to read.

Mr. HERTY. I would like to read this sentence:

The effort to create the impression that war needs of platinum for five years are provided for in the present reserves is so seditious in character that it deserves the serious consideration of Government officials.

Mr. MOORE. And yet, Doctor, that is your comment, and you stated a moment ago you did not know anything about the world's supply of platinum and had no means of knowing about it.

Mr. HERTY. No, sir; but I say when the President—

Mr. MOORE (interposing). And yet you stated in this same article that some one blundered in the first commandeering order, indicating

that you did know something about it, and you go on to seriously criticize the second commandeering order.

Mr. HERTY. No, Mr. Moore, let us get this straight. I said some one blundered in the first commandeering order, and therefore it was necessary to issue a second one, and that was proof that there was a blunder, because it was necessary to issue a second one, and include the manufacture of jewelry. That was my position.

Mr. MOORE. But in the answer you have just read which I asked you to read, you attribute it to those who make that statement, and you say that is was not only absurd in itself—I do not know just what part you did read.

Mr. HERTY. I read the last sentence.

Mr. MOORE. Yes; but you said it presented a situation so seditious in character that it deserved the serious consideration of the Government officials. Now you will pardon me for saying there that you impute to these 35,000 business men—

Mr. HERTY (interposing). No, sir; that is confined to the statement of one man.

Mr. MOORE (continuing). Intent to be unpatriotic. The word "seditious" is about as serious a word as you can use, and it is used so flippantly in these times where anyone has a grievance against some one else that I question whether you considered the serious import of it.

Mr. HERTY. I considered it extremely carefully and discussed it in my office with my secretary. I said, "This has got to be strong and as strong as we can make it, because who can tell what this country has got to go through in the next five years, and to try to assure the people that there is enough platinum in reserve for five years when we are engaged in a war with Germany is putting the people in a frame of mind which is dangerous for the people."

Mr. MOORE. And yet at the same time, quoting an article which I can not lay my hands on right now; but one to which Mr. Rainey and Mr. Longworth have referred several times, we had assurance from the Secretary of Commerce, who is presumed to know something about commercial matters in the United States, that the action of the jewelers throughout has been intensely patriotic, and yet we have your suggestion here that their action has been seditious. I think it is a very serious matter.

Mr. HERTY. That was a year and two months before that editorial was written.

Mr. LONGWORTH. Mr. Rothschild said he did not agree with what the Secretary had said, and that conditions had absolutely changed and absolutely repudiated that as expressing existing conditions.

Mr. RAINEY. And admitted that both he and the Secretary were seriously wrong a year ago.

Mr. MOORE. In view of your statement and insistence that their action has been unpatriotic, I will just read at random, following a reference to Congressman Longworth, from an article from the Jewelers' Circular of May 30, 1917, which is as follows, and is attributed to one of the jewelers whose opinion may be as good as that of any other man:

The selfish chemical interests which had started this attack on our industry with the avowed and shameless purpose of bearing the price of platinum in order to get it cheaper now began a misleading press campaign which the platinum committee met

from day to day by press corrections and general statements of fact to the press and to jewelers. This campaign culminated in an attempt by Congressman Longworth to place a prohibitive war tax of 250 per cent on platinum jewelry, which the platinum committee was happily in a position to frustrate by the timely presentation of a letter from the Secretary of Commerce, which was read on the floor of the House of Representatives, defeating this effort to tax platinum jewelry out of existence.

So that you can "call the cat black"—any one can do that—and accusations may be made on either side, and this matter has resolved itself into a question of fact between the jewelers and the chemical interests.

Mr. LONGWORTH. If it has resolved itself into a question of fact between the chemical and the jewelry interests, which is more essential now to this country in the prosecution of the war, jewelry or chemistry?

Mr. HERTY. I do not think any one can question the fact that the whole chemical industry is more essential.

Mr. LONGWORTH. If there is one more useless thing in time of war than jewelry I do not know what it is, unless it is artificial flowers. Possibly that is less essential to the winning of the war.

Mr. RAINEY. And aigrettes.

Mr. LONGWORTH. Yes; and the jewelers made the same fight against the abolition of aigrettes that they are making now against the sale of platinum.

Mr. RAINEY. Certainly.

Mr. LONGWORTH. And Congress took the bull by the horns and provided that they should not sell aigrettes, although they said they would be ruined if we destroyed that industry.

Mr. MOORE. Doctor, let me ask you this question, and then I will conclude. Giving you full credit for valuable services, brain, and talent rendered to the country in this time of its need, may I ask you just how we may derive any revenue through the auspices of the American Chemical Society for the purpose of prosecuting the war? That is a very serious question and bears right on what Mr. Longworth and Mr. Rainey have been contending for—

Mr. HERTY. Now, Mr. Moore and Mr. Chairman, I want to sum up what I have to say here.

Mr. MOORE (continuing). Because Dr. Parsons is connected with the Government and is drawing a salary, and we have got to find money to pay him.

Mr. HERTY. I can not speak at all about the question of taxation of jewelry. I do not know anything about the jewelry business outside of the question of platinum, which is used in it; but this question of platinum I do not think ought to come within the purview of this committee at all. There ought not to be any platinum available for taxation.

Mr. MOORE. I think we can agree with you on that up to the point of getting revenue, which is the one thing we are interested in.

Mr. LONGWORTH. I do not agree with that at all. I think it is within the purview of the committee to tax it out of existence in the sale of jewelry.

Mr. MOORE. Not necessarily in a war-revenue measure.

Mr. LONGWORTH. Yes; in a war-revenue measure.

Mr. MOORE. Then I will follow that up and ask about that.

Mr. HERTY. Let me answer your question about revenue.



Mr. MOORE. What can we get out of the American Chemical Society or its members in the way of revenue for prosecuting this war? We have got to get \$2 next year for every \$1 we got last year.

Mr. HERTY. Out of the American Chemical Society?

Mr. MOORE. Yes.

Mr. HERTY. Whatever is taxable. I do not know whether it has any assets except its publications. We pay dues.

Mr. MOORE. Now then, if you do not know how much we can get out of the American Chemical Society and its members except in income taxes—

Mr. HERTY. The treasurer of the society can answer that question. I do not know whether he pays taxes or not. I have never heard of it.

Mr. MOORE. I think that is a fair question, because we are trying to further the war and hasten the winning of the war, and we must have the money to win it. If you can not make any suggestions as to how we can get it out of the American Chemical Society, you can make suggestions as to how we can get it out of the jewelers, can you not?

Mr. HERTY. Put taxes on the platinum jewelry.

Mr. MOORE. We ought to tax their incomes, ought we not?

Mr. HERTY. The jewelers' incomes?

Mr. MOORE. Yes.

Mr. HERTY. You tax mine, and I suppose you ought to tax theirs.

Mr. MOORE. Of course we do, but it is said that a chemist is somewhat like a lawyer, although I do not quite believe it, and that his income is not as high as a jeweler's.

Mr. HERTY. I can not say about the incomes of jewelers, but I know about those of the chemists being low.

Mr. MOORE. As a matter of fact, in order to get platinum or any other article for this war, we have got to tax somebody and tax them hard.

Mr. HERTY. You have got to get the platinum, too.

Mr. MOORE. And we have got to tax jewelers, if we tax anybody, because they are engaged in a business which is supposed to handle a luxury, and we tax their incomes, we put supertaxes on their incomes if their incomes are sufficiently large, and we have got to tax their excess profits and their corporation profits, if they are incorporated, and now if we take away that which they say is important to-day for the continuation of their business, to wit, such platinum as they already have worked up into jewelry, are we going to increase the taxes or reduce the taxes for the purpose of carrying on this war?

Mr. HERTY. If you take away the platinum?

Mr. LONGWORTH. You will recall one man said here yesterday that of a stock of \$500,000 of jewelry, not to exceed \$18,000 was platinum.

Mr. MOORE. I do not recall that. One said only \$50,000.

Mr. LONGWORTH. And one reduced it to \$18,000.

Mr. HERTY. Jewelry made of platinum is simply one line of their business.

Mr. MOORE. But if we put them out of that line of business we get no revenue; is not that the fact?

Mr. HERTY. Yes; if you tax the platinum out of their hands.

Mr. MOORE. Now, since the manufactured article is already in hand and the Government does not want it and will not take it and has not commandeered it—

Mr. HERTY (interposing). Mr. Chairman, the War Industries Board says they want it.

Mr. MOORE. Are we going to tell them to lock it up or tell them to sell it so we can get something out of the profit in the way of the revenue which we need?

Mr. HERTY. You want my idea about it?

Mr. MOORE. Yes.

Mr. HERTY. I think whoever has got the authority for the Government ought to go to the jewelers and say, "Give us all of your platinum and we will make an equitable settlement for it," and take the platinum and have it in the vaults of the Treasury, accessible to the Government when the need comes.

Mr. MOORE. I believe you and the jewelers are thoroughly in accord on that question, and if the Government will say to them, "We will take all the platinum you have got," they will be entirely satisfied and that will relieve their situation, and the minute the Government does that we get some revenue out of it.

Mr. HERTY. I think the Government should take every step that has not already been taken in view of the Russian situation.

Mr. MOORE. I think you will concede that if we destroy their business we get no revenue. If we let them sell their stock on hand and do not undermine them by starting the women to call everybody pro-German who wears platinum jewelry, we will get some revenue and thus be able to prosecute the war.

Mr. COLLIER. You are not advocating that the Government confiscate the jewelry without paying them for it?

Mr. HERTY. No, sir; not at all.

Mr. MOORE. Then, you and the jewelers agree.

Mr. HERTY. It is simply an adjustment of what is a fair price for the Government to pay.

Mr. MOORE. They agree to that.

Mr. HERTY. Let me show you why the campaign of this Chemical Society is important to this country. I have taken a great deal of time here, but this is vital. It was stated by Mr. Steele here on this floor yesterday that when war broke out between France and Germany that the manufactured platinum in France was sent into Switzerland and from there sent into Germany. You remember that. There is a lot of manufactured platinum in this country to-day, and what is to hinder some pro-German securing that for the use of Germany similar to the use made of the New York Mail? What is to hinder that?

Mr. MOORE. All of that money it now appears came from a source which was intensely pro-American. It becomes more interesting. That is worth while looking into before making any direct charge.

Mr. HERTY. I am simply giving you what I saw in the paper in New York.

Mr. MOORE. Do you know whether the United States Government will take this scrap platinum at the present time?

Mr. HERTY. Yes, sir. If provision is made, I think there are three ways in which it could be disposed of.

Mr. MOORE. Will it take the manufactured platinum?

Mr. HERTY. That point has not been taken up yet.

Mr. MOORE. Would not that solve the problem?

Mr. HERTY. I think it would. I think that Mr. Longworth's amendment is good.

Mr. LONGWORTH. The jewelers are conducting a propaganda to the effect that the Government not only will not buy it, but will not take it as a gift.

Mr. MOORE. Yesterday the statement was made that the mints would not take that material just as they take old gold, that the mints will not take it.

Mr. HERTY. Yes; the mints will take it.

Mr. HULL. In view of what has occurred in the platinum situation pro and con, if the Government thinks it is advisable to take action with respect to the manufactured platinum in the country, whether in the hands of individuals or in the hands of merchants or manufacturers, would not the most feasible course be for the Government simply to direct every holder of platinum to turn it in, and would not that be much better than discussing the question of taxing it or reaching it for war purposes in any other way?

Mr. HERTY. I think that the situation would be met if the Government would take over the stock that the jewelers carry.

Mr. HULL. And at whatever expense might be necessary.

Mr. HERTY. Yes, sir.

Mr. HULL. Pay for it and put it away?

Mr. HERTY. Yes. I do not think that it would be necessary to call upon private individuals. I think if the Government made it known each loyal citizen would hold on to the platinum without expense to the Government until it was needed.

Mr. HULL. If it is advisable for the Government to put its hands on the platinum in this country it could simply take action and pay for it, and that would be the end of it.

Mr. HERTY. Yes, sir. I think that it should take all the stock from the jewelers and pay for it on an equitable basis.

Mr. HULL. I agree with you that the Government should take every precaution to obtain whatever amount of platinum may be deemed reasonable and necessary now and in the future and take it in whatever form it may find it or in whoever's hands it may find it.

Mr. OLDFIELD. As I understand, platinum is used in sulphuric acid and nitric acid?

Mr. HERTY. Yes, sir.

Mr. OLDFIELD. Is there any other war use for platinum besides that?

Mr. HERTY. Yes, sir.

Mr. OLDFIELD. What are the uses?

Mr. HERTY. The airplanes, every gas engine, and the X-rays.

Mr. OLDFIELD. Is it mined out of the ground like gold and silver?

Mr. HERTY. It is like placer mining; it occurs in the sand.

Mr. OLDFIELD. Where?

Mr. HERTY. This bulletin issued by the Geological Survey gives all of that information. Do you want that in the record?

Mr. OLDFIELD. Yes, sir. Where in this country, in Colorado and California?

Mr. HERTY. Yes, sir. In the United States, in Alaska, California, Nevada, Oregon, Washington, and Wyoming, but the total amount

in those States, as I understand, is less than 1 per cent of the normal consumption.

Mr. OLDFIELD. The principal place from which it comes is Russia?

Mr. HERTY. Yes, sir.

Mr. LONGWORTH. Yesterday Mr. Steele testified that about 1900 platinum first came into general use. Since then, up to the time of the war, what effect do you think the use of platinum by jewelers has had upon the price of platinum?

Mr. HERTY. I think it has undoubtedly raised the price, because it was not used in jewelry to any extent up to that time. A good deal is used now.

Mr. LONGWORTH. At the time of the war the price of platinum was about three times as high as it was in 1900, before the demand for war purposes. Do you not think it is fair to say that the use of platinum in jewelry is what caused the rise in price?

Mr. HERTY. Undoubtedly; it has been the main factor, but not the only factor.

Mr. LONGWORTH. It would be a good thing for this country if platinum was cheaper?

Mr. HERTY. Undoubtedly.

Mr. LONGWORTH. Has it been an unpatriotic thing for the chemists to bear the price?

Mr. HERTY. No. All scientific and industrial progress which is based upon research in this country depends on platinum.

Mr. LONGWORTH. It is a fact that none of the explosives can be made without platinum?

Mr. HERTY. I would not say that you could not make old black powder.

Mr. LONGWORTH. I mean modern high explosives.

Mr. HERTY. Yes; they all depend on platinum.

Mr. LONGWORTH. And it is absolutely essential?

Mr. HERTY. Yes, sir.

Mr. RAINEY. The platinum supply of Columbia has been made now a Government monopoly?

Mr. HERTY. I have seen that in the public press.

Mr. RAINEY. Last week.

Mr. HERTY. I did not know that.

Mr. RAINEY. In the last two years, since the Russian supply has been shut off, we have been getting some supplies from Colombia, but on account of the fact that we have diplomatic difficulties with Colombia that supply may not come in the future. In furtherance of your campaign for platinum I want to call your attention to some analyses which I have been making here of our receipts of platinum for the last two years, 1916 and 1917, omitting the Colombian supply, which, of course, is of the unmanufactured platinum. Leaving out the Colombian supply, in the year 1916 we received in the United States from all sources 16,462 ounces of unmanufactured crude platinum. It is just as important for our allies to have platinum as it is for us. In 1916, although we were not at war, our allies were purchasing their explosives in this country, and in 1916 of crude platinum we took from England and France 15,282 ounces in order to manufacture the explosives which we were sending and other war material, which left us with only 1,180 ounces that we got from all

other sources. In 1915 both England and France had stopped the manufacture of platinum jewelry entirely and were conserving platinum. In that year we secured of the manufactured platinum ingots and bars which, I presume, is the refined platinum, 12,248 ounces.

We got none of that from Colombia, but we did take from England and France 11,482 ounces, leaving only 766 ounces that we got from all other sources. We were at war in 1917 ourselves, and leaving out the Colombian supply of crude platinum we only received 3,001 ounces, of which we took from our allies, England and France, 2,236 ounces—at that time both of them conserving platinum and had stopped the manufacture of platinum jewelry—leaving only 765 ounces that we got from all other sources. Of ingots and refined platinum in 1917 we brought in altogether 4,170 ounces. Of course, none of that was from Colombia. Three thousand two hundred and seventy-five ounces came from England and France, and from all other sources we only got 895 ounces. In other words, with the Colombian supply shut off, if we had not succeeded in getting platinum from our allies during these two years that they were conserving platinum we would not have had any platinum to carry on this war, which leads us to the conclusion that in carrying on this war, in so far as the manufacture of war material is concerned, that England and France have been wise in their policy of conserving platinum and that we are not entitled to any of the credit for any kind of judgment or wisdom or foresight in the matter of conserving platinum.

Judge Hull's proposition is excellent if this Government would do it, but up to this time the Government has not done it and this Government will not do it. So far as the efforts of the platinum users, the jewelry users of this country are concerned, they have not assisted any in creating a sentiment which would lead to the necessary supply, but it is such patriotic organizations as yours that are creating the sentiment and carrying on a patriotic propaganda which may result in securing that which the jewelers have not contributed to.

Something was said yesterday by the jewelers about the use of white gold. They said that white gold could not be used now in the manufacture of jewelry as it was used before the war, that the white metal was not of the same quality because it did not have palladium mixed in it now, that palladium had been commandeered, and that therefore they stood for the proposition of marking "W" on the white metal and discouraging its use. Palladium is not used in the manufacture of war materials, is it?

Mr. HERTY. Not so far as I know; no.

Mr. RAINEY. You are right about that. I read from this latest pamphlet on the subject of platinum.

Palladium is employed chiefly in making palladium-gold alloys, which are now extensively used in dentistry and to some extent in the jewelry and chemical industries. Palladium may be considered valuable as a war metal to the extent that it replaces platinum in dental and jewelry work, for to that extent its employment releases platinum for military uses.

That is the reason for commandeering palladium and this license order.

Something was said yesterday about platinum points and Mr. Moore tried to minimize the importance of platinum as a war material by insisting that 1 ounce of platinum would furnish ignition points for 100 automobiles.

Mr. MOORE. I agreed with you as to the importance of platinum. It was only to show that the demand might not be as great as indicated.

Mr. RAINEY. You can not show it. That is what they call electrical platinum.

Mr. HERTY. Yes, sir.

Mr. RAINEY. Do you know how many ounces of Colombian platinum it takes to make an ounce of electrical platinum?

Mr. HERTY. No, sir; I do not know.

Mr. RAINEY. Colombian platinum is, of course, crude platinum. It takes 126 ounces of Colombian platinum to make 1 ounce of electrical platinum. In other words, when you are talking about the importation of platinum, which is inconsiderable except through our allies, if the Colombian supply should be cut off, you are talking of crude platinum, and when you speak of 1 ounce of platinum electrified furnishing ignition points for 100 automobiles, you mean 126 ounces of crude platinum.

Mr. HERTY. May I conclude my statement by putting one thing in the record?

The CHAIRMAN. Yes, sir; certainly.

Mr. HERTY. I want to say my conviction on this matter is that any chemist who sells his platinum to anyone other than the Government would be just as unpatriotic as any jeweler.

#### STATEMENT OF DR. LOUIS J. WEINSTEIN, COLUMBIA UNIVERSITY, NEW YORK, N. Y.

The CHAIRMAN. State whom you represent.

Dr. WEINSTEIN. Mr. Longworth, will you ask me those questions?

The CHAIRMAN. You can make such statements as you desire.

Mr. LONGWORTH. I went over with Mr. Weinstein the matters that he wanted to talk about.

Mr. MOORE. Do you appear for yourself or for some one else?

Dr. WEINSTEIN. I appear for myself in a concrete way, rather than on behalf of anyone else. It is my chief interest and desire to aid in this matter.

Mr. MOORE. What is your business?

Dr. WEINSTEIN. I am director of the department of physics and metallurgy of Columbia University, dental department.

Mr. MOORE. You are not connected with the Government in any way?

Dr. WEINSTEIN. No, sir; except that I have been assisting in an advisory way Mr. Conner, of the War Industries Board.

The CHAIRMAN. All right, Doctor, you may proceed.

Dr. WEINSTEIN. I have a number of questions here, and I would prefer for Mr. Longworth to ask them.

Mr. LONGWORTH. In the first place, platinum is used in dental chemistry, is it not?

Dr. WEINSTEIN. Yes, sir.

Mr. LONGWORTH. To what extent?

Dr. WEINSTEIN. At one time it was used to the extent of probably 35,000 ounces, but in recent years it has been gradually reduced. It is now probably 20,000 ounces.

Mr. LONGWORTH. For what purpose is it used in dentistry?

Dr. WEINSTEIN. A good deal of it is used for pins for teeth, and a good deal of it is used for plates, bridge work, crowns, and dental restorations.

Mr. LONGWORTH. How is platinum obtained now by dentists?

Dr. WEINSTEIN. Either by a permit issued by the War Industries Board or by purchasing it in the open market. It is not commandeered. It is not commandeered so far as the dentists at large are concerned.

Mr. LONGWORTH. So you purchase either from the Government—

Dr. WEINSTEIN (interposing). Either from the refiner under the control of the Government, or from dental dealers throughout the country.

Mr. LONGWORTH. What price are you paying for it nowadays?

Dr. WEINSTEIN. If purchased from the Government, you pay \$108 for platinum ready for dental use. If you purchase from dealers, it depends upon how they feel that morning. If they feel like charging you \$130 for it, you pay it, or if they feel like charging you \$140 for it, you pay it if you want it.

Mr. LONGWORTH. How does that compare with the price of platinum scrap that is bought by small dealers?

Dr. WEINSTEIN. I have heard so much said about platinum scrap that I must say something to define what platinum scrap is. Platinum scrap is platinum cut up in pieces; it is platinum that is cut up in small pieces, and it can be readily remelted and worked up at a cost of probably \$2 per ounce. So that platinum scrap is really just as good as the refined platinum.

Mr. LONGWORTH. They are the sweepings?

Dr. WEINSTEIN. No, sir; not sweepings, but cuttings.

Mr. LONGWORTH. I notice here in the Jewelers' Circular-Weekly of June 12, 1918, an advertisement by Baker & Co. in which they state that they will make full returns for the platinum contained in sweepings and polishings, as well as in filings, scrap, and other waste.

Dr. WEINSTEIN. Yes, sir; you see that they define between scrap and polishings. The polishings have a certain percentage of dirt, whereas the scrap platinum is practically pure platinum, except as to such impurities as might be gathered in the process of handling.

Mr. LONGWORTH. Can anyone buy scrap platinum? They do not have to have a permit to buy that, do they?

Dr. WEINSTEIN. There is no prohibition on the part of anybody buying platinum to-day. They can buy it in any form.

Mr. LONGWORTH. I understood you to say that you bought some under a permit.

Dr. WEINSTEIN. There is no permission. I will qualify that statement. Theoretically you must have it. If you want to obtain platinum in a legitimate way, you must have the approval of the War Industries Board.

Mr. LONGWORTH. What is the price at which it is purchased?

Dr. WEINSTEIN. At \$108 per ounce if the sale is approved by the War Industries Board.

Mr. LONGWORTH. I am speaking of scrap.

Dr. WEINSTEIN. As for the buyer of scrap, the reputable buyers who are commandeered by the War Industries Board allow \$105 per ounce for the platinum content and make a charge for the labor.

Mr. LONGWORTH. Do the jewelers buy scrap platinum?

Dr. WEINSTEIN. To my utmost regret, I must state that during the last few months the jewelers have been using the utmost efforts to buy the platinum held by dentists, scrap or otherwise.

Mr. LONGWORTH. Do they buy platinum that is held by the dentists?

Dr. WEINSTEIN. Yes, sir. I will not say that the commandeered jewelers have done it, but if there are 35,000 jewelers in this country and 1,400 of them have been commandeered, how about the 33,600 who are not commandeered? Surely they have not been asleep at the switch.

Mr. LONGWORTH. Is manufactured platinum purchasable now?

Dr. WEINSTEIN. Small quantities in the open market. There is no difficulty whatever.

Mr. LONGWORTH. Just what is manufactured platinum?

Dr. WEINSTEIN. Just what it is is exactly what the holder chooses to interpret it. Crude platinum is platinum that is found in the mines in the form of grains, mixed with sand, dirt, and other less valuable metals. That is crude platinum. When it is brought into a refinery it is purified and poured into ingots. It is melted and poured into ingots. It is made into the form of sheet or wire. It is either in the form of sheet or wire.

Mr. LONGWORTH. There is no difference between platinum for war purposes and platinum for jewelry work?

Dr. WEINSTEIN. Yes, sir.

Mr. LONGWORTH. I mean in the platinum itself.

Dr. WEINSTEIN. The jewelers' settings made of platinum containing a percentage of iridium to harden it. It contains, say, 10 per cent, or possibly 14 per cent, and in some instances 20 per cent of iridium.

Mr. LONGWORTH. You said a moment ago that you regretted that the jewelers were buying platinum from the dentists, and that the dentists were selling it to the jewelers.

Dr. WEINSTEIN. Numbers of them, to my regret. We have a number of unpatriotic dentists.

Mr. RAINEY. Those dentists are released from the control of the War Industries Board, and they buy platinum and turn it over to the jewelers?

Dr. WEINSTEIN. No, sir; I do not believe that. The average dentist in this country has platinum in some form or other in his possession, and it is very hard when the jeweler comes along, or rather the peddler, who is the intermediary, comes along and offers something like \$160 per ounce for platinum which cost the dentist at one time \$60 or \$80 per ounce, for him to resist. It takes a man of high ideals to resist the temptation.

Mr. LONGWORTH. Do the jewelers pay as much as \$160 per ounce?

Dr. WEINSTEIN. Yes, sir; and I have heard of their paying \$200 an ounce.

Mr. LONGWORTH. It was testified that the jewelers were not using much platinum nowadays.

Dr. WEINSTEIN. If there are 1,400 of them commandeered, there are 33,600 who are not.

Mr. LONGWORTH. That is the question I was about to ask you. What proportion of the jewelers have not yet been commandeered?

Dr. WEINSTEIN. I understand recently that there were 900 commandeered, but this morning I understand that there are 1,400.



Mr. LONGWORTH. How many jewelers are there?

Dr. WEINSTEIN. According to the statements made yesterday, there are 35,000 jewelers, not including manufacturing jewelers and wholesalers.

Mr. LONGWORTH. Do you mean to say that an enormous proportion of them have not been commandeered at all, and that they are in the market buying platinum to-day?

Dr. WEINSTEIN. I will state it this way: According to the figures given yesterday, there are 35,000 retail jewelers and 4,000 wholesalers and manufacturers. You have 3,600 manufacturing jewelers who are not commandeered, and it is perfectly legal for them to purchase platinum anywhere they can get it.

Mr. LONGWORTH. In other words, two-thirds of the jewelers to-day—

Dr. WEINSTEIN (interposing). Of the manufacturing jewelers.

Mr. LONGWORTH (continuing). Are buying, using, and manufacturing it, because they are not commandeered.

Dr. WEINSTEIN. Presumably.

Mr. LONGWORTH. That is a very different situation from the one that was brought out.

Dr. WEINSTEIN. I am only taking the figures that the gentlemen quoted here yesterday.

Mr. MOORE. Then, is it not a fact that the Government has actually encouraged this kind of speculation by the manner in which it has commandeered the product?

Dr. WEINSTEIN. I should hate to admit it, but I am afraid that it has worked that way.

Mr. MOORE. Is it not a fact that the Government has commandeered it only in a few instances, leaving a large proportion of the jewelers able to do with it as they pleased? Has not that encouraged speculation in platinum?

Dr. WEINSTEIN. You do not—

Mr. MOORE (interposing). Is not that the fact?

Dr. WEINSTEIN. I will answer it in another way. I have been very fortunate to be in contact with Mr. Conner and some other gentlemen on the War Industries Board during this trying period, and I want to say that those gentlemen have done the best that it was humanly possible to do, in view of the restrictions under which they worked. They can not commandeer broadcast, but they have got to get individual orders from the War Department for every commandeering order that they issue. They must have a specific case.

Mr. MOORE. Then, you must take issue with Dr. Herty, who was here speaking for the American Chemical Society, because his idea was that all of it should be taken.

Dr. WEINSTEIN. I have not come to that.

Mr. MOORE. The argument of the American Chemical Society is that no platinum should be sold as jewelry.

Dr. WEINSTEIN. I subscribe to that.

Mr. MOORE. And yet the Government has commandeered in only 1,400 instances, if your statement is correct, and has left uncommandeered substantially 33,000?

Mr. LONGWORTH. He was speaking only of the manufacturing jewelers.

Mr. MOORE. He said that they left 33,600 free to buy and sell platinum, scrap or otherwise, as they saw fit.

Dr. WEINSTEIN. I do not believe they could do otherwise. They did not have the power.

Mr. MOORE. Then the market is open to speculators just the same?

Dr. WEINSTEIN. Yes, sir.

Mr. MOORE. Then—and I am using Dr. Herty's language again—does it not indicate that some one has blundered?

Dr. WEINSTEIN. I am afraid so.

Mr. HAWLEY. In the case of those dentists you mentioned a minute ago who sold their platinum, did they restock themselves with platinum obtained from those who were allowed to sell, and then resell it again, and thus continue an illicit trade in that article?

Dr. WEINSTEIN. I have no proof to that effect. At the same time, a man so unpatriotic as to work against the spirit of the order would be apt to do almost anything.

Mr. HAWLEY. How many dentists in the country do you suppose are doing that?

Dr. WEINSTEIN. I do not know; that is hard to tell. I know of instances here and there, or several of them.

Mr. HAWLEY. How many ounces of platinum would be used by the dentists in the course of a year?

Dr. WEINSTEIN. I should say at this time probably 20,000 ounces.

Mr. HAWLEY. Is there any other material that can be used in place of platinum by dentists so as to reduce that 20,000 ounces now used by them?

Dr. WEINSTEIN. That 20,000 ounces can be reduced very materially, and surprisingly so. I believe there are some questions on that subject.

Mr. LONGWORTH. Are there many dental alloys or anything that can be employed by dentists as a substitute for platinum?

Dr. WEINSTEIN. Dentists can use to advantage substitutes for platinum, which substitutes contain alloys of gold, platinum, palladium, and other baser metals. We can use substitutes in some instances as well as we can use the pure platinum, and in other instances we can use them better than we can use pure platinum, because they are more suitable for the purpose mechanically, physically, and chemically. That is a broad statement, but I make it with a full realization of what it means.

Mr. HAWLEY. Those substitutes do not corrode the mouth?

Dr. WEINSTEIN. No, sir; the average dentist who has just left the dental college has a rather vague knowledge of metallurgy, and he has the impression that iridio-platinum is about the only substance that does not dissolve in acids and does not discolor in the mouth, that it is infusible, and that it possesses numerous other virtues. Now, it is true that iridio-platinum possesses those virtues, but there are some disadvantages in the use of iridio-platinum. To start with, it is an ununiform metal, and it does not work as well mechanically as some alloys which are more constant, and it will not work as well under tools as some other metals. The jewelers know that they do get faulty iridio-platinum continuously that will not work well under their tools, and they must discard it and get other metals. A great many dentists use iridio-platinum or platinum because of a lack of knowledge of other suitable material. Picture to yourself a man

soldering at a temperature of 1,900° F. If he uses gold, it melts at 2,000°, and he is close to the burning point. If he uses platinum, that melts at 3,300°, but if he gets an alloy that melts at 2,300°, that gives him a margin of about 300°, and such an alloy would contain only about 10 per cent of platinum, and it is just as efficient in every way.

Mr. LONGWORTH. What is the attitude of the dental profession toward the conservation of platinum?

Dr. WEINSTEIN. The dental profession is one that will do as it is told. We will take our medicine. If it is a question of saving platinum for war purposes or a question of his getting it, there will be no question about it.

Mr. RAINEY. There is a plenty of substitutes for platinum that dentists can use during the war, is there not?

Dr. WEINSTEIN. The dentists can get along wonderfully well with alloys containing a comparatively small percentage of platinum in place of pure platinum.

Mr. LONGWORTH. How much of that 20,000 ounces now used by dentists could be dispensed with by them through the use of substitutes?

Dr. WEINSTEIN. I believe that with proper publicity coming from authoritative sources it could be cut down almost immediately to one-fourth of that amount without detriment to dentistry.

Mr. LONGWORTH. That would release at least 15,000 ounces a year for other purposes?

Dr. WEINSTEIN. Yes, sir.

Mr. HAWLEY. Are the dentists conducting any propaganda of their own among their customers to induce them to use in their teeth alloys in place of pure platinum, so as to release that amount for Government uses?

Dr. WEINSTEIN. Do you mean the dentists or dental manufacturers?

Mr. HAWLEY. The dentists.

Dr. WEINSTEIN. The dentists do not tell their patients what they will put in their mouths. That is not put up to the patient to decide, but it is up to the dentist to decide that.

Mr. HAWLEY. He does not consult with them about that?

Dr. WEINSTEIN. No, sir.

Mr. RAINEY. The patient takes his chances on that?

Dr. WEINSTEIN. Yes, sir.

Mr. RAINEY. When did they commence the use of platinum in dentistry?

Dr. WEINSTEIN. I should say about 60 years ago, or 80 years ago.

Mr. RAINEY. They did not discover platinum until about 1842, did they?

Dr. WEINSTEIN. Then they commenced about 60 years ago.

Mr. RAINEY. They commenced to use it in dentistry about the time they discovered it?

Dr. WEINSTEIN. They commenced to use it 60 or 65 years ago. They began manufacturing teeth about that time, and they used platinum pins.

Mr. RAINEY. Was that before they found out about using iridium to harden it?

Dr. WEINSTEIN. Yes, sir; most of the pins in the old teeth are found to be comparatively soft. The platinum contained a trace of iridium, which was not recognized at that time.

Mr. RAINEY. There are substitutes that they can use during the war?

Dr. WEINSTEIN. Yes, sir.

Mr. RAINEY. Now, speaking of commandeering orders, it is your opinion that the War Industries Board have done all that they could do?

Dr. WEINSTEIN. Yes, sir.

Mr. RAINEY. How are those commandeering orders issued?

Dr. WEINSTEIN. When John Jones decides that he wants to purchase platinum—

Mr. RAINEY (interposing). I am talking about the commandeering orders.

Dr. WEINSTEIN. I beg your pardon. They have not been issued against any individual dentists.

Mr. RAINEY. I am talking about jewelers or anybody else against whom commandeering orders are issued.

Dr. WEINSTEIN. Notice is sent by the War Industries Board to a particular individual specifying to him that his stock of platinum is now subject to the orders of the War Industries Board and instructing him to make reports, for which blanks are furnished.

Mr. RAINEY. Do they get authority for that from somebody higher up?

Dr. WEINSTEIN. Yes, sir.

Mr. RAINEY. That, I suppose, is merely a matter of form. They go to the Chief of Staff, do they not?

Dr. WEINSTEIN. Yes, and he signs them.

Mr. RAINEY. He simply signs them. He signs them when he is asked to do so?

Dr. WEINSTEIN. Yes, sir.

Mr. RAINEY. But he does not question it at all?

Dr. WEINSTEIN. I understand that they have difficulty in getting orders because of the volume of orders.

Mr. RAINEY. If you should have had written out a list or had a printed list of the 3,600 manufacturing jewelers and had taken that up to the Chief of Staff and asked for a commandeering order against them, could you have gotten it?

Dr. WEINSTEIN. I do not think so, personally.

Mr. RAINEY. Why not?

Dr. WEINSTEIN. I do not think they would permit that number.

Mr. RAINEY. Who would not permit it?

Dr. WEINSTEIN. The War Department.

Mr. RAINEY. The War Department does not have anything to do with it, except the Chief of Staff.

Dr. WEINSTEIN. Well, the Chief of Staff.

Mr. RAINEY. You do not think he would do it?

Dr. WEINSTEIN. It is my opinion, based upon what I have been told, that they have great difficulty in getting those orders signed. They could not get such a thing as a blanket commandeering order, but they must be issued in specific cases.

Mr. RAINEY. The objection to it is that 3,600 would be too many and would involve too much labor for the Chief of Staff.

Dr. WEINSTEIN. I do not know. I know there is difficulty.

Mr. RAINEY. Mr. Connor can not get these orders from the Chief of Staff?

Dr. WEINSTEIN. Mr. Connor told me that he had difficulty in getting those orders passed or approved.

Mr. RAINEY. Difficulty in getting them approved?

Dr. WEINSTEIN. Yes, sir.

Mr. RAINEY. Is that the reason why they did not commandeer all of those jewelers?

Dr. WEINSTEIN. I do not know.

Mr. RAINEY. That is very interesting. Apparently, somebody is at fault, and we want to find out who it is. Now, with reference to the releases: If a dentist wants to get a release for platinum and finds out who he wants to buy it from—

Dr. WEINSTEIN (interposing). He sends an order.

Mr. RAINEY. Then, that platinum dealer comes in and makes his sale to the dentist?

Dr. WEINSTEIN. The platinum dealer gets the blank form and sends it back to the dentist to sign.

Mr. RAINEY. Then he gets nominal permission from the Chief of Staff, or whoever the authority is, that he can sell to a dentist a certain amount of platinum, the dentist having stated he wanted to use it for dental purposes?

Dr. WEINSTEIN. The Chief of Staff has nothing to do with releases. No one but the War Industries Board and the refiner have anything to do with that.

Mr. RAINEY. You are right about that?

Dr. WEINSTEIN. Yes, sir.

Mr. RAINEY. Then the War Industries Board or whoever it is authorizes the refiner who has the stock to sell to let a certain dentist have so much platinum, and that is what they call a release.

Dr. WEINSTEIN. That is a release.

Mr. RAINEY. But there is not any way of digging down into the hands of the dentist to see that he puts it in anybody's teeth?

Dr. WEINSTEIN. Hardly.

Mr. RAINEY. So that a dentist can sell that platinum to the jeweler if he wants to?

Dr. WEINSTEIN. I suppose so.

Mr. RAINEY. Then the only way that we are able to regulate this matter so as to prevent that is to tax his platinum and alloys used in dentistry.

Dr. WEINSTEIN. I prefer to discuss it a little later, if I may.

Mr. RAINEY. You can discuss it whenever you want to. I only want to get your opinion.

Dr. WEINSTEIN. Each application for platinum comes into the War Industries Board and is thoroughly studied and examined to see if the man who applied for that material really needs it. They do not really throw these things in the mail O. K.; they study them.

Mr. RAINEY. Any dentist might need it who is filling teeth?

Dr. WEINSTEIN. You see it is not merely dentists that they have to release to. Dentists are the least part.

Mr. RAINEY. Do you think they would actually send somebody to that dentist who applied to buy an ounce of platinum to see if he had orders requiring that amount for bad teeth?

Dr. WEINSTEIN. They would not go to that extreme.

Mr. RAINEY. So that is a leak where it might get out through jewelers or through persons who can manufacture jewelry, whether engaged in the business or not, unless it is stopped?

Dr. WEINSTEIN. If there is any leak there I do not believe it is through the dentist to whom it may be released direct, and it may be through the manufacturers who may employ the platinum, because I do not believe there is any way of checking up what the dental manufacturers do with the material.

Mr. RAINEY. So if there is no way of checking up there will always be a leak unless we stop it some way.

Dr. WEINSTEIN. I presume so.

Mr. LONGWORTH. Why could not the Chief of Staff instead of writing his name use a rubber stamp?

Dr. WEINSTEIN. I do not know, sir. Of course, gentlemen, we must divide this proposition into two distinct classes. We are speaking of the past; the future is before us, which puts an entirely different light on the situation, because it is now to be controlled by the Bureau of Mines and the act is passed.

Mr. LONGWORTH. I think this investigation has had something to do with it.

Dr. WEINSTEIN. Oh, yes. I happen to know something about this licensing bill, because Dr. Herty and I, I think, are the instigators of it.

Mr. MOORE. Doctor, Mr. Rainey asked you for how long platinum had been used in dentistry, and I understood you to say about 60 years?

Dr. WEINSTEIN. Yes, sir.

Mr. MOORE. How long has it been used in jewelry?

Dr. WEINSTEIN. I can not say, exactly.

Mr. MOORE. It is comparatively new?

Mr. LONGWORTH (interposing). It was 1900.

Mr. MOORE. I think 30 years would be the outside limit.

Dr. WEINSTEIN. Probably.

Mr. MOORE. So far as its use in the manufacture of jewelry is concerned?

Dr. WEINSTEIN. Probably.

Mr. MOORE. It is an interesting topic, and I am going to ask you, merely to make the record as complete as possible, this question: You are familiar with the Dictionary of Arts, Manufactures, and Mines, compiled by Dr. Andrew Ure, M. D., an English publication.

Dr. WEINSTEIN. I am not, sir.

Mr. MOORE. Just as showing that platinum is not new, I quote from this book, which was published in 1840. Under the head of "Platinum":

Platinum has been known in Europe only since 1748, though it was noticed by Ulloa in 1741. It was compared at first to gold, and was, in fact, brought into the market under the name of white gold. The term platinum evidently is derived from the Spanish word plata, silver, on account of its resemblance in color to that metal.

This article on platinum, published in 1840, tells of a number of countries from which platinum comes, and the quantity found in the United States appears to have been negligible. But it states that—

The greatest lump of entire platinum known, till of late years, was one in the Royal Museum at Madrid, which was found in 1814 in the gold mine of Condoto, Province of Novita, at Choco. Its size is greater than a turkey's egg.

So that platinum is no new mineral?

Dr. WEINSTEIN. No.

Mr. MOORE. This interesting statement appears in this dictionary of Dr. Ure, published in 1840, and I assume this would be interesting to Dr. Metz, who said, on behalf of the American Chemical Society and tending to show the vast interest of that society in this whole question:

Platinum furnishes most valuable vessels to both manufacturing and analytical chemists, who may beat it into leaves of such thinness as to be blown about with the breath.

Dr. WEINSTEIN. Yes, sir.

Mr. MOORE. So that the chemists have been using it for a long time?

Dr. WEINSTEIN. Yes, sir.

Mr. MOORE. This definition having been published in 1840; the dentists having used platinum for 60 years—

Dr. WEINSTEIN (interposing). Or longer.

Mr. MOORE (continuing). In that respect it certainly should not be regarded as a luxury?

Dr. WEINSTEIN. Oh, no.

Mr. MOORE. And the jewelers have been using it only since 1900, or certainly not more than 30 years, and the jewelers have probably been using it for this very reason that the chemists have been using it, as illustrated in this last line, that it may be beat "into leaves if such thinness as to be blown about with the breath."

Dr. WEINSTEIN. Not for that reason.

Mr. MOORE. The jewelers say it has been attracted to people because of their ability to work it into filigree work and graceful curves, and all that sort of thing?

Dr. WEINSTEIN. Oh, yes.

Mr. MOORE. So that there is really nothing new, Doctor, in the chemical world or in the governmental world, if it were looking out for war conditions in the matter of the supply of platinum or in the use of platinum, and might have fairly well been put upon notice if it had been wide awake to have a had sufficient quantity platinum in its possession to meet this war emergency if it had been on the job.

Mr. RAINEY. They did not use platinum in jewelry until they discovered that palladium would harden it?

Dr. WEINSTEIN. No, sir.

Mr. RAINEY. That is, about 1900?

Dr. WEINSTEIN. Yes, sir.

Mr. RAINEY. That is about the time it got its value also in chemistry?

Dr. WEINSTEIN. Oh, it was used in chemistry much before 1890.

Mr. HERTY. May I interrupt to say that gold may be beaten into small sheets by the dentists?

Dr. WEINSTEIN. Finer than platinum.

Mr. RAINEY. That is, its strength?

Dr. WEINSTEIN. Its power of resistance is something greater than that of gold.

Mr. LONGWORTH. If, by the imposition of a very high tax or otherwise, the prohibition of the manufacture or the sale of jewelry were effected, in your opinion would not that result in decreasing the price of platinum?

Dr. WEINSTEIN. Oh, absolutely.

Mr. LONGWORTH. In other words, there would be no object in these peddlers going about and buying platinum at \$150 an ounce and selling it to these jewelers for \$200.

Dr. WEINSTEIN. There is a principle back of all this, and that is the almighty dollar. If platinum was not expensive there would not be any need for platinum jewelry.

Let us see how this works out. Platinum was very cheap four or five years ago or six years ago.

Mr. LONGWORTH. At the time platinum first came into use for jewelry purposes, which, as these gentlemen testified, was 1900, the price of platinum was \$17 an ounce?

Dr. WEINSTEIN. Exactly. If you could get the statistics of the production of platinum jewelry for the last six years you would find that the production went up as the price went up, and the more expensive it is the more there is made of it.

Mr. LONGWORTH. It went steadily up from 1900. This is the list of prices handed me yesterday by the jewelers themselves: In 1900 it was \$17 an ounce; in 1910, 10 years later, it was \$36 an ounce; and before the war broke out, early in 1914, it was worth \$50 an ounce. It has about trebled in price since it came into use.

Dr. WEINSTEIN. I will wager my life that there was more platinum jewelry made in 1915 than there was in 1912 and 1913, and I do not know the figures.

Mr. LONGWORTH. I will tell you what the price was in 1916—\$92 an ounce; in 1917 the price varied from \$110 to \$105.

Mr. MOORE. How do you account for that, if your wager should be correct?

Dr. WEINSTEIN. There is such a thing as manufacturer's profit, and there is such a thing as jobber's profit, and there is such a thing as retailer's profit.

Mr. MOORE. Was the supply of jewelry shut off in England from foreign importation?

Dr. WEINSTEIN. Oh, no; that foreign price of platinum war restrictions in foreign importation had nothing to do with the highly increased amount of production.

Mr. MOORE. If there is more made in the United States there must be some special reason for it; either they could not get the foreign product—I am speaking of manufactured jewelry—or the people had more money to buy.

Dr. WEINSTEIN. The people had more money to buy and the jewelers have advanced in their art.

Mr. MOORE. We had not entered the war at that time?

Dr. WEINSTEIN. No, sir.

Mr. HULL. You mean increase in value or quantity of production?

Dr. WEINSTEIN. The quantity.

Mr. HULL. The quality as well as value?

Dr. WEINSTEIN. The quantity as well as value, absolutely.



Mr. LONGWORTH. Do you happen to know as to how the volume of sales of rather cheap jewelry compares to-day in this country with what it was three or four years ago?

Dr. WEINSTEIN. I spoke to a retail jeweler last week and he said the business was fine, because the poor people were getting a little more money and could afford to buy. But there is one consideration, and that is to differentiate between the high-priced jewelry and the moderate-priced jewelry.

To come back to this question of the jewelers using platinum, and why they refused to use anything but platinum, and why they pay \$200 for scrap. Take a piece of jewelry worth \$500, set with diamonds. It contains about \$20 worth of platinum if purchased at the normal Government price. Take that same jewelry, that is, the same jewels, set in gold, and probably it will not fetch more than \$300. Is it not good business for the jeweler to pay \$200 an ounce for that platinum, pay \$40 for the platinum it contained, instead of \$20 and make \$100 more? Why should he use substitutes?

Mr. LONGWORTH. Because of the mere fact that platinum is more expensive, the public is willing to buy it?

Dr. WEINSTEIN. Exactly. A jeweler would be foolish to use a substitute. He tells the customer, "This is genuine platinum; that is valuable." And we are all human; none of us want imitations in our pockets or on our ties or anywhere on our persons. We want the genuine thing.

Mr. MOORE. Doctor, this may not be patriotic from the viewpoint of some of the gentlemen who have spoken here, but if we can bring from its hiding place these large sums of money necessary to purchase platinum which foolish people are willing to spend for that purpose, and we can get revenue out of it, would we not be doing a public service in drawing the money out so that we can tax it and get some of it for the Government?

Dr. WEINSTEIN. I would like to get this question straight.

Mr. MOORE. If a woman is so foolish that she insists upon buying platinum when gold or some other commodity would be just as beautiful and just as attractive, and she is willing to pay the excess that she seems to be willing to pay for the fad or the fashion, do you not think the Government could get more money out of that woman by letting her spend it than having kept it in her pocket because she did not want to buy something else?

Dr. WEINSTEIN. Exactly. That is the very thing I want to speak about, and in the suggestions which I am going to be presumptuous enough to offer on this subject of taxation that is the very thing I want to discuss.

The CHAIRMAN. We have another gentleman we want to hear before we adjourn. I wish you would conclude as early as possible.

Mr. RAINEY. In the discussion of the origin of platinum and the discovery of it, I stated a while ago that from my examination it was discovered about 1840, and whereupon Mr. Moore produces a book which was published in 1840 and which states that it had been known in Europe since 1748, which is true, but this publication states that discoveries in Russian territories have just been made prior to the issue of this book, and I find that in 1840 we produced in all the United States only 8½ pennyweight of platinum, and that in 1830 the Russian supply was only 1 pound.

Dr. WEINSTEIN. Exactly.

Mr. RAINEY. And from 1831 to 1833 we only produced 15 pounds in Russia. So that platinum was not discovered and was not in commercial use until about the time I stated.

Dr. WEINSTEIN. Until about 1840.

I was speaking before of the use of substitutes for jewelry. I might say that I have published various articles on metallurgy giving the formulas and methods of combining metals, so I have nothing up my sleeve or any secret formulas or anything of that sort. About two years ago I offered some jewelers substitutes for platinum—alloys consisting of approximately 60 per cent gold, about 15 per cent each of platinum and palladium, and about 10 per cent silver and copper. They laughed at it and said, "It is very beautiful material; it would look fine." But they could not afford to use anything like that because they could not get the price—"it is not genuine"—they would not degrade their business that way.

I purposely went to a cheap little jeweler with the very same thing, and he said, "That is too expensive; I can use light gold."

Two men said the metal was very interesting, because you could not tell it from platinum; and it is my belief that if it were not for the fact that they were afraid of the law they would have put it out as platinum.

So you see the high-class platinum substitute does not appeal to the jeweler at all, and there is really no discussion required on this point, because as it is the jewelers can not have any more platinum after a given date. So it would not serve the purpose to urge the jewelers to use substitutes because the substitutes contain 30 per cent platinum. If there was plenty of platinum in sight and, as they claim it would disturb their industry to prevent the manufacture of anything containing platinum, well and good; they might be allotted a certain amount of platinum which could be used in substitutes, but as the alloy is such, and we have not enough for war purposes, as the Government has already passed a bill that they can not have any more for luxuries purposes, there would not be anything to urge.

Mr. MOORE. As a metallurgist, will you answer this: Is gold of sufficient hardness or has it the qualities to be used as a substitute for platinum in the construction of aeroplanes or motors?

Dr. WEINSTEIN. Oh, no; it is an entirely different metal. It would not do for contact points.

Mr. MOORE. Is there any known substitute for platinum for these spark-plug points?

Dr. WEINSTEIN. Hardly.

Mr. MOORE. Platinum must be had?

Dr. WEINSTEIN. Platinum must be had.

Mr. MOORE. These other metals which are cheaper than platinum will not do for that purpose?

Dr. WEINSTEIN. Gold will not do for that purpose, and it is too serious a matter. We can not experiment with contact points for aeroplanes; we can experiment with jewelry. There is a big difference there.

This question of taxation has been really merged with the question of the advisability of letting jewelers have platinum. I believe that they are two distinct and different propositions. I believe it is not

a question of whether the jewelers are to have more platinum or not; that is past. But it is a question of what platinum there is available in this country and how much of it the Government needs, how much of it can be spared for essential purposes after the Government has had what it needs, and if there is any left whether or not it should be used for known essential purposes, as well as jewelry, or held subject to a possible increase in war needs. I think that is the situation. The jewelers are objecting to this propaganda, for which I thank God. Well and good. The American Chemical Society is going to be wiped out of existence in five minutes. It is off the map. Do you mean to say that propaganda will cease? No; it is barely started. What is the result? It does not make any difference whether you tax platinum jewelry 10 per cent or whether you tax platinum jewelry 50 per cent. The clean, decent, patriotic American women will not buy platinum jewelry when told by the Government or by people who stand as clean American citizens that platinum is essential for war needs.

Mr. LONGWORTH. Did you happen to see that editorial I read yesterday advising jewelers how to reduce their use of platinum?

Dr. WEINSTEIN. Yes. Then there is another thing. You must divide jewelry into two distinct and different classes: Platinum jewelry on the one hand and gold jewelry on the other hand. The cheaper class of gold jewelry is purchased by an ordinary class of people. Put a tax on there that is reasonable, so that the ordinary people can buy it. But platinum jewelry is bought by wealthy people, and the wealthy, decent people will not buy it any way when they know that the Government needs it, and let the wealthy, indecent people pay a good, stiff tax. Who cares about them? Let them show their colors.

Mr. LONGWORTH. That is my theory of it.

Mr. MOORE. Suppose we agree with you on that proposition: What, then, have you to say as to the platinum that is now made up into jewelry, which the Government will not take and which you want to prevent the jewelers disposing of? They manufactured in good faith and entirely within their rights. What are you going to do with that? Confiscate it or throw it into the waste basket?

Dr. WEINSTEIN. First I want to thank you for that question.

Mr. MOORE. That is the whole question with me, because I asked Mr. Steele, the head of the jewelers here yesterday, this question: "Can you explain why that order went out to only 14 refiners?" That is the first order. "Mr. Steele: I can not. If we had been consulted in regard to this matter we would have advised them to cover all jewelers also," which I think is a fair proposition, otherwise, that element of speculation which you first referred to is bound to enter in there.

The CHAIRMAN. Now, answer this question as to what you would do with the jewelry already manufactured which has platinum in it.

Mr. WEINSTEIN. Very well. If I may be permitted, I will answer this question in rather a lengthy way, but comprehensively at least; and I will endeavor to be brief. To start with, there is not a man in the United States who knows how much platinum there is, and there is not a side partner to him who knows how much the Government needs. The census that the jewelers have taken surely means nothing. Who have they taken it among? They would not dare

take the census of platinum held by men in the business, because if they sent that information to the War Industries Board the War Industries Board would commandeer it. But those jewelers say they have taken the census of 35,000 of the amount of platinum they hold and given that to the War Board. So we do not know how much platinum there is in existence in this country to-day.

The first thing we must have is the census, then automatically with it we must get the maximum Government needs. Then and then only will we know what platinum can be spared to the dentist, what platinum can be spared to the chemist, and what platinum can be spared to the jewelers, etc. If I understand correctly, this license law goes into effect on the 10th of August, 40 days after the 1st of July. If action is taken immediately by the 20,000 agents of the Bureau of Mines, plus a circular letter sent to the Government to every holder of platinum, whether he be dentist, chemist, jeweler, or what not, under the seal of the Government, demanding a report, just the same as the various narcotic laws which apply to physicians and dentists, etc., they must make a report by a given date, under penalty.

Mr. MOORE. If this is so important, why is not that done? Mr. Rothschild said yesterday, in answer to a question that I put to him, that he on a rough estimate calculated that there were 1,000,000 ounces of platinum in the United States.

Mr. WEINSTEIN. And 5,000 in jewelry.

Mr. MOORE. If that is so important to the Government for war purposes, why does not the Government take a census and find it?

Dr. WEINSTEIN. That is the very thing.

Mr. MOORE. And commandeer it all when we need it.

Dr. WEINSTEIN. That is the very thing.

The CHAIRMAN. What would you do with this manufactured jewelry?

Dr. WEINSTEIN. To come to this subject of manufactured jewelry—

The CHAIRMAN. You understand that if the Government wants to do anything, to commandeer, it has got to take a census and see how much there is, how much can be spared to dentists. What would you do as to manufactured jewelry?

Dr. WEINSTEIN. If, for the sake of argument, the Government needs 100,000 ounces for its war program for the next three months, surely, among the various heads of departments concerned with the production of war requirements, there must be some way of determining approximately what they will require, and then adding 100 per cent to it. That is fixed, for the sake of argument, as 100,000 ounces. At the present time, suppose the census shows 150,000 ounces available platinum in this country. That means there is 50,000 ounces which the Government does not need. If the jewelers are truthful in the statement, that there is a comparatively small amount of platinum in use in this beautiful, fine jewelry, let them have it and tax it low.

Mr. HAWLEY. I asked the question yesterday. "What amount of platinum was in manufactured jewelry, the number of ounces," and I did not get any answer; nobody seemed to know.

Dr. WEINSTEIN. Of course not.

Mr. HAWLEY. At least, no information was furnished.

Mr. MOORE. The Government does not know.

The CHAIRMAN. What we want to know is this: Here is a jeweler who has got a ring set in platinum. It is already manufactured.

Mr. WEINSTEIN. Yes, sir.

The CHAIRMAN. Now, then, should the Government tax that 25, 50, or 100 per cent, or should the Government commandeered that ring and get the platinum out of it? What do you think about that?

Dr. WEINSTEIN. Suspend the traffic in platinum in jewelry for 30 days, pending the investigation into the needs and supply. At the end of 30 days, if the needs are really great, as I believe they are, some equitable method of taking it away from the jewelers will have to be found.

Mr. MOORE. In either event the Government loses the revenue?

Dr. WEINSTEIN. If it has to choose between the platinum it needs and the revenue through the sale—

The CHAIRMAN. We understand all that. If the Government needs it, we should take it and pay the fellow for it.

Dr. WEINSTEIN. And if it does not need it, let him have it and collect the revenue.

Mr. LONGWORTH. Or, to answer Mr. Kitchin's question more specifically, this committee has power to tax to the source an industry. Would not the effect of the imposition of a tax of 250 per cent, say, on the sale of jewelry, wholly or partly made of platinum, have a tendency to reduce the price of platinum generally?

Dr. WEINSTEIN. Absolutely, sir.

Mr. LONGWORTH. And we having only that power, would you not advise us to exercise it?

Dr. WEINSTEIN. Speaking for myself, absolutely, yes—500 per cent tax.

Mr. RAINEY. Platinum would mean more to the Government than any possible revenue it could get out of it?

Mr. LONGWORTH. An infinite return to the Government, because every dollar you reduce the price of platinum it is just so much more than revenue.

Dr. WEINSTEIN. But the minute this high tax on platinum, let us say, 20 per cent, is levied, the people want to know immediately why this tax; and when they learn that the Government needs that platinum they will not buy it.

Mr. HAWLEY. Suppose a jeweler takes an ounce of platinum and makes it into some nice form of jewelry. A certain amount of labor has been put on that platinum to make it useful as jewelry?

Dr. WEINSTEIN. Yes, sir.

Mr. HAWLEY. How much is that labor worth, on the average?

Dr. WEINSTEIN. It is hard to tell. It might be worth some amount as platinum in one instance and it might be worth twice as much in another instance.

Mr. HAWLEY. So the price would probably be—

Dr. WEINSTEIN (interposing). Probably three times as much.

Mr. LONGWORTH. If you mean either way, by a high tax an absolute prohibition, and it seems a question whether Congress has the power to prohibit, for instance, when we determined to stop the manufacture of white phosphorus matches and put a tax of 1,000 per cent on the manufacture of white phosphorus matches, since this

is very much the same thing—the proper use of the same power—phosphorus matches manufacture was dangerous to the man engaged in it—

Dr. WEINSTEIN. Very good.

Mr. LONGWORTH. This proposition is that if we fail to use all the platinum available in the country, we may cause the loss of the war. Is it not even more a proper duty of Congress at this time to destroy the demand for platinum as used in jewelry, thereby decreasing the price and making it useless for jewelers to go into the market and buy platinum?

Dr. WEINSTEIN. Absolutely. For a moment I will argue for the jewelers. You propose a confiscatory tax, for the sake of argument. The jewelers come here and say it will bankrupt them. Let us give them a show. Thirty days suspension of business is not going to ruin or put out of business any of them.

Mr. LONGWORTH. We have not the power.

Dr. WEINSTEIN. The Bureau of Mines has that power. And the War Industries Board has that power.

Mr. LONGWORTH. I am speaking about this committee.

Dr. WEINSTEIN. Can not this committee impose a tax and can not the Bureau of Mines on top of this suspend the sale of such material for a given time, and work all right—two departments working independently?

Mr. LONGWORTH. Surely, I think the other branches of the Government have overlooked their duty too far.

Dr. WEINSTEIN. Unfortunately. At the end of 30 days, when the census is taken, this platinum will probably be released back to the jewelers, and the Government, the Treasury Department, get a tax. On the other hand, if the investigation shows there is not enough platinum and that this platinum must be had, then it must be commandeered at any price.

Mr. HAWLEY. There is another question involved in there, the question of a future supply. Are we going to get it for the next year and the next year, perhaps, from outside sources or from sources in this country?

Dr. WEINSTEIN. We will take it from every source we can get it, and we will take it from the American people who are wearing platinum jewelry.

Mr. HAWLEY. What about those new sources of supply of platinum?

Dr. WEINSTEIN. That is very slim.

Mr. HAWLEY. How much new platinum will come into use or come into existence in a year?

Dr. WEINSTEIN. I understand that the Columbian supply is 12,000 ounces a year, 1,000 ounces a month, and I understand distinctly it is dwindling down because of German influences down there.

Mr. RAINEY. Do you not also understand that the ratio of supply, even if you could get it, is also dwindling, and our statisticians figure that in 10 years, with the new discoveries in Russia, there will not be any coming from Russia?

Dr. WEINSTEIN. I was not thinking of Russia in this calculation. I was thinking of Russia as out of the question at this time, but it must be considered for the future. You see the big point I am

trying to impress on you gentlemen is that I believe the jewelers have misrepresented the amount of platinum in their stocks. If it is the small quantity they claim, it is a simple problem. But I believe it is a tremendous big quantity. They have not been asleep at the switch during this last six months. They have been working day and night producing manufactured articles, because they know that when the Government takes it away they will not take it by force, they will pay them well, and what do they care where they get the money from, whether from the people or from the Government? They want the money. They are manufacturers. But I believe that the imposition of a higher tax on platinum jewelry than on ordinary jewelry is a fair one. I believe that before the decision is made as to whether you want to confiscate platinum jewelry that this investigation should be made—forgetting jewelry entirely—this investigation must be made, because if the Government has not enough platinum then it is a crime to let the dentists have 4,000 ounces; they ought to have none; they will have to do without it.

Mr. LONGWORTH. The people ought to have to take it out of their teeth, where they have platinum fillings.

Dr. WEINSTEIN. If the time comes every person who has platinum in their mouth will have to take it out.

Mr. HAWLEY. If the war continues five years and we increase our operations as now anticipated, will we have platinum enough at the end?

Dr. WEINSTEIN. There is another thing, gentlemen, you must remember: That the need for platinum does not increase in exact ratio as the amount of war material produced. The point I want to make is this: If we get a large amount of platinum or an adequate amount of platinum for war purposes, comparatively little of that will be lost. It means that if we need 100,000 ounces this year, we are providing for a big war program. The chances are we will not need 100,000 ounces next year in addition to what we need this year, but that we will need 25,000 or 30,000 or 40,000 ounces.

Mr. HERTY. We will need more platinum as the Army expands.

Dr. WEINSTEIN. We should provide for the maximum Army.

Mr. HERTY. We do not know what that is. That is the whole point. We do not know what the size of the Army is to be.

Dr. WEINSTEIN. Is it not fair to provide for an Army of 5,000,000? We will not need to provide for 5,000,000 more next year and a duplication of those plans.

Mr. HERTY. The plans in existence at this time are to take care of 5,000,000 men, and we should consider what platinum we will need when we go for the next 5,000,000.

Mr. MOORE. If needed, and the jewelers have it, I do not see why you do not go ahead and get it.

Dr. WEINSTEIN. There is the very thing. I am sorry to take your time. I am going to subside in another minute. The big thing involved here is the needs of the Government on the one hand and the disturbance of the jewelry industry on the other hand. Who is going to win? Who is going to get it—one of the two, and there is no question but that the Government has got to have it.

Mr. MOORE. The jewelers would have to yield to the Government?

Dr. WEINSTEIN. The jewelers would have to yield to the Government.

Mr. MOORE. The next thing is that if you are going to take it out of the teeth of the people, the jewelers ought to give it up first. I do not see why something is not done. These commandeering orders go out in a special way to 14 firms first, and then 1,400, or whatever it is on the second order, leaving others to speculate on this thing, with the market left open. Why does not the Government say what it wants and go and get it?

Dr. WEINSTEIN. That brings us back to the establishment of this tax, which is your gentlemen's work, and the determination as to how much platinum is required and where it is, to be determined by the Bureau of Mines or the War Industries Board or whatever board is authorized to do that. Then if this draft in platinum jewelry is suspended pending this investigation, you are doing the jewelers a greater justice or doing them less injustice than if you put this 50 per cent tax on, which may be entirely unnecessary. In other words, I am willing to give the jewelers the benefit of the doubt, as much as I despise their needs as compared with the Government needs.

Mr. FORDNEY. My friend, why would it not be perfectly proper if the Government needs all the platinum that can be gathered to give the Government power to take that, whether in the hands of the individual or manufacturer, and put a tax on it in the hands of the individual so high that no individual can have it?

Dr. WEINSTEIN. Absolutely. But the great argument here has been to avoid retroactive taxation.

Mr. MOORE. They have the power to commandeer now.

Dr. WEINSTEIN. And my argument is that in this method of taxation on the one hand by Congress and restriction or temporary injunction by the Bureau of Mines on the other, you have there a happy solution of the problem, because if it turns out there is enough platinum for the jewelers after the investigation is made, you have set a fairly reasonable tax on them, and they can not object; on the other hand, supposing we let them sell it to-day, and we find 30 days from to-day that the Government needs that platinum, where the Government? The Government will have to pay six times as much as it does now.

Mr. HAWLEY. Do you think it ought to be a one-year program? Should it not be a five-year program?

Dr. WEINSTEIN. About that five-year program—

Mr. HAWLEY (interposing). Should not the surplus of this year, instead of being used for another purpose, be conserved for next year?

Dr. WEINSTEIN. Absolutely.

Mr. HAWLEY. And not let it be manufactured, and then bought back by the Government at a higher price?

Dr. WEINSTEIN. The point is this: The Government's war program is indefinite. Everything hinges upon that; everything else is secondary. The Government must first determine its maximum program and try to get the platinum to fill it.

The CHAIRMAN. I think you and Dr. Herty and every other gentleman who is interested in the conservation of platinum for the Government should get together and insist on the passage of a bill immediately, putting the whole platinum production or ownership into the hands of the Government for its use, and then it could release as much as it wanted to, and the necessities, as you and Dr. Herty make them out, it seems to me would almost compel the Government



not to wait two or three or four or five months for this bill to become a law, because it will take several months for this bill to become a law. But is not the proper thing to enact a measure now, giving the Government control of the whole platinum supply? Why do not you gentlemen get together and insist on that? This bill would probably not become a law before some time between October 1 and November 1.

Dr. WEINSTEIN. The new bill?

The CHAIRMAN. Yes; this bill we are now discussing; this revenue bill. In the meantime, they could consume and destroy a great deal of platinum for jewelry or anything else. You gentlemen should go up there and see the department.

Dr. WEINSTEIN. Very well, Mr. Chairman, if that is the case, that puts an entirely different light on the matter.

The CHAIRMAN. Would you not think that ought to be done?

Dr. WEINSTEIN. Within 20 days the Bureau of Mines assumes absolute control of all the platinum in the United States of America.

The CHAIRMAN. But, under the provision put in the sundry civil bill?

Dr. WEINSTEIN. Yes.

The CHAIRMAN. I understand that was simply a licensing power?

Dr. WEINSTEIN. To deal, to traffic, to use.

The CHAIRMAN. Let me say to you and Dr. Herty, because what you have said has impressed me, and I know and everybody else knows that platinum is an absolute necessity to carry on this war, and the gentlemen who understand the necessity better than we do are the gentlemen in the War Department.

Dr. WEINSTEIN. Exactly.

The CHAIRMAN. Now then, if the necessity is so pressing—and I think it is—one letter of five lines from the President would put a platinum bill through Congress in 24 hours. Just send us down such a request and say it is necessary for the Government to have control of all the platinum in the United States and all the future production as a war necessity, and neither the House nor the Senate would hesitate, and you can do that in 48 hours.

I would suggest that you gentlemen see the War Department and the proper authorities there, and they ought to know whether it is necessary or not, and perfect something like that and get Congress to pass such a bill, because, as I said, they understand the necessity more than you or Dr. Herty or this committee. And I say this, if it is a pressing necessity, as you think it is, and as it seems to me it is, well, they could relieve that necessity in 48 hours and not wait for this bill to go through the committee, and then through the House, then through the Finance Committee of the Senate, then through the Senate, and then through conference before it becomes a law, which would be several months.

I suggest that you gentlemen take that course.

Mr. HERTY. I have already put into the record an article which I wrote, in which I said the important place for this platinum is in the vaults of the Treasury Department, and I sent a copy of that editorial to the President.

The CHAIRMAN. I agree with what you gentlemen say, that the Government ought to take immediate control and not wait until this bill becomes a law, because it may be too late.

Dr. WEINSTEIN. You see, Mr. Chairman, the point is this: The jewelers have come here and tried to prove that the Government does not need it. This "scrap" had to go through.

The CHAIRMAN. There is no criticism at all on you and the doctor coming here; it is all right; we are glad to have had you; but I am suggesting a shorter method than this roundabout one, because a thousand other things will be in this revenue measure and other considerations this committee must give. But here is a matter which the War Department, with a letter from the President, can conclude in 48 hours, and I think they ought to do it.

Dr. WEINSTEIN. Granting, for the sake of argument, and undoubtedly it would be a comparatively simple matter to accomplish this, to have proper authorities issue immediate orders preventing any traffic in platinum except according to Government directions. How does this affect this taxation question before you gentlemen? If there will be no more platinum for jewelry, then there is really no taxation of platinum jewelry. But, on the other hand, if it is possible, or if they will force in some way or other the continuation of the sale of platinum, then the question of taxation is a pregnant one.

The CHAIRMAN. Undoubtedly if the Government leaves any platinum, after passing this bill, as I suggest, or under the operations of the present provision in the sundry civil act, for the jewelers' use, we will have two or three or four months to know whether there is, and we will put a proper tax on. I rather think there will be a tax of jewelry.

Dr. WEINSTEIN. One more word I want to say.

The CHAIRMAN. All right, sir.

Dr. WEINSTEIN. For the welfare of the United States of America, please make the tax on platinum jewelry just as high as possible to remove temptation to those who might want to get platinum legitimately or illegitimately and turn it into jewelry.

The CHAIRMAN. Are the dentists of the country going to help conserve platinum and use less than heretofore; are they going to try to find some substitutes?

Dr. WEINSTEIN. The dentists of this country will do their level best, I promise.

The CHAIRMAN. Now, get up an organization among the dentists, swear them for this patriotic service of using less platinum than before, and that will be one good service you will render to the country, and we will help you render that service.

Dr. WEINSTEIN. Mr. Chairman, may I have a copy of those last few words of yours to use in a letter to the dentists of America?

The CHAIRMAN. Yes, sir.

Mr. MOORE. Do you not think from a point of patriotic duty the jewelers, when the Government calls for the platinum, will respond?

Dr. WEINSTEIN. I have no doubt of it.

The CHAIRMAN. And I have no doubt of it.

The CHAIRMAN. Mr. Winston has been here a long time waiting to be heard, and we will now hear him.

**STATEMENT OF MR. JAMES H. WINSTON, LAWYER, REPRESENTING CERTAIN DEALERS ON THE CHICAGO BOARD OF TRADE, CHICAGO, ILL.**

The CHAIRMAN. State your full name, address, and for whom you appear.

Mr. WINSTON. My name is James H. Winston, address, Chicago; and I am a lawyer, and appear on behalf of a certain class of dealers on the Chicago Board of Trade.

The CHAIRMAN. You are an attorney in Chicago?

Mr. WINSTON. I am a lawyer in Chicago.

The CHAIRMAN. And you appear on behalf of whom?

Mr. WINSTON. As I said, I appear in behalf of a certain class of dealers on the Chicago Board of Trade.

I wish to discuss very briefly the advisability of a modification in the stamp taxes as applied to sales on boards of trade and exchanges from a revenue standpoint.

I think now, Mr. Chairman, it will perhaps take 20 or 30 minutes, but it will be very brief. But it will be a very brief discussion, if you can take that much time now; if you can take that much time now I would like it, if it is your pleasure later—

The CHAIRMAN. We had better proceed right now and get through with it.

Mr. WINSTON. Mr. Chairman, the kind of tax that we wish to have a modification in is tax as applied to so-called transfer or scratch sales. That appears in the act as follows. It is under title 8, schedule A, paragraph 5:

Upon each sale, agreement of sale, or agreement to sell, including so-called transferred or scratch sales, 2 cents on the hundred.

This tax falls upon a class of dealers who are popularly known as "scalpers."

It is not our purpose to come here and ask for a modification of anything that merely bears heavily upon them, but it is a matter that is vital to their existence. It means that if this tax is permitted to remain as it is at the present time that those men can not profitably engage in that business, and they will cease trading altogether and the Government will get no tax. That is not a theory, but it is a fact. I speak particularly of one man, Luther Dickey, whom I know best, and who is typical of all the balance, that he tried to trade during the months of December, January, and February, after this present tax went into effect, and that he discovered that while he was making \$800 a month that the tax would come to \$800 or \$900 or \$1,000, and that in some cases the tax exceeded the amount he would make out of it.

In order to understand how that occurs, it is necessary to give you a slight insight into what a scalper is. This transferred trade does not affect the Armour Grain Co., who likewise are clients of mine, nor the big dealers, nor does it affect the big millers; it is the little fellows who are affected by it, these scalpers, who serve the important function of creating an ever-ready market, so that whenever the farmer wants to sell he finds a market for his produce, whether the ultimate consumer is ready to buy or not. These men who stand in the wheat pit are always ready to buy and are always ready to sell.

The kind of transactions that they do, as distinguished from a speculator, and as a typical illustration I will refer to Mr. James Patten, whom we know of in connection with wheat. Mr. Patten's typical kind of a transaction would be to buy a large quantity of grain, say a half million bushels or a million bushels at \$1.80, for illustration. Mr. Patten would then go away to California and wait three or four months in the expectation of wheat going up, and it probably would, and he would come back after several months and sell at a large profit of 20 or 30 or 40 cents a bushel, making, as can readily be seen, a large profit. What is the tax on that transaction? Only 2 cents on the 100, and if the amount involved in the transaction was \$1,000,000 and the price a dollar a bushel at 2 cents it would cost \$200, and of course he can readily pay it. But the scalper is a man who deals every day in a matter of 200,000 or 300,000 or 400,000 bushels, or perhaps half a million bushels, because it is his business to buy and sell, and he does not expect to make more than one-eighth of a cent profit or one-fourth of a cent profit at the most. He buys at \$1.50, and the minute the market changes so that he can sell at \$1.50½ or \$1.50¾ he sells and makes his little profit; but in so doing he makes an immense number of trades.

He is perfectly willing and expects to pay wherever he makes what is considered on the Board of Trade an "ultimate sale," meaning by that a sale where it goes on his books, where he is connected with the sale after it is finished. But he does want to be relieved from the tax in the case of transfers. A transfer is this: I will illustrate it by myself being a scalper in the pit. I buy from A at \$1.50 to the bushel 10,000 bushels for September delivery, say. At the same session of the board of trade I sell to B 10,000 bushels at \$1.50, the identical price. Under the rules of the Board of Trade and under the practice that has been in vogue there 30 or 40 years, it has always been the custom to permit a transfer to take place there; that is, I say to A, "You deliver that to B, and scratch my name out," and he does that; he agrees to it. I go to B and I say, "I have sold you 10,000 bushels at \$1.50. Won't you take that from A?" He says "Yes"; and he scratches my name out. A transfers to B and A pays the price. Of course, there is no complaint about that; that is understood, and that is the practice. The tax is paid there. What we wish to be relieved of is my having to pay the tax on that transaction and that transaction alone. It is confined to transfers.

The CHAIRMAN. If you are relieved in that case, does A pay the tax?

Mr. WINSTON. A pays the price.

A transfer can take place under the rules of the Board of Trade only in the instance where the sale is at the same price, where I buy from A and sell to B at the same price, and at the same session of the Board of Trade. If I buy from A at \$1.50 to-day and sell to B to-morrow at \$1.50, under the rules of the Board of Trade, that can not be transferred.

The CHAIRMAN. Suppose you sell at \$1.50¾?

Mr. WINSTON. That can not be transferred. It has got to be at the same price. It is in the nature of being a blank cartridge. It is an attempt to make a sale, but he does not make it—I mean an attempt to make an ultimate transaction. If he sells at a loss, if you please, there can be no transfer. Now, the question naturally

arises as to whether I, the trader, am buying and selling at the same price. Now, understand, if you please, that I do not hope to make but one-eighth of a cent or one-quarter of a cent profit, and I make my living out of having a large number of such trades. It frequently happens that there is a transfer under this kind of a circumstance. Suppose I am a commission man, as well as being a scalper. I get an order by telegram to buy for a man in Indiana 15,000 bushels—15,000 bushels is an odd lot. I go into the wheat pit, and probably some of you are not familiar with the way the wheat pit is conducted. It is a large arena. You are jammed in there so that you can not move about. All the trading is done by signals—buying and selling by means of the hand.

I have this order to buy 15,000 bushels. I don't find anybody that wants to sell 15,000 bushels. But I see one who wants to sell 25,000 bushels, and I see another who wants to buy 10,000 bushels. The 15,000 bushels and the 10,000 bushels make the 25,000 bushels, so I buy the 25,000 bushels. Then I go to B, who wants the 10,000 bushels and I say, "Will you take your 10,000 bushels from A?" and he says, "Yes," and both of them scratch off my name and I am eliminated from the transaction. It goes off my books. I do not consider it a trade. I don't have to pay any commission to the clearing house, to which I would have to pay a commission if they recognized it as being an ultimate trade, and it has been the practice and the rule of the board for 30 or 40 years. If I am a member of the clearing house I have to clear all my transactions through a clearing house by paying a commission, but under the rules of the board of trade that have been in force long before the act of 1898, it is recognized that a transfer is not an actual transaction, and it is not an ultimate transaction, and I do not have to pay any commission.

Now, then, we are asking that these men be freed from the necessity of paying a tax on these so-called transferred trades, limiting it to transferred trades, because if the tax is retained on those transferred trades, the amount of the tax is greater than they would make out of it.

Now, then, just a moment from a historical standpoint.

Mr. RAINEY. Don't they make anything out of it?

Mr. WINSTON. They do not make anything. It is an attempt to do something and not doing it. It is like buying a lot of cartridges for bird shooting and finding that a number are blanks or have poor caps and don't fire.

Under the act of 1898 it read, "Upon each sale, agreement of sale, or agreement to dell" and stopped there. Only in the act of 1917 were the following words included: "Including so-called transferred or scratch sales."

Mr. RAINEY. That is what you want out?

Mr. WINSTON. That is what we want out.

Under the act of 1898 the Commissioner of Internal Revenue held that transfers were not sales and were not taxable under the act and no tax was paid by the board of trade men on transfers under the act of 1898.

Mr. RAINEY. It is not doing any good in here any way.

Mr. WINSTON. I don't follow you, Mr. Rainey.

Mr. RAINEY. Well apparently this language imposes a 2-cent tax on transferred sales, but the courts have held that transferred sales are to be taxed.

Mr. WINSTON. No, they have held that they are to be taxed.

Mr. RAINEY. I didn't understand that.

Mr. WINSTON. Under the act of 1898 the commissioner did not attempt to collect any tax on transfers. Along came the act of 1914 with the terminology of the 1898 act, and some question was raised by the board of trade men as to whether or not transfers were taxable and they applied to the local revenue agent who had supervision of the taxes on the board of trade, and he contended that transfers were not taxable so they continued for some 16 or 18 months.

Mr. MOORE. This kind of transfers that you referred to?

Mr. WINSTON. The exact kind that I mentioned.

Mr. MOORE. The commissioner held that they were not taxable?

Mr. WINSTON. Not taxable under that act. It has been subsequently amended so as to make them expressly taxable.

Mr. MOORE. That is in our last revenue law?

Mr. WINSTON. In the last revenue law. I am now referring to the act of 1914 as it was written.

Mr. MOORE. I would like you to explain—not desiring to interrupt you at all—why those transfers which seem so futile are made at all. Of course you say they are not entered in the books of the brokers.

Mr. WINSTON. Yes, I will, Mr. Moore, if I may—

Mr. MOORE (interposing). There seems to be no substance in them.

Mr. WINSTON. If I may complete the historical statement as to how these words came into the act. After about 16 months of operation under the act of 1914, the question was then raised as to whether or not transfers were taxable, and Commissioner Osborn, who always got revenue wherever he could get hold of anything that was taxable, directed his agents to put a tax on transfers. So after these men had been trading for more than 16 months, under the belief and expectation, being told by the local special agent who had supervision of the board of trade taxes that transfers were not taxable—I say after 16 months of that, the tax on transfers was demanded from them, and it was alleged to be a very large sum of money. In the controversy I represented about 25 or 30 of the larger people there who were to be affected by it, and we ultimately procured a compromise by which the particular clients that I represented paid something over \$150,000. I understand that the Government collected from all the board of trade men about \$1,089,000 both on transfers and on other kinds of trade where they neglected or failed to pay their tax.

Now while this question was being raised, certain board of trade members started litigation to test the question as to whether or not transfers were taxable under the language of the 1898 and the 1914 acts, and I presume that while that litigation was pending, before it was ultimately decided by the Circuit Court of Appeals—it never was decided by the Circuit Court of Appeals but only by the nisi prius judge—during the pendency of that this act was passed so as to remove all doubt as to whether or not transfers came within the language of the act. They put it in by express language.

In the various appearances that I had before the commissioner I argued before him that it was an injustice to these men to have permitted them to go ahead trading for 16 months under the belief that there was no tax on transfers and under their representation that if they had known transfers were taxable they simply would not have

traded at all, because it would not have been profitable, because the tax would have exceeded the profits derived from engaging in the scalping business. The commissioner said that those were considerations that would have to be taken up by Congress. He had to construe the act as the attorney did. I would not like to quote the commissioner and those who were with him, but we got the impression that he thought it was a hardship and an injustice to make transfers taxable, but he said that they were things that he had no power over; that those considerations should be addressed to Congress.

Now, Mr. Moore, to come to your point as to why these things are done. I gave one illustration how it happens, namely, where a man wants to buy 15,000 bushels and is compelled to buy 25,000 in order to get 15,000, and he lets go of 10,000 because the other man wants it. He gets it in order to make change.

Mr. MOORE. Is it a bona fide transaction in the beginning? Does he really want the 25,000 bushels, or is he just taking a chance?

Mr. WINSTON. Absolutely. He is a dealer in grain. He does not expect to grind it up into flour, but he is a dealer in grain.

Mr. HAWLEY. Does he expect delivery?

Mr. WINSTON. Absolutely.

Mr. MOORE. He is buying it now on the expectation that he may dispose of it to somebody else?

Mr. WINSTON. That is the thing that creates the ever-ready market. That is the thing that makes hedging possible.

Mr. MOORE. It raises the question whether he is an independent dealer or middle man.

Mr. WINSTON. I wish to address myself to that.

Mr. RAINEY. It is true he may be buying for the country elevator man who is hedging against a purchase he has made from a farmer.

Mr. WINSTON. He may be buying for a miller who is hedging. Hedging is recognized as necessary and proper conduct of a miller. I am going to explain hedging.

Mr. FORDNEY. Let me see if I understand you. You start out by saying, suppose you are the broker and you know that a certain miller in Indiana wants 15,000 bushels; but you don't find anybody that has 15,000 bushels to sell, but A has 25,000 bushels and you know that B wants 10,000 bushels.

Mr. WINSTON. He is signaling.

Mr. FORDNEY. You take the entire 25,000 bushels in order to get that 15,000 and transfer the 10,000 to B without any profit.

Mr. WINSTON. Without any profit, at the identical price. If it were not at identically the same price it could not be transferred under the rules of the board of trade.

Now, hedging is this kind of a transaction: Suppose a miller who grinds up the grain is going to produce flour or is going to produce meal. He is engaged in the legitimate business of making a manufacturing profit. He is not in the business to make a profit on the fluctuations of the price of grain. Nor does he wish to be subjected to the dangers of a decline in the price of grain. Therefore, for his own protection against the fluctuations of the market, he does what is known as "hedging," and that would be this: Suppose I am Washburn & Crosby and I am going to buy 100,000 bushels of wheat that I know can not be manufactured into flour for three or four months from now and I recognize, which is a fact, that between now and

that time there may be a decline of 20 cents a bushel in the price of wheat, and I will have bought at a price that is 20 cents higher than the price at the time I get it manufactured into flour. Now, then, in order to insure myself against that loss by the decline in the market, at the same time that I buy this 100,000 bushels I sell short 100,000 bushels for September or December delivery.

So that when I get my wheat manufactured into flour, I will then buy in that 100,000 for contract and cover myself against the fluctuations of the market. So that if the market has gone down, and I buy any cheaper than what I sold it for, I make that profit, which covers me against the fluctuation. Of course it takes away the chance of my making a profit if the price of wheat increases in value, but I am not engaged in the business of speculating upon the price of wheat. I am engaged in a manufacturing business and getting my manufacturers' profit. So these board of trade men who are called scalpers, who create that every ready market, who are there ever ready and willing to buy grain from whoever offers it or to sell it to whoever wants to get it, and it enables the farmer at all times to get his market. It therefore follows that they are engaged in a legitimate enterprise, and I don't think it is the purpose of Congress to tax out of existence anybody who is engaged in a legitimate enterprise.

I realize very well that it would be more satisfactory if I had these men here. I came down to present these views to the Commissioner of Internal Revenue, and he can by reference to his records and the statistics and reports that are made to him verify and confirm whether this is a fact.

Three hundred of these men who are these so-called scalpers have come together in a meeting and appointed a committee for the purpose of presenting their views down here.

Mr. HAWLEY. These men that you represent when they buy or when they sell under the rules of your board of trade must either make or accept delivery?

Mr. WINSTON. They must, sir. That is the only way it makes it a legitimate transaction under the laws of Illinois.

Mr. MOORE. How are their transactions checked up now for the purposes of revenue by the Internal Revenue Bureau?

Mr. WINSTON. They have cards.

Mr. MOORE. You say these transactions are not entered on their own books. How does the Revenue Commissioner check them up for taxation?

Mr. WINSTON. They are required under the present law to make out memoranda of sale covering these transfers, and that is done under the present law.

Mr. MOORE. Does the exchange keep that record?

Mr. WINSTON. He is required to render monthly reports.

Mr. MOORE. To the exchange?

Mr. WINSTON. The Commissioner of Internal Revenue.

Mr. MOORE. Though the transaction may not be entered on their own books they are required to make a report?

Mr. WINSTON. They are.

Mr. MOORE. You propose to have us waive that in the new law?

Mr. WINSTON. The necessity of making reports?

Mr. MOORE. You want to strike out half a line affecting sales?

Mr. WINSTON. Yes, sir.



Mr. MOORE. And you state that they contend that if we continue to impose the tax there will be no profit in their business?

Mr. WINSTON. They would have to cease doing business, that particular class of trader.

Mr. MOORE. I would like to know just how severe that would be on business generally before you go. But I want to use the illustration you used in the beginning—Mr. Patten's operations—where you said that Mr. Patten would buy a million bushels and go away to California or somewhere and wait until the rise in the market and then cut his melon. Would our remedy be, seeing that we have got to raise more taxes, to let the tax on the scalping operations stand and devise some method of reaching Mr. Patten's transaction?

Mr. WINSTON. That would be reached through the income tax and excess-profits tax and the additional tax, as I take it.

Mr. MOORE. If he makes but one transaction and waits six months, or whatever time may be required for him to derive his profit, while your man is making changes every day and constantly throughout the country, it may bear more heavily on your man than it would on Mr. Patten. Would our remedy be, since we have got to get more taxes, to still hold your man but reduce the tax on him and raise the tax on such transactions as Mr. Patten's?

Mr. WINSTON. I don't see how that could be done, Mr. Moore, because this is a tax upon a facility, and Mr. Patten doesn't use that facility but just the once, and consequently as a stamp tax, the tax that is an equal tax, it could not be applied more heavily to Mr. Patten than to anybody else.

Mr. MOORE. Except as to income and excess profits?

Mr. WINSTON. Except as to income and excess profits. When I used Mr. Patten's name I did it merely for the purpose of making a distinction between a speculator and a so-called scalper. A speculator is not dealing constantly during the day. He buys and waits a long time for a rise in the market or decline, such an illustration as I gave applying to normal times.

Mr. MOORE. There is a great deal of talk about middlemen in these times, and we are hearing a great deal about propaganda of one kind and another, and there is a propaganda against the middleman, who is regarded as essential in many relations between consumer and purchaser. But your kind of middleman is a little more aggravated than any other kind, and I thought you might like to dwell upon the actual necessity of his existence at this present crisis and give a particular reason why he should be relieved from taxation, since he is a go-between, and some of these transactions will not be of a substantial nature, but of a speculative nature.

Mr. WINSTON. I do not ask, Mr. Moore, that he be relieved from taxation. I ask that a particular kind of machinery that is necessary for the conduct of his kind of business be relieved from taxation in order that he may engage in the business at all. Now, I am well aware that it is a disputed economic question as to whether or not dealing in futures is necessary at all. That is a mooted question, and people assert that it is necessary, and there are those who take the opposing side of it.

There is an investigation on foot to determine that question, and I believe that they are going ultimately to find out that they are engaged in a necessary enterprise, not only in times of war but at

all other times, and that it is necessary to maintain the affairs of the country. But I do not take it that this is the time for Congress, in the consideration of raising revenue, to tax out of existence men whose business has been recognized as being legitimate and the Supreme Court of the United States, in the Christie case, has said that hedging is a thing that is necessary to properly conduct the milling and other businesses where they use cotton and grain.

Mr. RAINEY. Is this an example of hedging? A farmer has 40 acres of wheat in Illinois or Missouri. He wants to sell it at \$1.50 a bushel. Assuming that your exchange is running, he goes to his elevator man to sell. The elevator man gives him \$1.50. Then the elevator man wires to his broker to sell. The wheat may amount to 1,000 or 1,500 bushels perhaps, but enough to realize a small profit for the elevator man plus the cost of getting it there. The dealer then goes and sells that small amount of wheat. Is that a hedging transaction made possible by this system?

Mr. WINSTON. I think it is.

Mr. RAINEY. That occurs frequently. We have got to raise money upon something. How much will we lose if we strike out these words "including so-called transferred or scratch sales"?

Mr. WINSTON. The contention is that the Government should get more money by striking it out than by leaving it in.

Mr. RAINEY. I can't see that, because you said that in 15 months in this dealing the Government collected over a million dollars.

Mr. WINSTON. The answer to that is that under the 1914 act the tax on transfers was not covered in express terms. That act read merely "sales, agreements of sale, or agreements to sell." These board of trade men had been told that transfers were not taxable, and for 16 months they proceeded upon the theory that they were not taxable and did a wide-open business of making these transfers, and after 16 months they learned for the first time that they were taxable.

Mr. RAINEY. And then they paid up?

Mr. WINSTON. And then they had to pay up. But their contention has been, and it was a fact, that if they had known that transfers were taxable, they would not have engaged in the business. They could not have afforded to, and that is the fact. Under the operation of the present act they say "We are expressly covered, and if we have to pay a tax on transfers, we can not engage in business."

Mr. RAINEY. Has the market been closed since this act went into effect?

Mr. WINSTON. Yes, sir.

Mr. RAINEY. It has been for two years?

Mr. WINSTON. It is open now.

Mr. RAINEY. On wheat?

Mr. WINSTON. No.

Mr. MOORE. What would be the effect if they went out of business? That is putting it bluntly.

Mr. WINSTON. The Government would lose all the tax.

Mr. MOORE. Would the farmer suffer in the matter of his sales?

Mr. WINSTON. Well, I doubt if he would during the present time, because the demand for grain is much greater than the supply.

Mr. MOORE. Can the farmer dispose of his grain to the elevator man without the intervention of the exchange scalper?

Mr. WINSTON. I imagine he could, Mr. Moore, but that is a technical grain question that I would not feel qualified to answer. But the miller could not hedge. He could not protect himself against the fluctuations of the market. The miller who buys grain now has no assurance that when he gets his grain manufactured into flour or meal next fall that he may not have to stand a loss of 20 cents on the decrease in the price of grain.

The CHAIRMAN. Is the scalper now on the market?

Mr. WINSTON. To a much less extent than formerly because of this act. Mr. Dickie, whom I used as an illustration, has not done any trading to amount to anything since February, and he says that everyone of them sooner or later will recognize that that kind of business can not be engaged in unless they are excused from paying a tax on blank shells where they do not fire, where they do not make the sale. Unless they are excused from that tax on that single kind of transaction they can not engage in transactions on which they do pay the tax.

Mr. FORDNEY. If they make a profit, they must pay a tax?

Mr. WINSTON. Yes.

The CHAIRMAN. Or a transfer on another day.

Mr. WINSTON. A transfer on another day. A transfer does not exist, under their understanding of and under the rules of the board of trade except only in the case where you buy and sell at the same price, on the same day, at the same session of the board of trade.

The CHAIRMAN. This is what I understand hedging to be. A miller says, I am a miller and will buy 100,000 bushels of wheat at \$2 per bushel to be rolled into flour between now and September 1. To protect myself from the falling of the price of wheat I sell, say, on exchange 100,000 bushels of wheat for September. If wheat goes down to \$1.50, I lose 50 cents a bushel on the wheat in rolling, but my future sale will protect me because I make up my loss of 50 cents on my September sale for which I get \$2 instead of \$1.50.

Mr. WINSTON. That is it exactly. That is the exact proposition and on the other hand you would clear your profit in wheat if the price had advanced from \$2 to \$2.50.

Mr. RAINEY. Would you exempt from this tax the smaller scratch sales, say, along 15,000 bushels?

Mr. WINSTON. Well I don't understand, Mr. Rainey, that there would be any distinction as to the amount they sold, whether 5,000 or 10,000 or how much.

Mr. RAINEY. We could make an exception here in this law, couldn't we, so that it would not apply to the smaller sales?

Mr. WINSTON. I don't think, Mr. Rainey, that that would give the relief that they are asking for.

The CHAIRMAN. Suppose we limit it, and say that what are known as scratch sales, provided they make the transfer the same day of the regular purchase, without profit. That would cover the case, wouldn't it?

Mr. WINSTON. That would cover the case exactly.

The CHAIRMAN. I don't know anything about the rules of the board of trade, but we could put in that, "Provided that if the transfer is made without profit, on the same day the original purchase is made, there shall be no tax." That would cover your case?

Mr. WINSTON. From the standpoint of the Government I think that it should be more explicitly drawn than that.

The CHAIRMAN. If you simply strike out these words, the board might change its rules.

Mr. WINSTON. I think a definition of "transfer" should be in the act, and it would be something like this—

The CHAIRMAN. Suppose, after you have concluded, if you are not prepared to give it now, that you prepare what you think is an amendment that would cover the case you desire to cover and also protect the Government from any changes in the rules.

Mr. WINSTON. I could readily give it and read it into the record

The CHAIRMAN. All right.

Mr. WINSTON (reading):

Upon each sale, agreement of sale, or agreement to sell, excluding so-called transferred or scratch sales.

Then the act follows. Then put in a provision—

Transferred or scratch sales shall be the following: Where the trader buys and sells at the same price, at the same session of an exchange, and eliminates himself by transferring his purchase to his seller.

I think that would cover it.

Mr. FORDNEY. "Without profit."

Mr. WINSTON. That is covered by "at the same price."

Mr. MOORE. That probably answers the question I was going to ask you in the windup whether you contended that this would be double taxation, that is on the transfer.

Mr. WINSTON. Yes; it means manifold taxation, Mr. Moore.

We are not asking to be excused from paying taxes in cases where there is no transfer and there can be a transfer, but only in the cases where there is a purchase and sale at the same price at the same session, which would result in a loss if I have to pay the tax.

Mr. FORDNEY. The point I would like information on is, suppose you buy, to use the illustration you gave, from A 25,000 bushels and sell to me 10,000 and to Mr. Kitchin 15,000. You sell to me 10,000 at the same price you paid for it. You have got to pay a tax unless that is transferred to me direct? It is paid twice unless you are freed from the tax on the transfer?

Mr. WINSTON. That is correct. Mr. Dickie tells me that he could guarantee in his own case that if he could have the tax removed on transfers he would pay a tax on that kind of transactions of a minimum of \$3,000 a year, whereas if that tax on transfers is retained, he can not prosecute his profession and can not engage in his business but shall be compelled to retire and the Government won't get anything, and he says that he is typical of 300 more; that they will have to retire from business. Our belief is that with the tax eliminated the Government can get a million dollars from this class of traders, whereas if the tax is kept on this class of traders the Government would get no tax from that source. I realize that this is a lawyer's statement and that it is not backed up by the witnesses here. But if Congress should see fit to have an investigation made, and especially if the facts from the Commissioner of Internal Revenue, I believe that he can by an examination and an analysis of the reports and of the records and statistics of his office ascertain that the Government would lose nothing but a comparatively small amount.

I have not touched upon the thought that it is a hardship and taxes these men out of existence and deprives them of a means of making a living. It is a business that they have been engaged in and recognized for 50 or 60 years, and when Congress comes to decide whether or not it is a useful enterprise and necessary to the commercial world, then they can decide it independently of any question of taxation. But at this time you are discussing the question of getting as much revenue as possible, and it is a source for getting revenue, and if you levy that tax it is my opinion that the Government will lose the revenue from that source.

Mr. RAINEY. In your judgment could they stand a higher tax than 2 cents?

Mr. WINSTON. I think this tax is as much as the traffic will bear.  
(Thereupon at 1.40 p. m. the committee adjourned until Friday, July 12, at 10 o'clock a. m.)

# REVENUE BILL

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No. 24

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## HEARINGS

BEFORE THE

## COMMITTEE ON WAYS AND MEANS

HOUSE OF REPRESENTATIVES

WITH REFERENCE TO

## THE NEW REVENUE BILL

[THIS PRINT OF THE HEARINGS IS SUBJECT TO REVISION  
BEFORE THE FINAL PRINT]

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JULY 12, 1918



WASHINGTON  
GOVERNMENT PRINTING OFFICE  
1918

COMMITTEE ON WAYS AND MEANS.

HOUSE OF REPRESENTATIVES.

SIXTY-FIFTH CONGRESS, SECOND SESSION.

CLAUDE KITCHIN, North Carolina, *Chairman.*

HENRY T. RAINEY, Illinois.

LINCOLN DIXON, Indiana.

CORDELL HULL, Tennessee.

JOHN N. GARNER, Texas.

JAMES W. COLLIER, Mississippi.

CLEMENT C. DICKINSON, Missouri.

WILLIAM A. OLDFIELD, Arkansas.

CHARLES R. CRISP, Georgia.

GUY T. HELVERING, Kansas.

GEORGE F. O'SHAUNESSY, Rhode Island.

JOHN F. CAREW, New York.

GEORGE WHITE, Ohio.

JOSEPH W. FORDNEY, Michigan.

J. HAMPTON MOORE, Pennsylvania.

WILLIAM R. GREEN, Iowa.

CHARLES H. SLOAN, Nebraska.

NICHOLAS LONGWORTH, Ohio.

GEORGE W. FAIRCHILD, New York.

JOHN A. STERLING, Illinois.

WHITMELL P. MARTIN, Louisiana.

WILLIS C. HAWLEY, Oregon.

ALLEN T. TREADWAY, Massachusetts.

JOHN E. WALKER, *Clerk.*

# REVENUE BILL.

COMMITTEE ON WAYS AND MEANS,  
HOUSE OF REPRESENTATIVES,  
*Friday, July 12, 1918.*

The committee met at 10 o'clock a. m., Hon. Claude Kitchin (chairman), presiding.

There were also present Representatives Rainey, Dixon, Garner, Dickinson, Oldfield, Crisp, White, Fordney, Moore, Green, Longworth, Sterling, Martin, and Hawley.

## STATEMENT OF MR. JESSE H. NEAL, NEW YORK CITY.

Mr. NEAL. Gentlemen of the Ways and Means Committee, I appear before you in my capacity as executive secretary of the Associated Business Papers (Inc.), which is the national organization of trade, technical, industrial, and scientific publications. I represent a branch of the publishing business which for some reason is seldom referred to in these postal discussions. The custom has been in your debates to refer to newspapers and magazines, and the term magazines is understood by most Congressmen to signify the larger and better-known publications, such as you see upon the news stands, and I want to take just a few minutes of your time to invite your attention to the fact that there are in the United States hundreds upon hundreds of valuable and necessary periodicals which can not be classed either as newspapers or magazines.

For instance, we have nearly 200 papers devoted to the subject of education. I will mention just a few of the numerous classifications in which you will find many worthy publications of moderate size performing very useful service. Among these I note papers going to officials and employees in fire and police departments, publications dealing with forestry and irrigation, hygiene and sanitation, labor publications, law periodicals, papers for boys and girls, publications covering philanthropic and humanitarian subjects, scientific subjects, Sunday schools, and many other religious and denominational publications. You will also find 10 periodicals in raised type for the blind. You will find, too, 12 progressive publications going to the Indians and which are doing much to make good citizens and good Indians out of our North American aborigines.

This is wholly aside from the particular publications which I personally represent. These business papers, or possibly you are accustomed to call them trade papers, play an essential part in the daily life of merchants, manufacturers, engineers, miners, captains of industry, shipyards, steel mills, chemical plants, the coal industry, aviation factories, textile mills, etc. Yet they form less than 4 per cent of the total volume of second-class mail. No matter how widely separated are the units of any business or industry, the paper serving that field unites them all together into one closely connected group.



Every one of the munitions used upon the battle field or behind the lines—the artillery, the machine guns, the rifles, the ambulances, the clothing, the ammunition, the railroads, the airplanes, the gas masks, the motor transports, etc.—are all products of men who read trade and technical papers. You will not find an engineer engaged in the creation of any of the huge commercial or military projects who does not read and depend upon one or more engineering papers for news, for inspiration, and for continuous education in his line of work.

All trade and industry to-day, gentlemen, is in a state of flux and of change, and did we lack the established channels of information furnished by our trade and technical press, it is not too much to say that a state of utter chaos would prevail in many of our most important industries.

Important as these papers are in ordinary conditions, they have become in war conditions only less essential than coal and transportation. Speeding up production beyond limits ever dreamed of is one of the most important features of our war program. This is only one of the high functions of the business press.

The Senate Committee on Printing wrote with a pen inspired by truth and the spirit of Americanism when they said, a few months ago:

To jeopardize the existence of the press is to imperil the life of the Government itself, so dependent is a democracy upon the prompt and widespread information of its people. Therefore whatever affects the publication of its newspapers and periodicals likewise affects the welfare of the Government, and the necessities of such publications become in fact public necessities.

Let me digress for a minute from this discussion of the war function of business papers and call your attention to the place they occupy in the home towns and cities of every gentleman in this room. You will find that every business house in your community takes a so-called trade paper, and this applies to the automobile man, the banker, the blacksmith, the man in the brickyard, the butcher, the cotton buyer, the cement mill, the clothing store, the creamery, the dentist, the drug store, the dry goods store, the electric shop, the implement man, the flour mill, grocery and hardware stores, the hotel, the laundry, the lumber yard, the jewelry store, the plumbing shop, your printer, the shoe store, the telephone man, and your undertaker, not forgetting the hospital, the doctor, and your municipal officials. You will pardon this cataloguing of names. I do not want to be tedious, but I do feel under the necessity of impressing upon you the variety and importance of the interests that are indissolubly linked up with these so-called trade papers.

One of the greatest problems of present day existence is the problem of distribution, the getting of merchandise from its source to the consumer cheaply and efficiently. That problem, gentlemen, is being solved largely through the work of the business press. Civilization itself has advanced almost in exact proportion as we have overcome the immobility of thought and things. The business press has been compared to a pipe line connecting all of the units in each field, so that each receives in proportion to its needs all necessary trade information, instruction, and advice.

The advertising in trade and technical papers is just as essential as the reading matter to the various fields of industry reached by these papers; in fact, the readers demand the kind of service that is

rendered through the advertising pages, and it would be impossible to build a subscription clientele of any size or permanency without a representative volume of clean, well-written advertising. Many business papers lay particular emphasis upon the character of their advertising in presenting the advantages of their papers to prospective subscribers.

A story about new materials, new processes or new appliances can be used only once in the editorial columns as news. Any repetition of the story becomes advertising, and must be given through the advertising pages.

It is not human nature to at once be impressed with a new idea, and many of the most important improvements in all branches of industry have resulted solely from the steady hammering of attractive and scientific advertising in business papers. These advertisements benefit not only the advertiser, but have an undoubted economic value for the entire industrial organization of the nation.

Right here I want to correct, if I can, an all too prevalent misconception of the nature and function of advertising. I refer to the erroneous belief that advertising is merely a clever sales instrument which is used by advertisers to obtain some special advantage for themselves alone. On the contrary, gentlemen, I but voice the belief of our deepest thinkers and wisest economists when I say that advertising is an economic force in American life, that should be recognized as such by Congress, and given every opportunity to develop to its fullest capacity for good.

Advertising is not an added expense to either the seller or the buyer. It is not a luxury indulged in by wealthy manufacturers, vain of their success and desirous of puffing out their chests in the public prints. It is not a device through which unscrupulous men may put something over upon unwary victims. It is none of these things, gentlemen, which some, in perfect sincerity, but in the imperfect light of their limited knowledge, may have claimed.

What, then, is this strange and wonderful force which is peculiarly an American institution, and which has done so much for the American business? I will tell you what it is. It is analogous to the typewriter, which emancipated us from the drudgery of handwriting. It is comparable to the telephone, the adding machine, the automatic reaper and binder, the sewing machine, and the cotton gin. It is the twentieth century limited taking the place of the oxcart. It is, gentlemen, the very quintessence of American inventive genius and superior commercial enterprise.

All the world comes to sit humbly at the feet of America to learn of our achievements in the art and science of advertising. Do you know what the national emblem is of the associated advertising men of the country? It consists of just one word, but it is a word which preaches sermons concerning the ideals and aspirations of the splendid body of men composing the advertising profession. That word is "Truth." I am proud and glad of the opportunity of standing before this important committee of Congress to ask you to hesitate long before you endanger this great and beneficent motive force in American business, especially at a time when we need its inspiration, its influence and dynamic impulses.

More than any other one force, modern advertising is responsible for the prosperity of United States industry. The great majority of

our improved manufacturing, selling, and distribution methods have been the outgrowth of advertising; advertising which has scrapped obsolete machinery; advertising which has standardized production operations; advertising which has made better merchants and distributors; advertising which has provided consumer markets at a minimum of cost. All of this has enabled quantity production by economical processes and has enabled us to pay higher wages than any other country and yet to be able to compete in the markets of the world with the low paid and oppressed workmen of less progressive countries.

At the same time, gentlemen, the advertising revenue has built up able trade paper organizations, which have become not only the channels but the very springs of higher industrial and trade education. As an instance of what this means, I will cite the case of a typical trade paper selling for \$6 per year, which has a net subscription income of \$30,000 and which spends \$85,000 annually for editorial service. In papers such as these you can not separate advertising from the editorial matter, because each performs an indispensable service to trade and industry, and each is so dependent upon the other that, like the Siamese Twins, they would die if you separated them.

There is a scarcity of salesmen at the present time. Moreover, the cost of traveling has increased tremendously, but advertising has come to the rescue and is filling the deficiency. The existence of this labor-saving force makes it possible for manufacturers to continue their contact with the trade, even though the field force may be "over there" distributing samples of American shrapnel to the Huns. A prominent Ohio manufacturer of steel products told me that 30 of his salesmen had enlisted or had been drafted into the Army, but that he could not attempt to fill their places; he would simply put a little more pressure upon his advertising, hoping in that way to hold these jobs open for his men until they had returned from the battle fields of France, as he hoped they might.

Do you realize that a page of advertising in a business paper will call upon 5,000 stores or factories in one week, at a total cost of \$50? To undertake the same work with salesmen would require 100 men and an expense of about \$10,000.

A few weeks ago our Government commandeered the entire output of Bull Durham tobacco for the use of our Army of Liberty. The famous Durham bull has stepped forth with shameless boldness from the protecting shelter of that little rail fence and has gone "over there" for the period of the war. He will stay there until our boys roll their pills in the home town of Kaiser Bill. In the meantime advertising will stand guard at home over the precious Bull Durham good will.

In many other like cases, advertising is the only insurance that can be taken out by concerns whose factories are engaged in war work to maintain reputations and contact with markets over against the time when American industry must again resume the arts and practices of peace.

During the period of the war, it is almost providential that we possess highly developed advertising skill and the great public channels of intercommunication afforded by our newspapers and periodicals. Without these forces it would be impossible to make the

revolutionary adjustments in many lines of business and hold the country together, acting, thinking, and working with irresistible unity.

If you think that Germany is not watching hawk-like over American advertising, let me read to you the following quotations from two great German newspapers. This one is from the Lokal Anzeiger of April 20:

Nothing is more acceptable to the German nation than to note the fact that the North Americans have abandoned advertising their goods in practically all of the foreign markets. In the Latin-American publications, the market which they have always tried hardest to acquire, there has been a heavy loss of advertising. A prominent Buenos Aires agency announces the fact that 83 per cent of their United States advertisers have canceled their contracts. This is also true in the Orient, and a careful compilation of the decrease in advertising there shows a greater depreciation than in South and Central America. In the United States itself there is not a paper which has not suffered a loss in its advertising lines, and that despite the fact that the last year showed an increase in the millionaire class of 973 individuals. In other words, the war has terrorized the American nation, but not the Germans, for a perusal of their periodicals will show that manufacturers still advertise even if they have not the goods to deliver, but with the idea of keeping their name before the public.

Here are the views of the Berlin Tageblatt, expressed April 26, 1918:

If the despised Yankee nation think they are going to win the war and force Germans out of foreign markets, there is nothing to indicate this sentiment in their local and foreign advertising. Many of their advertising agencies have closed their doors through lack of patronage. Their much-talked-of captains of industry have canceled their advertising contracts everywhere. Germany and German merchants have increased their advertising space in neutral markets and at home. It pays to advertise in war as well as in peace. The far-seeing merchant never stops advertising.

The above paragraphs have moved Dr. W. E. Aughinbaugh to write an admirable article on the subject of "Germany Preparing for Peace and World Trade by Advertising," for the New York Commercial, on which paper he is foreign and export editor.

Germany would like nothing better than to witness the weakening of our national morale through the poisoning or the drying up of our springs of information.

I have need here only to cite the case of the New York Mail and Express, which is still under consideration and is fresh in the minds of all of you, and the statements made on the authority of the United States attorneys that sums ranging possibly from five to thirty million dollars have been raised to promote German propaganda and German sentiment in the United States. If you will pardon the digression, gentlemen, I will say as an advertising man, and I voice the sentiment of the advertising fraternity when I say it, that we deeply regret that Congress has seen fit to appropriate only a little over \$1,000,000 for the propaganda work of the Committee on Public Information to combat those countless millions being spent by those master propagandists.

Whatever Congress may do after the war, it is to me unthinkable that they could knowingly endanger now through adverse legislation the fullest functioning of the American press.

Should you happen to pick up a trade paper serving any of the war industries, such as shipbuilding, coal mining, machinery production, steel making, mining, hospital work, transportation, or in fact any of the allied war industries, I hope you will bear in mind that the volume and character of their advertising is the measure of the service they are performing.

I have heard advertising pages spoken of as high priced, as a species of bonanza which vomits forth nefarious profits in such volume as to necessitate the restraining hand of burdensome taxation. To the average trade paper publisher, this is satire, pure and simple. In the records of the revenue office is the best evidence as to the absurdity of the claim that the publishing business is excessively or even fairly profitable.

It is greatly to the credit of our Government that it has promoted and encouraged, through a low flat rate of postage, the dissemination of all this life-giving and necessary information throughout the land without prejudice to any locality and on an equal basis to all men regardless of their place of residence. Our beneficent postal system of flat rates has overcome the handicap of our magnificent distances, has obliterated sectional lines, and has shortened the distance between human minds, just as certainly as the railroad has shortened the distance between places.

We are here to-day in protest against any measure, whether it is presented under the guise of taxation or an adjustment of postal rates, which will endanger in the slightest degree this vital and complex system of commercial, industrial, and professional intercourse which has been built up over a long period of years upon postal principles that have justified themselves a thousand times over in the results and benefits to the Nation.

We do not protest against the payment of taxes. We ask merely that you do not institute postal laws which will prevent the payment of taxes by preventing the earning of profits. We are paying now all taxes that any business is paying, and in fact, more taxes proportionately than businesses of similar size.

Few concerns in any line of business use as much first-class postage as do publishers. In our particular field, the bill for first-class postage more frequently than not, equals or exceeds the bill for second-class postage. We are paying the extra cent on letters without protest, because it is frankly a tax and will be discontinued at the close of the war.

We are paying our income taxes, our surplus taxes, our corporation taxes, all of them cheerfully and gladly. Moreover, we are cooperating with the Government in helping them to administer and collect the complicated taxes imposed on the present revenue bill.

Commissioner Roper has on several occasions expressed the obligation that he is under to the press for aiding them to make collections of the taxes under the present revenue bill.

We ask no exception on that score, but we submit, and I hope to demonstrate that our relations to industry; yes, and our relation to Government itself is such that we should not be called upon to pay an extra tax, a supertax, or, what some of our publishers have regarded as punitive damages for wrongs, real or fancied, which may have been suffered by public men at the hands of the more popular mediums of thought.

The charge has been made that we, the publishers, have been enjoying a subsidy at the hands of the Government, and that we must now be made to disgorge and to pay a prohibitive postal rate in the future. To that charge we take emphatic exception. A low transportation charge on intelligence is no more of a subsidy to the publisher than a low freight rate on wheat is a subsidy to the farmer.

It is no more of a subsidy to the publisher than the money spent on public highways is a subsidy to vehicle owners.

If you, in your wisdom, should decide to place an extra tax upon the coal producers, would you set about it by raising the freight rate on coal? Obviously the only effect would be to contract the area over which the coal could be shipped and to increase the price to the consumers within that district.

The converse of this proposition is necessarily true—that a low freight rate is obviously of primary benefit to consumers.

You annually appropriate millions of dollars to maintain navigable streams. Do you do this for the benefit of the navigation companies who operate boats for a profit, or is it in the interest of the national welfare to maintain every possible channel of intercommunication.

It is not a question of a Government bounty to publishers, if indeed there is a loss on second-class service, but it is a question as to whether you shall continue our long established policy of making it easy and inexpensive to disseminate knowledge, literature, news, merchandising information, and current scientific, technical, and professional literature. It is a matter largely between Congress and the American people, and if I mistake not, it is the voice of the people which will determine this question in the end.

I want to say, in passing, that there are few issues before the American people to-day of greater moment to our whole social and industrial fabric than this question of zone postal rates.

In this opinion I do not stand alone. Let me fortify this statement with a few excerpts from recent interviews with well-known men on this question of zone rates:

George W. Wickersham, former Attorney General of the United States: There should be no law against limiting intelligence. I mean that there should be no embargo on sane intelligence. It is against the public interests. The people are entitled to all the truthful information they can get. In this way they are educated.

Prof. Charles Austin Beard, formerly professor of political economy of Columbia University, and now associated with the Bureau of Municipal Research: The whole spirit of the new postal zoning law is contrary to the principles on which our Government was founded. Jefferson, more than a hundred years ago, promulgated the theory that newspapers and periodicals were essential to the success of our democracy.

It is wrong in spirit and wrong in theory to hamper the national development of the country. It will result in sectional feeling, and will aid in destroying our national unity. It is particularly obnoxious at this time when the people of the country, east, north, south, and west, should be blended together with a common purpose.

Newcomb Carlton, president of the Western Union Telegraph: It seems to me, from the standpoint of constructive criticism, that the mail zone measure should be repealed and a more equitable method of raising revenue be substituted.

I regard this contemplated zone change as a serious detriment to the distribution of what must be useful and constructive material. It does seem to me that some more equitable plan for raising money could be devised than this taxing of periodicals.

A. Barton Hepburn, chairman of the board of directors of the Chase National Bank: If this measure (the postal zone law) applies to all magazines, as I understand it does, I should think that it is very unwise.

Hon. Tom C. Rye, governor of Tennessee: Tennessee papers have shown wonderful patriotism and have been of great help to us in our work. I hope the matter can be arranged so that the papers can pay their proportionate part of the additional revenue needed without forcing any out of business or crippling them in their work.

Prof. Walter B. Pitkin, of the Columbia University Faculty: The new postal zone law is based on "peanut-shell politics." It should never have been enacted; it most certainly should never go into effect.

There is practically nothing to be said in favor of the new system. It will aid a few of the sectional periodicals and it will bring a little additional money into the Post Office Department, but to offset this it will destroy many magazines of national importance; it will curtail the nation-wide circulation of our leading newspapers; it

will result in increase of cost both to the reader and to the publisher, and to dissatisfaction on the part of the advertisers. It is on the whole obnoxious and unsatisfactory and should be repealed.

The new law destroys national unity and creates sectional spirit. It limits national intelligence. The people in the West are entitled to know what the East is doing, and vice versa. Without this knowledge, which only can be disseminated by magazines and newspapers, our spirit of nationalism will be destroyed.

Hon. James Withycombe, governor of Oregon: To my mind it would be unwise at this time to discourage unduly the circulation of good literature. First of all, this Nation is passing through an epoch-making period, and the many issues which are now before the people are of such importance that a full understanding of all questions and events is highly desirable.

Hon. Frederick D. Gardiner, governor of Missouri: Any restriction upon the dissemination of information is indefensible even in ordinary times. At this time it would be a most serious mistake.

It is extremely important that the people be kept advised as to the war program and the progress of events. The best possible vehicles for the spreading of such information are the newspapers and magazines.

Public speakers can not reach all the people. In many inland districts speakers and the people can not be brought together. Therefore, I am firmly convinced that the zone law effective July 1 should be repealed.

A tax on intelligence should be the last to be imposed. The Government should not take any action that will increase cost of periodicals. The small profits to publishers will not stand the increase. Hence it will fall on the people, with the result that many most needing information will be unable to procure it.

Hon. Arthur Capper, governor of Kansas: If Congress can be made to see that the industry can not pay this tax and that its imposition will result only in a demoralization of business, it seems to me that even the most rabid opponents of a free press will hesitate to place this unbearable injustice upon the people. It is especially important at this time, when the Government must have the loyal support and hearty sympathy of every citizen, that the American press receive encouragement rather than discouragement.

The winning of the war depends upon the people at home, and though the Government printing plants work overtime, we still must depend upon the press to inform, educate, and unify the people. The imposition of the zone system at this time would be a strategical blunder that would amount to a national calamity.

Hon. Richard I. Manning, governor of South Carolina: I think that any law which bars the publication of magazines and newspapers, and especially hampers their distribution to those who are less able to pay for it, is a step backward in the progress of education and enlightenment.

I also think that such a regulation should not be put into effect during the progress of the war unless its necessity to the Government prosecution of the war is absolutely required.

Hon. Walter E. Edge, governor of New Jersey: It is unquestionably unfortunate if necessity requires any Federal action which would increase the cost to the public, in order to be kept informed properly of the unusual happenings of the day and their review from all angles through the medium of the public press.

In my judgment the press of the country has furnished the greatest selling agency for Liberty bonds and for organizing and popularizing every activity to which the public's support was imperative. It would seem to me, speaking generally, that every effort should be made by the Government to increase the opportunity for a still greater distribution.

John Mitchell, chairman of the State Industrial and Federal Food Commissions: I am opposed to any and all legislation which will circumscribe the circulation of American magazines and newspapers. Without these mediums the enlightenment and education of the people throughout the country would be impossible. This zone law certainly should be held in abeyance at least during the war, for it is impossible to calculate the good which the periodicals are doing the country and the harm which would result if their circulation were cut off.

Hon. Robert L. Williams, governor of Oklahoma: I believe the law should be held in abeyance, at least until after the war.

The newspapers and other periodicals of current comment are vital war agencies in disseminating news concerning the war. Liberty loans, the Red Cross and other organizations, and much of the credit for the success of the draft, the three Liberty loans, the two Red Cross campaigns, the Young Men's Christian Association campaign, and the Knights of Columbus drive is due to a favorable public sentiment which these publications have had no small part in forming.

Hon. James W. Gerard, ex-ambassador to Germany: Now we have got to meet this German propaganda. The war is not going to last forever—and you have seen what German propaganda has done in Russia. These are grave dangers, and they only go to show what can happen in a country like Russia.

Fortunately, they can not propaganda this country as they can Russia, because we have great publications that go all over the country and have unified the whole country and the whole continent. That is why I am against the postal zone law passed in the last Congress putting an extra tax on papers sent from the cities where published.

Hon. Charles S. Whitman, governor of New York: Never was the call more imperative, the necessity more obvious than now for the businesslike conduct of business. We speak of the Government's business, we speak of the Nation's business. Why, gentlemen, all business that is honestly transacted in this country to-day is essentially the Nation's business. General information upon business matters must be widely disseminated, so that the most progressive and practical ideas developed by American ingenuity may be placed at the disposal of our people in every section of the country, and that, too, without delay or unnecessary cost.

No publications of a similar nature in any other part of the civilized world, and this is known all over the world, have approximated in character and in quality the trade journals of the United States.

In the present crisis, every individual and every State as well must forget local ambition, local interests perhaps, and even requirements of special localities in response to the great national call, the call of our country which must be heard and heeded everywhere. It is for this reason that I have in the past protested and will continue to protest against the imposition of zone postal rates, which must inevitably with such rates tend to confine their distribution to the neighborhoods comparatively near their publishing houses, and must of necessity restrict their efficiency as nation-wide distributors of business news. It isn't good national policy, whether it is good for your business or not.

I have been and shall be unqualifiedly opposed to the zoning system of postage rates which will tend to paralyze the wide extension of the nervous system of business provided by trade newspapers.

Charles E. Hughes: I hope that Congress will repeal the provision for the zone system which is decidedly a looking-backward and walking-backward measure.

You are abandoning a postal system which has made this country the most enlightened and best informed on earth. You are going back to old discarded and discredited postal principles when you erect zone fences every few hundred miles to obstruct and impede the interchange of life-giving information, call it advertising or what you will, between the people of the United States.

You recognize and no one would dream of attacking the principle of a flat rate on letters or on third-class matter. The civilized nations of the world have recognized the necessity for uniform flat rates for international intercourse, if the barriers of distances are to be destroyed and the nations of the world brought together.

When this destructive zone system of rates is in full force and operation, a publisher can send his paper around the world for about the same as the rate to the eighth zone. It will make no difference either whether the ocean steamship carries the paper 1,000 miles or 5,000 miles, for the rate is a flat rate to any point in any nation in the universal postal union. Furthermore, publishers in Canada will be able to ship their papers to any point in the United States for less than it will cost to send papers from San Francisco to Chicago. Moreover, under the present, second-class rate any private individual can mail a paper to any point in the country for a flat rate of 4 cents a pound, which will be less than the average zone rate beyond the fourth zone. I respectfully submit that there is something wrong with a bill which permits such inequalities.

Every deep student of postal matters has advocated flat rates. Let me quote here a man for whose opinions I have profound respect—Daniel C. Roper, formerly First Assistant Postmaster



General and now Commissioner of Internal Revenue. These extracts are from Roper's History of the United States Post Office:

The postal reforms successfully carried out in England between 1837 and 1840 established the important principle that postal efficiency depends on uniformity of rates and standardized conditions.

It is because of the economic utility of the post office that extensions of postal service where needed are justified although the return in postage receipts may not defray the cost of the extension.

The importance of postal service should be measured by the benefits which it confers and by the wealth it creates rather than by the postal charge or the postal revenue.

Taxation obviously is not the motive underlying the operation of the postal service by the Federal Government; it is not permitted to be even an incidental phase of the post-office administration. The people and their representatives are most jealous of any restraint of the operation of the post office. They require it to be untrammelled, and have even been willing that it should be subsidized out of the Treasury to the extent necessary to make its facilities more generally useful. The reason for this attitude lies in the economic utility of the post office.

It is not fair to muddy the issue by attempting to compare the distribution of information and education with material commodities. Pork and information are as unlike as brick and brains. Free intercourse between the people is the necessary antecedent of all business transactions. It is good economics and good statesmanship to promote such intercourse, because it is only through that means that a sale can take place, that merchandise can be produced or shipped. This is a big country, gentlemen, and national unity of thought, purpose, and action is an absolute necessity.

We are not united simply by the Constitution, or even by a common language. Even the physical union which is accomplished by the railroads would be of no avail without the unity which is the product of common ideals, uniformity of education, and singleness of purpose. People do not think together, do business together, act together, and fight together unless bound together by a common bond of sympathy, which can only result from a free interchange of ideas on an equitable basis to all sections. Keep the country together, gentlemen. Don't impose at this time any conditions that tend toward disintegration. Look at Russia. Did she lack men? Think of her hordes, millions on millions. Did she lack material? Think of the vast resources of the Russian Empire. Yet to-day she lies prostrate before Germany, a mass of wreckage, because of the lack of unity on the part of the Russian people.

Mr. STERLING. What are Russia's rates on that class of matter through her post offices?

Mr. NEAL. I do not know, sir. I presume that could be ascertained from the Library of Congress, or I would be glad to get it for you.

Mr. STERLING. I think it would be more informing if you could give us that information.

Mr. FORDNEY. Don't you think Russia's trouble was due to having too large a percentage of Socialists?

Mr. NEAL. The diagnosis of the Russian disease is a job that has baffled and is baffling some of our wisest statesmen and I would be bold, indeed, if I attempted to pass any comments on the nature of their trouble.

Mr. STERLING. Then you are not pretending to say that her condition is due to high postal rates?

Mr. NEAL. I say this, that her condition is obviously, due to lack of unity among the Russian people.

Mr. STERLING. Was that due to high postal rate?

Mr. NEAL. It was due to the lack of inter-communication, to the lack of a national medium of thought, to a lack of a national policy, and to the lack of any binding influence with the exception of autocracy and when the autocracy—

Mr. STERLING (interposing). Was her lack of unity due to high postal rates?

Mr. NEAL (continuing). And when the autocracy was abolished she fell apart like a house of cards.

Mr. STERLING. Will you answer my question? Did high postal rates have anything to do with her lack of unity?

Mr. NEAL. Gentlemen, I have said that the lack of unity was due to the lack of unifying influences. They lacked periodicals, they lacked newspapers, they lacked the reading habit, they lacked common ideals and they lacked common purposes which would be inculcated by that sort of thing, and consequently there was nothing to hold them together. It is probably true that little, if any, attempt was made to promote national periodicals in Russia. We know they are extremely backward. I anticipate if the Government had made an effort to promote periodicals of that kind, such as a democratic government would have done, conditions there would have been far superior to what they were when Germany broke them down.

Mr. FORDNEY. Was not her condition due to too much circulation of socialism?

Mr. NEAL. That is a very deep question, Mr. Fordney.

Mr. FORDNEY. I think it is, too, but you did not answer Mr. Sterling's question.

Mr. NEAL. And then, too, Mr. Fordney, the discussion of socialist principles at the present time is a rather delicate one, because some of the socialists tell us that the United States Government is now espousing some of their most beloved doctrines.

Mr. FORDNEY. That comes from Mr. London, the Socialist Member of Congress, and he is a highly educated man and gets all sorts of literature in this country and keeps posted on the subject as perhaps no other man in Congress is.

Mr. GREENE. I do not think every one would agree with the latter part of that statement.

Mr. FORDNEY. I mean on socialism, Mr. Greene.

Mr. GREENE. Oh, yes.

Mr. NEAL. I wonder if you realize that only 7 out of every 100 boys and girls go through our high schools and that only a small percentage of these are able to enter a university? The schooling possibly of some here was confined to a high school, but our education has been carried on ever since, chiefly through the reading of educational or cultural periodicals.

Professional men find the publications of their professions practically a post-graduate course. No doctor, electrician, chemist, engineer, dentist, or other professional man could possibly keep pace with current scientific progress without his own professional paper.

If it is worth while for us to make any sacrifice to maintain our institutions of learning, none of which are self-supporting and which have the teaching of our children for not more than eight years in a

great majority of instances, how much more important is it to cultivate by every reasonable means sources of education and enlightenment upon which our children must depend after they leave the common school, over a period of many time eight years.

We favor the widest possible extension of postal service and its reduction in cost wherever possible, rather than increased cost or contracted service. We instituted the rural free delivery, not to produce revenue, because it was merely an extension of service, involving many millions of additional cost, but to still further unite or bring together the people of every district, however remote from cities or towns. That, gentlemen, is another striking example of the benefit of flat rates. We didn't say to the man who lives 20 miles from the post office that he would have to pay more for the delivery of his mail than the man living 1 block from the post office, but we said, in effect, "this is one country, one people; under one Government, and we propose that every man in this country shall have access to information of all kinds on exactly the same basis as every other man."

You instituted the rural free delivery, not to benefit the publishers, not even as was falsely claimed to benefit the mail order houses, but you passed that law as a measure of justice and equality to our rural citizens. It would be a rash statesman indeed who would now advocate the withdrawal of this service.

The 1 cent flat rate on newspapers and periodicals was likewise a measure of justice and equality to citizens, both rural and urban, in all sections of this widely flung land of ours.

When I was here a couple weeks ago there was some comment made upon the fact that a large number of periodicals are published in New York State, and that, therefore, the charge of sectionalism would apply against periodicals being published in that section of the country.

In the first place, it is a mistake to say that the majority of periodicals are published in New York. New York State, you must bear in mind, contains 12 per cent of the population of the country, but it produces only 25 per cent of all newspapers and periodicals and of all general printing. The other 75 per cent is scattered all over the country. Next after New York comes Illinois, then Pennsylvania, Massachusetts, Ohio, Missouri, and California, in the order named.

Mr. STERLING. You are speaking now of newspapers?

Mr. NEAL. I am speaking of publishing and printing of all kinds.

Mr. FORDNEY. If New York, with 12 per cent of the population, has 25 per cent of the publications, she has a larger percentage than any other 12 per cent of the people?

Mr. NEAL. Yes, Mr. Fordney; just as Detroit has more automobile manufacturers than St. Louis.

Mr. FORDNEY. I am not criticizing it; I just want to know if that is right.

Mr. NEAL. Yes.

A national periodical circulates all over the country, but quite obviously must be published in some one place. The various centers of publication throughout the country have grown up under a flat postal rate, which gave no advantage to one section over another. A paper published in Wichita, Kans., up to this time has had the same postal rate to all sections of the country as a paper published in San Francisco, Cincinnati, St. Paul, or New York.

As a result, the publication business has gravitated naturally to the cities best adapted to the particular requirements in each case. Such publications as may be issued in New York or Chicago, which are the two main centers, are published there because those cities afford superior advantages from every standpoint.

This condition is no more forced or artificial than the location of the flour mills at Minneapolis, the steel mills at Pittsburgh, the automobile factories at Detroit, the meat-packing business in Chicago, or the rubber industry in Akron.

Mr. GREENE. But those institutions do not get a flat rate all over the country?

Mr. NEAL. No.

The new zone system of postal charges will, however, introduce an influence which will make it exceedingly difficult for national publications to continue their location at the most suitable points.

The editorial policy of national papers is not in the least affected by the location of the publishing office. A paper can not get and hold a national circulation unless it reflects national thought and serves national interests. Its circulation depends entirely upon the nature of its appeal and not upon its location. It is just as true that a sectional publication must confine its activities to the interests of the section in which it circulates.

This is no criticism of sectional papers. These are no less necessary than national periodicals. But to say that sectional papers can serve the interests of the country as a whole is as much opposed to reason as to say that we could do away with the great trunk lines of railroad and get along better with nothing but city trolley lines and innumerable little pocket-edition railroads.

So I say, gentlemen, that it is beside the question to assail periodicals because many of them happen to be published in New York State.

The prominence of New York in many of our industries is something which should inspire pride on the part of the country as a whole. I am no less a good citizen of New York, because I am proud of the achievements and progress of Ohio, of Massachusetts, of California, of Pennsylvania, of Illinois, or of any of the other great States of this United States, and I might add that, if we are to prevent the growth of narrow and stifling prejudices and jealousies, our first duty should be to encourage by every means within our power the developments of great interlocking and interlacing highways of national thought.

Now, gentlemen, I am going to venture upon what to me is an uncharted sea and I may get into very, very deep water, but I have an idea that rather hit me in the right spot and I am just foolish enough to want to "get it off my chest."

Six years ago, I think it was, the Postmaster General figured that free, franked, and penalty mail was costing \$20,000,000 a year to handle. What it is now is largely a matter of conjecture. Early in 1917 I read some unofficial estimates which gave the current cost as \$25,000,000. I believe it is even higher now, on account of the vast amount of matter being sent out because of war requirements by the different departments.

This is an item which can not be ignored in any cost investigation of postal finances.

Now, if this \$25,000,000 had been properly charged to the various Government departments, the post office would have shown a profit last year of \$37,000,000 instead of \$12,000,000.

Let's carry this a little further—

The rural free delivery, a splendid and necessary Government service, now costs approximately \$50,000,000. It is not used at all by trade and technical papers; neither is it really necessary for weekly and monthly periodicals. Every family gets to the post office at least once a week. If we had not put in the rural free delivery the Post Office would not be spending the huge sum required for its maintenance, and the \$50,000,000 thus saved would be added to the surplus of \$37,000,000 just alluded to, making a total of \$87,000,000 surplus over expenditures.

Mr. GREENE. There is nearly always one charge that is forgotten, the cost of keeping up the post-office buildings and the interest on the cost of their original construction which are never represented as a charge against the Post Office Department. I have never seen that estimated, but it must run up into the millions.

Mr. FORDNEY. Over \$30,000,000 is the correct estimate of what is paid out by the Treasury Department, not through the Post Office Department.

Mr. GREENE. Does that include interest on the value of the buildings?

Mr. FORDNEY. No; that is just the maintenance of the property.

What becomes then of the forty, fifty, sixty, or seventy million dollars variously estimated as loss due to second-class? And remember, too, that \$3,000,000 of this alleged loss is chargeable to free in county newspapers.

Mr. FORDNEY. Is there any comparison now between the franking privilege and magazine postage? You have told what the receipts of the Post Office Department would be if the mail matter sent out by Government representatives and bureaus paid postage. Now, what comparison is there between the franking privilege and the postage on second-class mail matter?

Mr. NEAL. If I mistake not, a number of Postmasters General have advocated the distribution of the cost of handling Government mail to the different departments producing the mail. For instance, they are handling now an enormous quantity of mail for the Army. Take the Ordnance Bureau; they had 80 officers in Washington before the war and they have 5,000 here now, and every one of them has a very large mail. I never used a franked envelope in my life before, and I now send out from my office thousands of letters in a penalty envelope.

The CHAIRMAN. Are you making any profit by doing that? Are you advertising your business by sending out those franked letters?

Mr. NEAL. I see what you are getting at, Mr. Chairman—

The CHAIRMAN. So you can sell some of your goods or products to the public and make—

Mr. NEAL. The only point I am making is that if the cost of handling this mail was charged to the proper Government departments, then the cost would appear not as a debit charge against the Post Office but as a credit charge, and they would be able to show receipts of \$25,000,000—that is, so far as their bookkeeping is concerned—rather than now having to absorb the cost of that transaction out of the other revenues of the Post Office Department.

Mr. STERLING. Do you understand that in computing the loss to the Government in carrying second-class matter they do not take into consideration the franked mail matter? As I understand it, that has not anything to do with the estimate made by the Post Office Department in reference to the loss which they suffer by reason of carrying second-class mail matter?

Mr. NEAL. No; it has not. The only point I am trying to make—and it is as far as I can or dare, really, to go into the realm of figures, because that is one thing I always flunked on in school—is the fact that \$25,000,000 should be a surplus rather than a deficit in Post Office accounting, because they render this service to other departments of Government and get no credit for it. They have to absorb the cost of that service out of their own revenues instead of getting credit for it from the different departments of the Government, and if they had a surplus of \$12,000,000 last year, which the report stated, and were able to add this \$25,000,000 to it, as they would be if they were given credit for it, they would have a surplus of \$37,000,000.

Mr. STERLING. That would simply mean that the charges for first-class mail and the charges for carrying mail which is now franked would produce that much surplus in spite of the fact that there was a \$7,000,000 loss on second-class mail.

Mr. NEAL. And then if you added \$50,000,000, the cost of rural free delivery, you would have \$87,000,000 over expenditures, which rapidly gets the thing to a point where it is hard to believe there can be in addition \$90,000,000—

The CHAIRMAN (interposing). If you add the eighty or ninety million dollars of cost of your second-class mail service above what the publishers pay, or the eighty or ninety million dollars of loss that we sustain now on that matter, we would have \$177,000,000 of surplus.

Mr. CRISP. And if you add what they pay the city delivery letter carriers—

The CHAIRMAN. You would have \$48,000,000 more of surplus. In round numbers that is the amount expended last year on city delivery.

Mr. MOORE. And if you include the cost of the free county delivery—

The CHAIRMAN. That would add about \$4,000,000.

Mr. NEAL. Where do you get these figures?

The CHAIRMAN. I get the figures in this way: You have for last year 1,200,000,000 pounds of second-class mail matter, and the lowest estimate made by any administration, or by the Postmaster General under any administration, in the last 15 or 20 years, is that it has cost on an average at least 8 cents per pound to handle it, making a total cost to the Government of at least \$96,000,000. From that I deduct \$12,000,000 paid the Government by the publishers, and that will give it to you. The Postmaster General in his last report said that the loss on the handling and delivery of second-class mail matter for the preceding year was at least \$72,000,000. He knew the expert's estimate was more but he put it at a figure that would admit of no doubt.

Mr. NEAL. As to the figures, do you remember a speech made by Congressman Steenerson?

The CHAIRMAN. Yes, I remember that. I remember that a lot of speeches were made by a lot of people in and out of Congress who were opposed to the zone system, which have never been and can not be verified.

Mr. NEAL. Congressman Steenerson was a member of the Post Office Committee, and he produced a little table here in which he took the cost figures claimed for the year 1909 or 1908, and then took the total tonnage of each section of the post office. By his process he produced a most remarkable result, and I think those cost figures are correct. They show that it cost the Government \$590,600,000, or nearly \$600,000,000 to handle the entire post-office business for that year, when, as a matter of fact, the entire cost of the Postal Service was only \$306,000,000. The table is here. I will not take the trouble to go through it. The speech is here in which Mr. Steenerson endeavored to demonstrate that the cost of transportation alone had been cut absolutely in half, and that a great many other economies had taken place since the 8 or 9 cent figures were determined, and it would be reductio ad absurdum to take the cost figures of over 10 years ago and apply them to current operations.

The CHAIRMAN. The experts of the Post Office Department have in each year figured up from all the data before them the cost of the service and the cost of the different classes of the service, and they do not, as you gentlemen say, take figures that are 10 years old. They bring the figures up to date. In 1909, under an act of Congress of 1907, the experts of the Post Office Department went to work to make a full investigation of the matter, with all the available data before them. After a year of diligent work they reported that it cost on the average 9 cents per pound to the Government to haul and deliver second-class matter. The experts have been keeping up with the processes ever since, and they think from economies effected it has been reduced now down to 7½ or 8 cents.

Mr. NEAL. I attended a meeting or a hearing before the Senate Post Office Committee, which was given to newspaper men, and Mr. Koons, the First Assistant Postmaster General, was called in as an expert from the Post Office Department.

The CHAIRMAN. When was that hearing?

Mr. NEAL. That hearing was held possibly two months ago.

The CHAIRMAN. I have a copy of it before me.

Mr. NEAL. I observed with a great deal of interest that Mr. Koons's bible, or the one book to which he referred continually and the one book upon which he based almost all of his statements there with reference to costs was the report of the Hughes Commission, which was based on operations of the Post Office Department of 10 years ago. So I assume that if there were later statistics available, Mr. Koons did not consider them as of as much value as those gotten up 10 years ago.

The CHAIRMAN. He had the figures of the Hughes Commission and present figures. He had the system of accounting, or the method by which they proceeded in arriving at the costs at that time. Then he knew how many pounds of mail matter, or second-class mail matter, had been transported and how much it had increased in each year since. Then, he knew exactly how many dollars they paid to the rural carriers at the time of the Hughes Commission's report,

and how many dollars they were paying them now; he knew how many dollars they were paying the city delivery carriers at the time of the Hughes Commission's report, and he knew how many dollars they were paying them now; he knew then how much and by what method they were paying the railroad companies for handling that mail matter at the time of the Hughes report, and he knew how much and by what method they were paying the railroads now for the like service. Then, when he calculated it on the same basis, he came to those conclusions, or reached those results. He first came to the conclusion that that was the proper basis, and it was the basis that the newspapers and magazines of the country accepted at the time as the proper one. It has been generally accepted as the true basis, and when he referred to the Hughes Commission there, he referred to that as the proper method of procedure.

Mr. NEAL. I find here that in answer to a question by Senator McKellar, on the bottom of page 65, with reference to the statistics on second-class mail matter, Mr. Koons put into the record an entire table from the report of the Hughes Commission.

The CHAIRMAN. On what page is that?

Mr. NEAL. That is on page 65. He furnished there a table from the report of the Hughes Commission as to the cost of transportation and handling of second-class mail matter.

The CHAIRMAN. It shows exactly what it was then, and they have kept it up to date. They are getting the figures now each year as to the costs of handling second-class mail matter.

Mr. NEAL. He had no later figures, and I remember very definitely that he rested his case upon the figures of the Hughes Commission.

The CHAIRMAN. Does not the Post Office Department in every report, and does not the statistical abstract also, refer, in each year, to the increase in the pay of city letter carriers and rural carriers, and to the increased poundage of newspapers and other second-class mail matter carried each year, and to what is paid to the railroads for handling that matter? Mr. Koons took, as you gentlemen took, the Hughes Commission's method of arriving at the costs of transportation as the correct basis, and I think that basis is the correct one.

Mr. NEAL. We are perfectly willing to take the findings that appear in the report of the Hughes commission, or the principles laid down there, but I think it is obvious that the cost figures contained in that report do not apply now. When I was here two weeks ago, the remark was made that we had had seven postal investigations in 25 years as to costs, and by some that was thought to be sufficient. Now, most business houses or factories make cost investigations almost hourly, or, at least, annually, and it would be impossible for them to do business upon the basis of costs ascertained 10 years ago.

The CHAIRMAN. Let me ask you a question: Suppose you took the weighings and poundage of 1908, and the basis of cost or the rate which we were then paying the railroads per pound for carrying the mail, you could very easily find out exactly what you paid the railroads for carrying second-class mail matter, could you not?

Mr. NEAL. Yes, sir; and it is fully 2 cents per pound less now than then.

The CHAIRMAN. It could be ascertained?

Mr. NEAL. Yes, sir; it could be done.



The CHAIRMAN. If you take 1917 or 1927, or any other year, and know the weights and the amount per pound you pay for transporting it, you can ascertain the cost of transportation for the whole. The department finds out what the weights are every month. If you gentlemen connected with the newspapers and magazines certify to the truth about the weights, and if those who weigh them do the weighing correctly, the weights are ascertained. Then, for any year, whether for 1917, 1918, 1919, or 1927, if we get the number of pounds of second-class mail matter that is hauled by the railroads, and then get the contracts that we have with the railroad and other transportation companies and see what the rate per pound is that we pay for the service, is it not just a matter of simple calculation to ascertain the cost of carriage to the Government? That is so, is it not?

Mr. NEAL. Will you let me answer that by reading a letter from Mr. KOONS?

The CHAIRMAN. Is that not true? Don't you know whether or not that is a fact?

Mr. NEAL. As I said before, I would like to answer that by reading a letter from Mr. KOONS.

The CHAIRMAN. You can answer that question yes or no.

Mr. NEAL. I am not nearly as well versed in that as you are.

The CHAIRMAN. You are not able to answer that question yes or no—

Mr. NEAL (interposing). I want to answer that with a letter from Mr. KOONS, in reply to a letter in which he was asked for that specific information. This letter is dated June 13, 1918, and is as follows:

I wish to acknowledge the receipt of your two letters dated July 11, 1918, addressed to the Postmaster General, requesting information in connection with the statements which I made recently before the Senate Post Office Committee.

The act of March 2, 1907, making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1908, and for other purposes, provided for a record of the weights of the various classes and subclasses of mail matter and made an appropriation of \$300,000 to cover the expenses of such weighing and counting, and the recording and compilation of the information acquired. However, I am informed that less than \$250,000 of this amount was used. The committee submitted a report under date of May 1, 1908, which was published as Document No. 910 of the Sixtieth Congress, first session.

Hearings have been had and reports submitted from time to time covering the different facts which I presented before the committee, but I regret that I have no copies of these publications except my office copies, which must be retained for my files. Knowing that the supply had been practically exhausted, I inserted in the record of the hearings before the Senate committee, on page 64, a table showing the estimated weight and expense of the various classes of publications; also, on page 65, the report of the Post Office Department to the Hughes Commission on October 21, 1911, showing the revenue, expense, etc., per pound of each class of mail, which is a summary of all the expenses outlined in your one letter.

Mr. KOONS's letter was in reply to a letter requesting current information on this subject, and he refers Mr. Post to the table prepared by the Hughes Commission. I take it that the reason these figures are so constantly referred to is the fact that there has not been since such comprehensive and exhaustive weighings and compilations of costs as were made at that time.

The CHAIRMAN. When the Saturday Evening Post or the New York Times or the Review of Reviews goes out, how does the department arrive at the number of pounds that their publishers send through the mail each time?

Mr. NEAL. How they do it under the zone system I do not know.

The CHAIRMAN. I mean now, or under the old system. How do they find out how many pounds of those several papers or periodicals are sent through the mails?

Mr. NEAL. That is simple, of course.

The CHAIRMAN. Let us see how simple it is. How do they do it? An agent of the Government and a representative of the newspaper or magazine weigh it together, do they not?

Mr. NEAL. I believe they do.

The CHAIRMAN. Let us see how intricate is this matter of weighing and determining how much is the cost per pound of transporting this matter. Do you say that it is a difficult matter to find out the poundage? Now, if all of the papers and magazines do the same thing, or go through the same process just described, then, is it a difficult matter for some gentleman here in the Post Office Department to add up the number of pounds that are sent out by each one of these newspapers and magazines and thus get the total number? It is simply a matter of calculation, is it not?

Mr. NEAL. It would seem to be a very simple process, and yet the facts are as I have stated, that in every hearing that they have held on the question they go back to the figures of the Hughes Commission.

The CHAIRMAN. No; they say that at that time they were the correct figures; that according to the weighings in 1908 and the basis or method of allotting the costs to the second-class matter, which they adopt as the proper basis, the cost of transportation and handling in transit was so much. They calculate the cost on the scientific and proper basis established by the Hughes Commission, and that is what they mean when they refer to the report of the Hughes Commission. They start with that. They know what was the cost in 1908, and they start with that and do not go any further back. Now they calculate the cost each year upon that basis or they employ that method.

It is simply a matter of adding up the number of pounds of second-class mail matter that is hauled or delivered through the mails each year, or each month, or each week. When that is done it is a simple matter for the department to tell how much they are paying the railroads or transporting company for carrying that poundage. The rate is stated in the contract, and with reference to both railroad and other common-carrier transportation it is very easy to ascertain the cost. They know, too, how much railway-mail clerks cost and the amount chargeable to second-class mail for their services. When you come to other methods of transportation, such as star route, rural route, and handling by city carriers, of course it then becomes more difficult to ascertain exactly what part of the cost for this service should be chargeable to second-class matter; but experts of the department have worked that out. Now, the Hughes Commission, which you gentlemen cite very often here, not only found the costs for carrying such mail for 1908, but ascertained that the cost of transportation and the handling of mail during transit in 1910 that was properly chargeable to second-class mail matter was \$45,000,000, or an average of 5.58 cents per pound. That was only for the transportation cost and the cost of handling during the transportation, including the pay of railway-mail clerks, rural-carrier service, etc. It

did not include overhead or general post-office expenses, the proportionate part of which is properly chargeable to second-class mail matter.

Mr. GARNER. How much postage did they pay that year?

The CHAIRMAN. About \$8,700,000.

Mr. NEAL. I will admit that the tonnage is easily ascertained, but the distribution of the expense and the ascertainment of the correct proportions is an entirely different matter.

Mr. GARNER. You speak for these trade magazines, and I want to ask you a question that I asked Mr. Post and a number of newspaper men, and that is, whether or not, if, after a thorough investigation, or an accurate investigation, we will term it, a determination is made as to how much it costs to transport magazines and papers through the mails, you are willing to pay that cost?

Mr. NEAL. Yes, sir; on this condition; provided that the commission or body intrusted with that work shall be so constituted that it will be possible for them to properly weigh and balance along with their ascertainment of cost figures the most important question of all to me, and that is the question of public policy. I will call your attention—

Mr. GARNER (interposing). I want to get your answer directly, yes or no. I have assumed a case here. I have assumed that we are going to accurately determine what it costs to carry each of these papers and magazines through the mails, and I am going to assume that Congress has determined the policy. I am going to assume that Congress has determined that the policy of the Government is to require each piece of mail to pay its way. Now, if that policy is adopted and an accurate ascertainment of the costs is made—that is, if it is accurately ascertained what it costs to handle these trade papers through the mail—are you willing to pay that cost? I think you ought to be willing to answer that question yes or no.

Mr. NEAL. I said that if the question of public policy was weighed and balanced in connection with the costs, I would. If that were determined by a commission like the Hughes Commission, which was composed of Mr. Hughes, a jurist and a man of judicial mind, President Lowell, of Harvard, an educator, and Mr. Harry A. Wheeler, a business man, there could be no objection. Those men were not appointed because they were accountants; they knew practically nothing about accounting, and employed accountants to do that work.

Mr. GARNER. You are now delivering a lecture on the question of public policy. These 435 gentlemen who have been elected as Members of the House and the 96 gentlemen who have been elected to the Senate determine the public policy of the country, so far as laws on the statute books are concerned.

Mr. NEAL. Yes, sir.

Mr. GARNER. We do not need any commission at all to deal with the matter of public policy. In this matter Congress should determine the public policy. Now, if Congress determines that that shall be the public policy, that is, that each piece of mail shall pay its way through the Post Office Department, and if that cost should be accurately ascertained, would you be willing to pay that cost for your periodicals? You ought to be willing to answer that question, yes or no.

Mr. NEAL. I have answered that question.

Mr. STERLING. His answer means no.

Mr. GARNER. He said yes, with some qualifications. I asked Mr. Post the same question, and he undertook to qualify his answer. You are a very apt student of Mr. Post.

Mr. POST. I answered you very promptly on that question of public policy. I said that if that was the public policy we would abide by it. I made a prompt answer.

Mr. GARNER. I am assuming that that public policy has been determined by Congress. I am assuming that as a matter of public policy it has been determined that we are going to have each piece of mail pay its way through the Post Office, and I want to know from you as the representative of trade papers, whether or not, you would be willing to pay your part of it?

Mr. NEAL. You stated that Congress would determine the matter. I suppose you mean to infer that Congress would determine the matter as reflecting the viewpoint of the 100,000,000 citizens of the United States rather than their individual views on the matter.

Mr. GARNER. Congress must determine the public policy anyway. Whenever we enact a law, we do that. I am assuming for the sake of this question that we have determined that to be the policy of the Government—that is, that every piece of mail shall pay its way through the Post Office. Now, whether that represents the views of 100,000,000 people or just the view of Congress, if that is the policy that is adopted, to make each piece of mail pay its way through the Post Office Department, are you willing that your trade papers shall pay their part of it?

Mr. NEAL. The answer I made I will let stand.

Mr. GARNER. Was that answer yes or no?

Mr. FORDNEY. If these gentlemen were willing to pay it, they would not be here protesting against it.

Mr. GARNER. These gentlemen will not say yes, because if they do that, their promise will be given, and they dare not say no, because the American people will not tolerate any such policy.

Mr. NEAL. The Hughes Commission said that—

If a rate were established commensurate with the present rate of cost, it would dislocate this part of the service and produce such entirely new conditions that a new computation of cost would be necessary, in the light of which alone it could be determined whether the rate furnished the desired correspondence between income and outlay as to this sort of mail.

The CHAIRMAN. Let me get back to where we left off as to the cost of transporting and handling during and in transit second-class mail matter, and what the Hughes Commission said about it. Here are some things that we can get pretty accurately, almost without definiteness, as to the cost and the proper cost to be chargeable to second-class mail matters. On pages 134-135, Hughes Commission report, we find:

If, further, we take the outlays for the fiscal year 1910 and the services mentioned in the above comparative statement (transportation, post-office cars, railway and mail service, and rural delivery service), amounting to \$177,604,672.26, and assume that pound rate matter had the same proportionate share of this total amount as it had of aggregate of the corresponding items for the fiscal year 1908—

And just before that it said that was not prejudicial to the newspapers and magazines, because poundage had been increased and was favorable to them—

its share would be \$45,630,612.84, or, distributed over 817,772,900 pounds, an average of 5.58 cents a pound, as against the charge of 6.205 cents a pound for these services in 1908.

Now, then, the Hughes Commission found in 1910, with the situation and conditions favorable to the second-class mail matter, that its proportionate charge for transportation and handling during transit was \$45,630,000—that is exclusive, of course, of all overhead charges and general post-office expenses—while in that year newspapers and magazines paid to the Government on the 817,772,900 pounds only \$8,177,729, according to the Hughes report. There, you see, you have the cost (exclusive of overhead and general post-office expense charge) five or six times more than the publications paid it. Since then, under Mr. Taft's and the present administration, from economies effected, such cost has been reduced about 1 cent. Now, then, to transport, including the cost of handling in transit, it cost the Government over four and one-half times more than it receives from the newspapers and magazines for such service. Do you really think that it is right, as a matter of public policy, to permit that to continue to go on?

Mr. NEAL. And in the light of all those facts, these distinguished gentlemen recommended a flat rate of 2 cents a pound, since which time, according to a number of very good students of postal financing, the cost of handling second-class matter and all classes of matter had declined in many instances to one-half of their former figure. If, then, 2 cents was an adequate recommendation at that time, less than 2 cents, on the same basis of reasoning as adopted by the Hughes Commission, would be thoroughly adequate at the present time.

The CHAIRMAN. No; we were then losing about \$60,000,000 annually, and now, on account of the increase in poundage of second-class matter, we are losing from \$75,000,000 to \$90,000,000. The Hughes Commission did not recommend that a 2-cent rate was a final adjustment of this; they recommended that as a step in the right direction; they concluded that as you had built up the magazines and periodicals and newspapers upon a flat 1-cent basis, that it would be unjust to suddenly increase the rates sufficiently to pay all the costs, because it would destroy a great many of them. Instead of 2 cents per pound, which it recommended, to pay the carriage cost alone the rate would have to be at least 5½ cents or five and one-half times more than publications were then paying. We believe when this zone rate goes into effect it will cost the Government more than \$40,000,000 for handling, delivering, and transporting second-class mail in excess of what the publishers will pay. Another reason we made a graduation over four years was in order to give the publishers time to adjust their business to the new rates.

Let me read the report of Mr. Hitchcock, the Postmaster General, submitting the Hughes report, in connection with what you said about these gentlemen recommending a 2-cent flat rate, but before reading let me say this, that after the Hughes Commission—the membership of which was indorsed by the newspapers and magazines—had given thorough study and had made the report recommending as just both to the Government and to the magazines an increase from 1 cent to 2 cents, every magazine and newspaper in the country denounced it, declaring such increase was ruinous and unfair and unjust; and now because this zone rate is higher than that which the Hughes Commission recommended, they are all applauding and approving the Hughes Commission recommendation.

I will now read from Postmaster General Hitchcock's report to the President and Congress when he submitted the Hughes report—I read from the report, in House Documents, volume 36, second session, Sixty-second Congress, pages 17-18:

Next to the question of establishing a parcel post, the most important problem to be considered by Congress at the coming session will be that of readjusting postage rates. In the last two annual reports of the department attention was directed to the great loss sustained in handling and transporting second-class mail at the present low rate of 1 cent a pound. In view of the large profit accruing, on the other hand, from first-class mail, it was pointed out that a readjustment of rates on the basis of cost would eventually permit the adoption of 1-cent postage for letters.

That is, we were charging letters 100 per cent more than they cost in order to meet the loss incurred by handling and delivering second-class mail matter. He continues:

The controversy over the department's recommendations on this subject had the desired effect of directing proper attention to the second-class mail problem and the final outcome was the adoption by Congress of a joint resolution creating a commission to investigate the subject and make report. Extensive hearings were held by the commission during the summer, at which the officers of the department presented data in support of their contention as to great loss incurred in handling second-class mail and submitted recommendations for a gradual equalization of postage rates on the basis of cost. As the first step in that direction the department suggested that the postage rate on second-class mail be increased 1 cent a pound, thus making a flat rate of 2 cents a pound, which charge should be regarded as merely tentative, however, leaving for future determination such additional increase as may be found necessary to meet the cost.

Mr. Hitchcock had recommended the 1-cent increase as a first step in the right direction of finally making the newspapers and magazines pay in going through the mails the full cost of the service rendered them by the Government.

Mr. NEAL. These were flat rates.

The CHAIRMAN. Yes; I understand that.

Mr. NEAL. Mr. Kitchin, let me interrupt you.

The CHAIRMAN. No; let me get through with it.

Now, the commission agreed with the recommendation of Mr. Hitchcock and his experts here, and recommended, as the first step in the right direction, an increase from 1 cent to 2 cents and, as I said a while ago, you gentlemen—the newspapers and magazines—denounced that as bitterly as you are now denouncing the zone system; and you fought it in Congress, and my recollection is that we could get only a few men in Congress to favor this increase in face of the vigorous opposition of the newspapers and magazines.

I want to read you something from the Hughes Commission about this matter.

Mr. NEAL. That was the statement by Mr. Hitchcock, was it?

The CHAIRMAN. That was Mr. Hitchcock's statement in submitting this report.

Mr. NEAL. That was his interpretation; that was not the Hughes Commission's statement.

The CHAIRMAN. Yes, it was. I am now going to read you something from the Hughes Commission. The Hughes Commission takes up your educational viewpoint and the matter of disseminating intelligence and information, and they practically say there is little or nothing in that. It says:

The educational purpose has been accomplished only in part; it is wholly impracticable to make a low rate for publications with a considerable educational value and

a higher rate for the rest; and under the actual working of the law, large business enterprises, which are maintained by the commercial advantages they offer as advertising media, receive the benefit of a rate so low as to amount to a subvention by the Government.

In these circumstances there would seem to be no reason why there should be such a wide difference between rate and cost, and it is the judgment of the commission that there should be an increase in the charge for second-class mail in order that a more equitable adjustment may be made.

Yet you were at the time opposed to that and thought the Hughes Commission did not know what they were talking about.

Mr. NEAL. And here is another thing that I hope you will not overlook, and that is the statement they made that that charge for the proportion of magazines devoted to advertising is open to grave practical objections, and objected also to the zone system.

The CHAIRMAN. They said the zone system was impracticable. They had not been accustomed to it; had not had the parcel-zone system; it had not been worked out; its successful and practical operation had not then been demonstrated as it is now. The same objections made to the zone system by you gentlemen were made to the parcel-post zone system, and the people who opposed that used the same identical argument.

When Mr. Hughes made that report we did not have the parcel-post zone system, and people then said it was impracticable, that you could not operate it, and that there would be discriminations and injustices. But we have now, and when we passed on the zone system last session, the parcel-post zone system perfectly administered, everybody favoring it, and the only people I have heard intimate any opposition to it are the newspapers and magazines.

Mr. NEAL. That is not exactly true, Mr. Chairman.

Mr. GARNER. In that connection, these gentlemen are not willing to even pay the cost of having their stuff handled on a flat basis.

The CHAIRMAN. No; not one-fourth of the cost on a flat basis.

Mr. NEAL. And Mr. Hughes, in the light of all these recent developments as to parcel post, less than three weeks ago reiterated his objection to the zone system.

The CHAIRMAN. I said to Mr. Post when he read the Hughes letter that it would have been a great deal better, if he wished us to know the reasons he has for his conclusions now, in the light of all the new developments in the zone system and postal matters, and if he wanted to give some real information on the subject, for him to come here before us and let us cross-examine him as we have you gentlemen, and possibly we could show him that he had been too busy a man with matters on the bench and running for President and practicing law to have kept up with the postal developments made since the report of his commission.

Mr. NEAL. He was offered a retainer to come here and state his reasons for not doing so.

The CHAIRMAN. As I said to Mr. Post, we would be glad to have him here before us.

Mr. GARNER. Mr. Hughes did not have to have a retainer to come here and assist this committee.

The CHAIRMAN. Mr. Neal, you have not a retainer?

Mr. NEAL. No; simply my own weekly stipend.

The CHAIRMAN. We have had man after man to come here without a retainer. And so could Mr. Hughes.

Mr. MOORE. Mr. Hughes has been selected by the President recently to make an important investigation?

Mr. NEAL. Yes; I believe he has.

The CHAIRMAN. They would not take Mr. Hughes's opinion about that matter until he did investigate. If Mr. Hughes comes here and says to us "Since I made that report I have gone thoroughly into a full investigation with the data now available before me, and all the facts and figures now pertaining to hauling and delivery of second-class mail matter, and with the successful operation of the parcel post zone system before me, and my conclusion is so and so," it would be worth a good deal more than the hurriedly written letter which he sent to Mr. Post. We would have given the most serious and careful consideration to his statements and opinions.

Mr. NEAL. I was going to say that I think you can save the committee a great deal of time and possibly enable us to finish to-day if you will let the financial and figure end of it be handled by Mr. Post. He is much more conversant with that, and I question whether, when you get into the fine details, I can really give your committee any information you do not already possess; and I have possibly the most important evidence yet to submit here, Mr. Chairman, and appreciate an opportunity of getting in this matter.

Mr. MOORE. I do not want you to leave Mr. Hughes in the way you did. Mr. Hughes has very important and confidential relations with the President just now, has he not?

Mr. NEAL. I imagine he has.

Mr. Chairman, as I said, I can add nothing to the information you have already here.

The CHAIRMAN. I know, but I am going to put this in. In your remarks you have quoted the Hughes Commission report, and I want to quote some more from it. On page 147 he says:

The question of raising the rate on second-class matter mailed by publishers and news agents from 1 cent to 2 cents a pound is a more serious one. But we are of opinion that the change is reasonable and should be made.

Yet you gentlemen fought it.

To deny such a moderate increase is virtually to say that the present rate, despite the heavy loss it entails, must be deemed satisfactory, or if not that it is wholly impracticable to attempt any change in it. We regard either conclusion as without foundation.

Such an increase will not, in the opinion of the commission, bring distress upon the publishers of newspapers and periodicals, or seriously interfere with the dissemination of useful news or information. A reasonable time should be allowed, after the rate is fixed, before it is put into effect. While the new rate will be very far from compensating the Government for the carriage and handling of second-class matter, it will to some extent relieve the existing burden and result in a more equitable adjustment of rates.

Yet, every magazine and newspaper in the country said it would ruin them, just like they are saying now relative to the new zone system, and this commission found it would not seriously hurt you at all.

It states that after you paid the 2 cents flat rate it recommended there will be a great loss to the Government.

Mr. NEAL. And yet they made the 2-cent recommendation in the light of all those findings.

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Mr. NEAL. And yet they made the 2-cent recommendation in the light of all those findings.

The CHAIRMAN. Yes, as a first step in the right direction, and you turned down their recommendation.

Mr. NEAL. Mr. Chairman, let me say again, that so far as I am concerned, it will be perfectly futile to get into a discussion of a maze of figures and details, because I have the viewpoint of the man on the street of those matters, and I have other matters which I do know something about which I can possibly give you some valuable information on.

The CHAIRMAN. Before that, let me refer to another matter. You said that Mr. Roper wrote a book once on postal matters, which he did, a very valuable book, a very informing book—I read it with a great deal of pleasure. You quote from it, and the substance of that recording to your interpretation is that the great success of the postal system in Great Britain was on account of a uniform flat rate.

Mr. NEAL. No, he did not say that.

The CHAIRMAN. Let us see what you said he said.

Mr. NEAL. What I said he said he did say.

The CHAIRMAN. In substance he said it was a uniform flat rate.

Mr. NEAL. No; he said that the postal reforms of 1835 and 1837 established the fact that postal efficiency, if I remember correctly, depended upon uniform rates and standardized conditions.

The CHAIRMAN. I suppose that is about the only page of that whole book you read. Do you not know—if you had read it you would know as a fact—that Mr. Roper was not referring in any way to the second-class postal mail matter in Great Britain, because Mr. Roper would have known that the second-class mail matter—magazines and newspapers that go through the mails in Great Britain—is not a drop in the bucket compared to the mail that is carried, and Mr. Roper would have known that the Curtis publications and Collier's Weekly that go through the mails of the United States amount to more in poundage than all the second-class mail matter that goes through the mails in Great Britain.

Mr. NEAL. I suggest that you ask Mr. Roper to appear here in person and state his views.

The CHAIRMAN. I am going to get Mr. Roper straight, and I do not want any impression left on the committee or on the public that Mr. Roper was testifying about second-class postal rates in Great Britain or in this country.

Mr. NEAL. Again I suggest that you get him before the committee:

The CHAIRMAN. Did you ever read his book through?

Mr. NEAL. I did; yes.

The CHAIRMAN. Did he refer in his book at all to the second-class mail matter?

Mr. NEAL. He did.

The CHAIRMAN. And was he referring to second-class mail matter in the quotation which you just read?

Mr. NEAL. He referred to second-class mail matter as late as last year; the book was only published this year.

The CHAIRMAN. Have you got the book? The book does not take up second-class mail matter, and, if in the quotation—

Mr. NEAL (interposing). He refers to the increase in the present bill.

The CHAIRMAN. Did you say he opposed that?

Mr. NEAL. He simply chronicles that as a historian; he refers to the fact of the increase being made.

The CHAIRMAN. He did not discuss second-class mail in this country or in Great Britain. If Mr. Roper in his book was referring to second-

class mail matter in the quotation which you made then Mr. Roper is just about as badly mistaken and unintentionally is deceiving the public who read the book as much as you are unintentionally doing so in the statements you have made. Every magazine and every newspaper I have seen told the public what low rates the British postal system has, and it was frequently asserted that any one could send to any part of Great Britain or the British Kingdom at a half cent a pound newspapers and magazines.

Mr. NEAL (interposing). Not in Great Britain; in Canada only.

The CHAIRMAN. Great Britain, I am talking about.

Mr. NEAL. From Canada to Great Britain.

The CHAIRMAN. All right.

Mr. NEAL. But not in Great Britain locally.

The CHAIRMAN. You claim it is a half cent a pound in Canada?

Mr. NEAL. A quarter of a cent a pound in Canada.

The CHAIRMAN. What is the British rate, then?

Mr. NEAL. The British rate on second-class matter I do not recall exactly, but I do know it is so high as to practically exclude from the mails nearly every variety of that kind of matter.

The CHAIRMAN. You are the only publisher in this country I have ever heard say the rate was high in Great Britain. It is high for the small, light weight paper or magazine because it is by the copy and not by the pound. In 1917 the rate was increased on publications weighing over 6 ounces.

Mr. NEAL. The rate in Great Britain is so high that it practically excludes from the mails periodicals, and it is also well known that Great Britain is years and years behind the United States in the matter of its periodicals, largely because of that fact. There have come to this country delegations of business men, within my own personal knowledge, to ask of our publishers of trade papers that they go over into England and publish a real trade paper for them.

The CHAIRMAN. Let me ask you about Great Britain. Has this high rate—and it is higher than this rate in our zone bill—on small, light-weight papers—

Mr. NEAL (interposing). But it is a quarter cent in Canada.

The CHAIRMAN. You said you wanted to hasten up and get through. If you will just answer my questions yes or no, when you can do it, we will get through a great deal earlier, and you will get off the stand earlier. You say the rates in Great Britain are so high that practically little newspaper and periodical mail goes through the postal system. In spite of what you say, is not Great Britain a very literary and well-educated country, and do the people not exchange views from one part of it to another, and has the alleged high postal rate had the effect of destroying the newspapers and magazines?

Mr. NEAL. Great Britain is an exceedingly small, complex country. You could put it into a few words as to the importance of distribution for periodicals: The smaller the country the less need for the low rates to encourage wide dissemination of information. The distributing agents in Great Britain are sufficiently active and can handle matter at such a low price that the Government does not get it, and when you can ride in one night from one end of that island to another it is a comparatively simple matter to make distribution of the printed matters and periodicals, compared to what it would be in the United States, which is thousands of times greater compared to

that little island. The situation is almost exactly the same as it would be in the State of Rhode Island by itself, where stuff can be handled and is handled by baggage cars and express cars, automobiles, and various other means of rapid transit that beats the railroads.

The CHAIRMAN. Mr. Neal, will you please answer this question yes or no? Has the alleged high rates of postage on second-class mail matter in Great Britain had a depressing or impairing effect upon the intelligence and the education of the people in Great Britain, in your judgment?

Mr. NEAL. As I understand it, they have no second-class rates there, as you refer to them.

The CHAIRMAN. I refer, of course, to newspapers and magazines and periodicals, which is second-class mail matter here.

Mr. NEAL. The only reason it has not, Mr. Chairman, has been it was small enough to enable other agencies to undertake the distribution.

The CHAIRMAN. You may impress the committee as being untruthful and uncandid in continuing to make such evasive answers. I know you are a truthful gentleman, and I believe you are a candid fellow.

Mr. NEAL. I think we better pass the discussion.

The CHAIRMAN. Why do you not catch yourself, and keep in your mind the question I ask? I asked you, Do you think that the high rate of postage on newspapers and magazines in Great Britain has had an impairing and depressing effect upon the intelligence and education of the people in Great Britain?

Mr. NEAL. I think that it has, if you want an answer yes or no.

The CHAIRMAN. Do you think that the high rates on second-class postage in Great Britain has destroyed or put out of existence any periodical, newspaper, or magazine?

Mr. NEAL. It has prevented a great many of them from coming into existence.

The CHAIRMAN. Under that high rate in the last 10 or 15 years have not the newspapers and magazines and periodicals greatly increased?

Mr. NEAL. That I do not know. I have only a general knowledge that most advertising men have as to the character of English periodicals, which is exceedingly poor, both general and trade.

The CHAIRMAN. Have they not some of the best newspapers and periodicals in the world in Great Britain?

Mr. NEAL. I think they have some good newspapers, but I draw the line when you say periodicals.

The CHAIRMAN. They do not carry as many advertisements as they do here; they have more reading matter, of course, and you represent mostly the advertising magazines, that is, business journals.

Mr. NEAL. If they do not carry it, it is not their fault.

The CHAIRMAN. It may be your criterion of a good or bad journal is the amount of advertisements it carries. But in Great Britain they carry a great deal more reading matter than our magazines and papers here.

Mr. MOORE. Do you think any man would exchange an American thoroughbred for an English draft horse? Does not that about size up the comparative literary situation?

Mr. NEAL. I am not in a position to go very deep into that.

Mr. MOORE. They are not lower, but they are heavier.

Mr. NEAL. The percentage of illiteracy in Great Britain is very much higher than in the United States, generally speaking.

The CHAIRMAN. You charge up to the rural delivery in 1917—

Mr. HAWLEY (interposing). Before you go into that, Mr. Chairman, may I ask one question?

The CHAIRMAN. Yes; go ahead.

Mr. HAWLEY. Did I understand you a moment ago to say the high rate on British periodicals had caused the publishers to use other means of distribution?

Mr. NEAL. Almost altogether. It had the same effect that the Hughes Commission felt it would have, by simply throwing it out of the post office altogether.

Mr. HAWLEY. I was asking for information, Mr. Chairman, if it was his statement if the high rate on British periodicals had caused the publishers to use other means of distribution than the mails?

Mr. LONGWORTH. A little further as to the question Mr. Garner asked you: I will agree with you that if the zone system does result in preventing the spread of intelligence in this country, it is not a good thing. I have never heard anybody but you and Mr. Post practically admit that second-class mail is not paying its way. I do not want to go into that question. Mr. Farely was before the committee, and, as you know, he is general manager of the American News Co., of New York; and I wanted to get his viewpoint on the general public policy, and I asked him some questions, which I will read, together with his answers, and ask if you agree with the broad proposition he lays down:

Mr. LONGWORTH. As a broad general proposition, do you think second-class mail ought to pay its way?

Mr. FARELY. No; I do not.

Mr. LONGWORTH. How far short should it come of paying its way?

Mr. FARELY. Well, that would be scarcely a fair proposition for me to answer, because it would be an estimate based upon no real facts.

And then one or two other questions that do not bring out the points, after which I ask again:

Mr. LONGWORTH. If you do not think it ought to pay its way entirely, how much of its way ought it to pay?

Mr. FARELY. That would be a vague guess, not based upon any facts. You could easily reduce the cost, and, instead of 30 or 40 or 60 million dollars, reduce it down to 20 or 30 million dollars, and you would get more than that compensation from your increased revenue from first-class mail.

Mr. LONGWORTH. Precisely; and if you carried them free, it would be of even greater benefit to the first-class mail?

Mr. FARELY. Well, that is the educational feature.

Mr. LONGWORTH. Exactly, and I say the logic of your position is that it would pay the Government to carry second-class mail free of any charge whatever.

Mr. FARELY. I think it would pay the Government. You can not colonize Alaska or the great Northwest or the Hawaiian Islands unless you give those people some encouragement and give them the opportunities they had in their home towns. If you are going to penalize them because they have gone to these outlying districts, then they will not go. It has been shown and demonstrated clearly that whenever you put the facilities of the mails at their disposal it has increased the population and encouraged emigration to those sections.

Mr. LONGWORTH. Well, that was exactly my first question, whether you did not think the Government ought to carry second-class mail free?

Mr. FARELY. Yes; it is going to the extreme, but even then I think it would be good public policy and for the benefit of the great mass of the people. For instance, take Canada; Canada goes down to a quarter of a cent, and why? Because of the vastness of their territory. They go up to the Alaskan border for one quarter of a

cent from Montreal, and that does not begin to pay one-third or one-fourth of the real transportation rates, but that is done for the benefit of the people in those remote sections of Canada.

Mr. LONGWORTH. Your general proposition includes both the educational side and the advertising side?

Mr. FARELLE. That is right.

I want to ask you if you agree with Mr. Farelly?

Mr. NEAL. Which point, in particular. You enumerate a great many?

Mr. LONGWORTH. There is only one point involved, and that is admitting second-class mail is of educational matter, would it pay the Government to carry it free. I will ask you this definite question first: Do you agree with his answer to this proposition:

Mr. LONGWORTH. As a broad, general proposition, do you think second-class mail ought to pay its way?

Mr. FARELLE. No; I do not.

Mr. NEAL. Of course, you know the Government does carry free county mail at the present time. I do not know the principles upon which that action is based. I assume that it is considered that the country newspapers are of sufficient value to the county residents to make it easy for him to get it in the county. But I have never favored that absolutely free rate, personally. I speak now only in my individual capacity. I believe that a nominal charge should be made, but I believe also—and in this I am stating the position of my organization—that whatever charge is made should be on a flat rate basis.

Mr. LONGWORTH. Then, that, of course, is not paying its way?

Mr. NEAL. No; I do not think second-class matter ever will pay its way.

Mr. LONGWORTH. Do you think it ought to pay its way?

Mr. NEAL. I do not think second-class matter ought to be charged with the total costs, as I have seen them expressed here. I believe, with the Hughes Commission, that the attempt to do that would dislocate the entire postal system.

Mr. LONGWORTH. It is a fairly debatable question. My mind is not by any means made up that the zone system is the very best that can be possibly devised, and if it is going, as gentlemen think, to actually destroy this means of education to make zones of learning, it would probably not be a good thing. But the question is, is Congress going to attempt to make second-class publications pay their way or not? Now, I ask you to answer just as this gentleman answered, categorically, do you think it is wise public policy for Congress to attempt to make second-class mail pay its way?

Mr. NEAL. I do not.

Mr. LONGWORTH. Then you agree with Mr. Farelly to that extent?

Mr. MOORE. That answers Mr. Garner's question.

Mr. LONGWORTH. It answers Mr. Garner's question.

Mr. MOORE. It is an important answer.

Mr. LONGWORTH. Yes; I think so. Let me go a little further. If you do not think it ought to pay its way entirely, how much of its way ought it to pay?

Mr. NEAL. I would probably make the same answer to that which Mr. Farelly did. The one thing we have been contending for is a commission or body of men who would go into the matter with sufficient detail.

Mr. LONGWORTH. Please do not get back to the bookkeeping; let us admit it did not pay its way.

Mr. NEAL. All right.

Mr. LONGWORTH. As I say, I have never heard anybody agree—

Mr. NEAL (interposing). Speaking for my own organization, they would be perfectly willing to accept a flat rate of 2 cents a pound; that is a 100 per cent increase.

Mr. LONGWORTH. That involves the admission that it is not paying its way. You would not ask it pay more than it is worth?

Mr. NEAL. No. If Congress feels an increase must be made, so far as my organization is concerned they would accept 2 cents a pound flat.

Mr. LONGWORTH. Would you be willing to accept 2 cents a pound flat, if that was put to a finality on second-class mail to make it pay more than it is worth?

Mr. NEAL. Oh, no.

Mr. LONGWORTH. It involves the admission that it does not now pay its way?

Mr. NEAL. I do not know what it costs. It probably costs more than it pays the Government, but as I said, I would prefer to leave the discussion on that as much as possible to Mr. Post, because I am not informed on the subject as I should be in order to talk to this committee. What you want is facts.

Mr. LONGWORTH. I am assuming it is not paying its way, and, if not, you have said you do not think it ought to pay. Mr. Farelly went even further. He did not answer definitely this question I just asked you:

If you do not think it ought to pay its way entirely, how much of its way ought it to pay?

He said:

That would be a vague guess, not based on any facts.

Then I said:

I say the logic of your position is that it would pay the Government to carry second-class mail free of any charge whatever.

Mr. FARELly. I think it would pay the Government.

You agree to that?

Mr. NEAL. I answered that before when I said that while a part of the mail was now carried free in the counties in which published, I think that a nominal and only a nominal charge should be made. The mail service has been extended through the western country from the time of the Pony Express up into Alaska, and, if I remember, the cost of carrying letters many times, I have heard it stated, was as high as \$200 a letter, by one of the postal officials in Alaska, for which the Government got 2 cents. I think the main object to bear in mind is the question of service rather than of revenue.

Mr. LONGWORTH. I wish you would really answer that question. It is a perfectly simple question. I am asking it as a man whose mind is not definitely made up, and I want enlightenment, and I want to know whether you believe that second-class matter ought to pay its way, or not; you say it ought not?

Mr. NEAL. I say it could not.



Mr. LONGWORTH. How much of its way ought it to pay? You ought to be able to answer one-fourth or one-half?

Mr. MOORE. I feel as Mr. Longworth does. I think it is an open question, and I think it is a fair question for you to answer, whether or not those whom you represent actually feel they ought to have some free carriage for their mail matter.

Mr. LONGWORTH. Or at least a nominal charge only.

Mr. NEAL. Let us put it the other way, for the sake of the record. The publishers, of course, will suffer; but you represent in a very large sense the people generally, and you are considering the welfare of the people generally in the dissemination of news and information.

Mr. MOORE. You say it is important because the 2-cent flat rate offered as an amendment to the existing revenue law would be acceptable. We are interested in getting favorable legislation. Why not face that situation and let the committee know just what your position is, whether, as Mr. Longworth suggests, you feel the Government should pay everything in excess of a 2-cent flat rate, as a matter of principle, or in the interests of public education, or whether you think it should pay its way in full?

Mr. NEAL. Why not let men more competent than myself determine that question? I can state only the position of my own organization.

Mr. LONGWORTH. We are only asking what is your view. I think it is a perfectly fair question to answer, and I think it is your duty, representing your people, to answer that question to the satisfaction of this committee. It is the simplest possible way, and you, on the contrary, branch off and discuss the question of bookkeeping.

Mr. NEAL. The tendency of all our postal rates has been constantly downward, either that or an extension of service, and there must be an ultimate step somewhere.

Mr. LONGWORTH. Will you answer the question?

Mr. NEAL. What question?

Mr. LONGWORTH. I ask you again, for the third and last time. Do you believe that second-class mail matter ought to pay its way; and if not, how much?

Mr. NEAL. Answering the first, I said no; I do not believe it should pay its way.

Mr. LONGWORTH. We have got——

Mr. NEAL (interposing). As to exactly what the rate should be, I do not feel qualified to answer, from the standpoint——

Mr. LONGWORTH (interposing). But you say it ought not to be carried free?

Mr. NEAL. Oh, yes.

Mr. LONGWORTH. Mr. Farelly's proposition was the need of the spread of education and the increase thereby in first-class mail would be of advantage to the country. You go to this point, that you do not think it ought to pay its way. Then, I should think you would be able to say whether we ought to charge it half or one-fourth, or about that.

Mr. NEAL. I can not answer. I would, if I could, Mr. Longworth. But it would be merely a personal opinion, and I am appearing here in an official capacity, and I would prefer to let the record stand as it is. I appreciate your position. I wish I could enlighten you.

Mr. POST. I presume you are going to ask me the same question a little later.

Mr. LONGWORTH. Yes; I will be pleased to do that.

The CHAIRMAN. Your remarks are very interesting. In your very well prepared paper which you read to us this morning you spoke about rural delivery, that it cost so many million dollars. In 1917 it cost us \$52,420,000.

Mr. NEAL. Yes.

The CHAIRMAN. As I understand you, you said that could be eliminated, and if that were eliminated our surplus would be so much. Did you intend to convey by that that you and your associations were favorable to the abolishment of the rural system?

Mr. NEAL. Absolutely no. I said in a dozen places, Mr. Chairman, that we considered it one of the most beneficent extensions of the postal service ever made, and I quoted that as an instance of the value of flat rates.

The CHAIRMAN. And I think you said papers and periodicals did not use it so very much?

Mr. NEAL. Not business papers. Very few of our trade papers are on rural routes.

The CHAIRMAN. As I recall, Mr. McAneny, of the New York Times, in his testimony said that his paper used the rural delivery service more than the city carrier service. So papers like the New York Times could not criticise or complain of rural delivery, because they were using it to so large an extent.

Mr. FORDNEY. I want to say, in answer to that question, that not long ago I asked a rural carrier how many patrons he had on his route, and how many daily papers he delivered. He replied that he had 151 patrons and delivered the Detroit Free Press to 126 of them every day. You say the business papers do not go by rural free delivery. There is an illustration that they do. That is a business paper.

Mr. NEAL. What paper?

Mr. FORDNEY. The Detroit Free Press.

Mr. NEAL. I represent trade and technical papers.

The CHAIRMAN. You mean what are called trade journals?

Mr. FORDNEY. You mean magazines?

Mr. NEAL. No; trade papers.

The CHAIRMAN. You are favorable, I believe, to rural delivery, and also favorable to the carrying of mail by city carriers. It cost us in 1917, \$52,420,000 for rural delivery, and for city delivery, \$48,047,000. If there is a loss in the rural-delivery system do you not think it would be right and fair that each class of mail should contribute its proportion to that loss, in order to maintain it, and such loss should not be attributed to first class or second class or third class or fourth class alone. In other words, every class of mail, if there is a loss in a part of the great system of mail delivery, should help to sustain that loss in proportion to the service rendered that class of mail?

Mr. NEAL. Provided it is not necessary to increase the rates for other branches of the Postal Service. I would say that both personally and as representing my association, we would never consent to the destruction of any single branch of the Postal Service in order to benefit another branch.

The CHAIRMAN. Something was said by you, and very much of it by the press, especially the magazines, about the enormous loss the Government was sustaining through the free delivery of county circulation?

Mr. NEAL. I did not say anything about the enormous loss. You probably have me mixed up with somebody else. I said there was a cost which had been estimated at about \$3,000,000.

The CHAIRMAN. I want to say that this fee in the county circulation only amounts to 5 per cent of the total second-class mail handled. Last year the total mail was 1,202,000,000 pounds in round numbers, while free circulation only amounted to 60,000,000 pounds.

You referred to the franking privilege, that is—to the loss which the Government must sustain because such mail goes free—and you estimated that to be about \$25,000,000, did you not?

Mr. NEAL. Yes.

The CHAIRMAN. Who made that estimate for you?

Mr. NEAL. The estimate of \$25,000,000 I obtained from an article commenting on the Postmaster General's report of about six years ago, in which he had advocated the distribution of that expense among the various departments which incurred it.

The CHAIRMAN. Do you think that is a proper or correct statement?

Mr. NEAL. I confess I do not know. I simply took the statement as I found it and gave it frankly as an estimate.

The CHAIRMAN. I did not know who made it for you. I was going to ask this question: If you can approximate the carrying cost and overhead charges and general post-office expenses with respect to the franked mail matter, why was it not equally as easy to approximate the carrying cost of newspapers, magazines, and other second-class mail, including overhead and general post-office expense charges?

Mr. NEAL. I did not make the approximation, and I considered it only an approximation.

The CHAIRMAN. I imagine that the Post Office Department, with its experts, who have been studying this matter for years and years, giving their whole thought and attention to it, can readily and easily approximate the cost to the Government of the franked matter that goes in the mails as well as the cost of second-class matter. I am in great sympathy with the thought that the franking privilege ought to be curbed to a considerable extent. It is abused considerably, like the abuse of advertisements by these periodicals. I think you were here the other day when I showed that one of your trade journals took bodily a catalogue of a firm and put it between the covers and sent it out, which would have cost and was costing the firm at least 8 cents a pound going through the mails alone, but when put inside of the magazine's covers it was sent out at 1 cent a pound?

Mr. NEAL. Metallurgical and Chemical Engineering that paper was?

The CHAIRMAN. Yes. While Mr. Post would not say whether he indorsed that method on the part of the engineering magazine, I am sure to-day you will disapprove of it?

Mr. NEAL. You having said that, Mr. Kitchin, it immediately became public property. Anything you say seems to have a very wide dissemination.

The CHAIRMAN. I will tell you the reason of that—the papers and magazines are so fond of me. [Laughter.]

Mr. NEAL. You make what the newspapers call good copy, and the publisher of that paper sent me a little statement here. Their feelings seem to be very much hurt, and I think possibly at the time you did have a little misconception. You are a good debater and like to make a point.

The CHAIRMAN. Mr. Neal, I did not have the misconception. I had the fact before me, the magazine itself. What do they say about it?

Mr. NEAL. Possibly we will all get together on this.

The CHAIRMAN. I understand the Post Office Department got after them?

Mr. NEAL. I do not know about that.

This issue that you had there was entitled The Annual Guide to the Industries, and they ask that you consider the conditions of the chemical industry as they were last September. In less than two years American capitalists, chemists and engineers had to create an enormous industry as large or larger than Germany, and it took Germany 20 years to do that work. I saw stated in the paper the other day that \$380,000,000 of new capital had been invested in chemical industries in the United States. When you realize that this industry mushroomed up over night—

Mr. LONGWORTH (interposing). Since the war?

Mr. NEAL. Yes; in every section of the country, when it is an acknowledged fact that no one man or organization has an adequate idea of the actual development of the chemical industry in this country; when it is realized that chemical engineers were compelled to adapt standard machinery for entirely new purposes; when apparatus manufacturers are called on to produce new and strange equipment for the evolution and development of chemical processes which have never been attempted before in this country, then the value of the compilation and presentation in one volume of a complete arraignment of all these types of machinery, apparatus, and equipment will be thoroughly appreciated, and the purpose of such a volume understood.

The one object at the time of the chemical exposition number was to incorporate in one book, complete, up-to-date information about all of the various kinds of equipment necessary for the chemical dvestuffs, chemical explosives, and allied industries. We accomplished this, and attached testimonials are evidence of how well this was appreciated.

The total number of copies printed of this issue was 11,920. Of these, approximately 600 were distributed at the exposition, 10,002 were mailed to subscribers here and abroad, and of the remainder many were sent by special request to firms in various parts of the world.

We are still hearing, in traveling in various parts of the country, about the real service which this exposition number rendered. Any engineer will testify that one of his greatest problems in time of stress is to find quickly the kind of equipment which will insure the success of the processes as they are developed. Engineers have told us that it has saved them weeks of time in enabling them to turn to this one book and find not only the highly specialized chemical equipment which they need but also the new adaptabilities of standard engineering equipment, such as valves, conveying machinery, etc. In their effort to locate the proper equipment at the greatest speed they found this book of tremendous value.

The 64 pages of the Buffalo Foundry & Machinery Co's advertisement were of tremendous assistance to mechanical engineers who have had to tackle chemical problems and who were at sea to know just

where they could get the proper kind of equipment. The detailed uses and descriptions as contained in the Buffalo Foundry advertisement were of greatest help.

This advertisement was afterwards used as a catalogue by the Buffalo Foundry & Machinery Co., and we reprinted 30,000 of them which they distributed. It was in no sense a subterfuge to enable them to mail their catalogue at second-class rates.

Another and very fundamental service of this issue was the fact that it, more than any other one thing, called to the attention of the whole established engineering industries and of capital at large the fact that the chemical industry had arrived. This industry, even when its importance was apparent to the technical man in the field, was not apparent to the commercial fields at large. Its recognition and the interest which has been aroused in all industries producing supplies and equipment which might be utilized in chemical production, received a tremendous impetus from the huge issue, which, to quote one of the representative companies in the field, "more fitly shows the size and breadth and importance of the chemical industry than any other one thing."

Mr. LONGWORTH. May I interject a remark there? Since the war began, in my own district, the dye works have been erected, and they are now producing about 300 different colors, which is 15 times as many as we produced in the whole United States when Germany had control. But I have the suspicion that what was known as the Hill dye bill from this committee had more to do with the establishment of this industry than this magazine.

Mr. NEAL. If so, I congratulate you gentlemen. It is hardly necessary to emphasize the importance of the American chemical industry to the general public. This, however, is absolutely certain: In the creation and development of the chemical industry, and in its continuous and remarkable progress during the past few years, chemical and metallurgical engineering has been one of the most potent factors. This fact will be attested to by chemical engineers in every section of this country.

Apart from this, Chemical and Metallurgical Engineering and all the McGraw-Hill publications pride themselves on the fact that they are, and have been so designated, as one of the strong arms of the Government. We do not boast of this, but rather accept it as a duty incumbent upon them.

He sends me here letters from famous professors and engineers in various fields telling of the tremendous help that big number was to them in the conduct of their work.

(The letters referred to are here printed in full, as follows:)

THE HYDRAULIC PRESS MANUFACTURING CO.,  
Mount Gilead, Ohio, U. S. A., September 24, 1917.

METALLURGICAL AND CHEMICAL ENGINEERING,  
239 West Thirty-ninth Street, New York City.

GENTLEMEN: This letter will acknowledge receipt of a copy of Metallurgical and Chemical Engineering, September issue.

We wish to congratulate you upon the scope and excellence of this publication. It is so exceedingly well done in every particular that you are deserving of this special commendation.

We have placed it in our files for convenient reference, and the wonder is that a publication so good could come out of an industry so young and limited.

Yours, truly,

THE HYDRAULIC PRESS MFG. CO.  
O. A. WHITE, Advertising Department.

H. REEVE ANGEL & Co. (INC.),  
New York City, September 19, 1917.

METALLURGICAL AND CHEMICAL ENGINEERING,  
239 West Thirty-ninth Street, New York City.

Attention of Mr. J. M. Muir.

GENTLEMEN: Two copies of your Chemical Exposition number to hand. This issue certainly is a wonder, for which you are to be congratulated.

The advertising pages are an education—a veritable encyclopedia—and will offer our British friends a far better view of industrial America than we could attempt to convey, therefore we wish you to send one copy to Messrs. H. Reeve Angel & Co., 15 New Bridge Street, London, E. C., and a copy to Messrs. W. & R. Balston (Ltd.), Maidstone, Kent, sending invoice to us.

The fine position given our "ad" is much appreciated.

Yours, very truly,

H. REEVE ANGEL & Co. (INC.),  
E. CHILD, *President*.

THE COLLEGE OF THE CITY OF NEW YORK,  
September 29, 1917.

Mr. J. MALCOLM MUIR,  
239 West Thirty-ninth Street,  
New York.

MY DEAR MR. MUIR: I congratulate you upon the wonderful number of the Metallurgical and Chemical Engineering which has just come to hand, and which I have read and admired.

Cordially yours,

CHAS. BASKERVILLE.

B. F. STURTEVANT COMPANY,  
BOSTON, MASS., September 22, 1917.

METALLURGICAL AND CHEMICAL ENGINEERING,  
239 West Thirty-ninth Street,  
New York City, N. Y.

Gentlemen: Attention of Mr. J. Malcolm Muir, Secretary.

We wish to congratulate you on the remarkable volume that you have issued to your subscribers and advertisers as the September 15th issue of your paper. This issue will make a work worth saving as it almost becomes a buyer's directory for chemical apparatus.

Yours truly,

B. F. STURTEVANT COMPANY,  
By F. R. ELLIS.

CORNELL UNIVERSITY,  
Ithaca, N. Y., October 8, 1917.

METALLURGICAL AND CHEMICAL ENGINEERING,  
239 West Thirty-ninth Street, New York City.

GENTLEMEN: We have received the exposition number of the magazine and will, I am sure, find it very useful as an aid in securing supplies for this department. Please accept our sincere thanks for your kindness in sending us this magazine.

Yours, very truly,

DEPARTMENT OF CHEMISTRY,  
LOUISE H. COLE, *Clerk*.

ARTHUR D. LITTLE (INC.),  
Boston, September 20, 1917.

Mr. J. M. MUIR,  
Metallurgical and Chemical Engineering, New York, N. Y.

DEAR MR. MUIR: I want to congratulate you on your chemical exposition number. The issue was certainly a great credit to you and will be a very valuable book of reference, and I shall want one of those leather covered copies, with gilt lettering, etc., for my office.

We are all very much pleased with our advertisement, which seemed to come out nicely.

Hoping to see you the next time you are in Boston, I remain,

Yours, very truly,

H. J. SKINNER, *Vice President*.

CARNEGIE INSTITUTE OF WASHINGTON.  
Washington, D. C., October 8, 1917.

The EDITOR OF METALLURGICAL AND CHEMICAL ENGINEERING,  
New York, N. Y.

DEAR SIR: Acknowledging the due receipt of your letter of September 29, announcing that at the instance of my friend, Dr. Baekeland, a copy of the latest issue of your journal would be sent me. I now beg to state that the copy in question has just reached me. This is a remarkable number not only by reason of the contribution it furnishes to a knowledge of electro-chemical affairs in the United States, but by reason also of the large number of high-class advertisements it contains.

Congratulating you on the issue of such a noteworthy publication, I am, with all best wishes,

Very truly, yours,

R. S. WOODWARD.

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VALLEY IRON WORKS,  
Williamsport, Pa., September 20, 1917.

METALLURGICAL AND CHEMICAL ENGINEERING,  
New York City.

GENTLEMEN: We are just in receipt of our copy of Metallurgical and Chemical Engineering, and wish to compliment you upon this very fine issue. We wish to keep this book as a reference, and trust that you will forward to us at once one of the cloth binders referred to in your letter.

Thanking you for your prompt attention to this request.

Respectfully,

VALLEY IRON WORKS,  
Per R. L. RILEY.

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RAYMOND LEAD COMPANY,  
Chicago, September 22, 1917.

METALLURGICAL AND CHEMICAL ENGINEERING,  
New York City.

Attention of Mr. J. Malcolm Muir.

GENTLEMEN: Please accept writer's best thanks for copy of your September 15 issue, which is very much appreciated. In looking it over hurriedly—later on shall read it thoroughly—would say that from all viewpoints it is about one of the best publications that the writer has ever seen, but this is not strange, as we would expect nothing to the contrary from you company.

Yours, very truly,

RAYMOND LEAD COMPANY,  
WM. T. MORGAN, *President*.

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MISSISSIPPI AGRICULTURAL AND MECHANICAL COLLEGE,  
Agricultural College, Miss., September 27, 1917.

METALLURGICAL AND CHEMICAL ENGINEERING,  
New York City.

DEAR SIR: We acknowledge your letter of the 19th, and also your copy of chemical exposition number of your magazine. This edition is superb, and I am certain that the immense amount of work expended upon it will be highly appreciated by your subscribers. We intend to have the entire issue (including the advertising matter) bound with this volume.

Very truly, yours,

W. F. HAND,  
*State Chemist*.

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DOAK GAS ENGINE CO.,  
San Francisco, September 29, 1917.

METALLURGICAL AND CHEMICAL ENGINEERING,  
New York, N. Y.

Attention of J. Malcolm Muir, manager.

GENTLEMEN: Please accept our thanks for your letter of September 19, and at the same time to acknowledge receipt of the September 15 issue of your journal.

It is certainly a wonder from the wealth of information it contains, the wide range it covers, to say nothing of its artistic features from an advertising standpoint. You may rest assured that it will be carefully preserved.

Yours, very truly,

DOAK GAS ENGINE Co.,  
W. D. LEA, *Sales Manager.*

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STIMPSON EQUIPMENT Co.,  
*Salt Lake City, Sept. 24, 1917.*

MR. J. MALCOLM MUIR,  
*Manager Metallurgical and Chemical Engineering, New York.*

MY DEAR MR. MUIR: I have your two letters of the 19th instant, and have also received the September issue of *Metallurgical and Chemical Engineering*.

I take this opportunity of congratulating you upon this issue as it is perfectly splendid. I have not had a chance as yet to go through it carefully as I will do, but it is certainly a splendid piece of work.

I may be in New York before very long, in which case I will, of course, have the pleasure of seeing you.

With kindest regards, I remain,

Very truly, yours,

STIMPSON.

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THE ARCO Co.,  
*Cleveland, Ohio, October 3, 1917.*

METALLURGICAL AND CHEMICAL ENGINEERING,  
*New York, N. Y.*

GENTLEMEN: We are inclosing 40 cents for which please send us a cloth binder for the chemical exposition number of *Metallurgical and Chemical Engineering*.

We believe that you are to be congratulated on the make-up of this number of your magazine, which is undoubtedly the most remarkable issue of a technical publication that the writer has ever seen.

Very truly, yours,

THE ARCO Co.,  
MAX Y. SEATEN,  
*Technical Director.*

THE CHAIRMAN. That does not answer what I said or even explain what they did. The fact was that that magazine was paid for this advertisement by this foundry concern, that it put bodily their catalogue into its covers and sent it out through the mails at 1 cent a pound, and while if the foundry company had sent it through the mail as it had been doing it would cost them at least 8 cents per pound, and the mailing of that issue of the magazine the loss to the Government was several thousand dollars. Any magazine can do that, take a catalogue of concerns and send it through the mail at a cent a pound, by putting them inside their covers, hooked up with a little reading matter, while the same catalogue not hooked up with the reading matter would cost the concern at least 8 cents per pound.

MR. NEAL. What limit should be imposed upon the size of advertisements?

THE CHAIRMAN. Let them be just as large or small as they want but they should pay their cost through the mail.

MR. NEAL. I am really asking for information.

THE CHAIRMAN. Let me give you a little thought about those advertising propositions in the magazines going out at 1 cent a pound. Take any of the magazines—it makes no difference—The Ladies' Home Journal, the Ladies' Home Companion, or the Saturday Evening Post.

MR. NEAL. I am discussing trade and technical papers.

THE CHAIRMAN. Take, say, a magazine that has 50 pages of advertisement, which may have 50, 40, or 30 of reading matter. I took, I



believe, the Saturday Evening Post as an illustration in my calculation. But any of your trade papers would do as well. It has, we will say, 50 pages of advertisements and frequently it has more, and each page has different advertisements of different concerns. In round numbers about 800,000 copies of each issue go through the mail each week—that is, 40,000,000 pages of advertisements are sent out each week. For the year, 52 weeks, 2,000,000,000 pages or pieces of advertisements in the Saturday Evening Post go through the mail.

If the advertisers sent through the mails the same advertisement in separate sheets or pages, the Government would receive over \$10,000,000 for the carrying and delivery of it and make a profit by it. It would go at circular rates. But when the same is hooked up with the Saturday Evening Post's reading matter and put between its covers, several pieces of advertisements of different concerns going together, the Government, under the old low flat rate, carries and delivers it for the Post—and does for any other publication—at the small cost of \$265,000 and at the large loss to the Government of over \$1,700,000 annually. But the Post receives over \$15,000,000 from the advertisers a year for handling and carrying such advertisements. Last year the Post paid the Government for handling, hauling, and delivering \$530,000—reading matter and advertising—more than 50 per cent being advertising matter. It cost the Government to render such service over \$4,000,000. The Government lost over \$3,500,000.

Mr. NEAL. Did you ever stop to think, Mr. Chairman, why they do that?

The CHAIRMAN. I will tell you why. Because it is cheaper for them to do it, and the law has made it possible for those journals and periodicals to deliver through the mails this immense poundage of advertisements at one-eighth or one-tenth of the actual cost to the Government—even when sent altogether in a magazine.

Mr. NEAL. You are not opposing advertising as such?

The CHAIRMAN. No; I am in favor of it, but I think advertisements should pay the cost, certainly approximately the cost of carrying and delivering them through the mail.

Mr. NEAL. I am afraid that is where we differ.

The CHAIRMAN. Of course that is where we differ.

Mr. NEAL. If you are going to recess at 1 o'clock, I can finish at that time.

Mr. MOORE. You have considerable to present yet, have you not?

Mr. NEAL. I do not know how long it will take.

Mr. MOORE. I may not be able to get back this afternoon, and there are one or two questions I want to ask. I will confine you to one topic and bring you at once to free-in-county circulation, to which reference has been made. What is your estimate of the loss to the Government on free-in-county circulation?

Mr. NEAL. I have no estimate because I have no basis on which to make one. Someone has said that it is \$3,000,000.

Mr. MOORE. Someone has put it at \$3,000,000. Did you say \$3,000,000?

Mr. NEAL. I think so.

Mr. MOORE. That has been disputed, and \$1,000,000 has been used as a substitute. Now, what is the difference in principle in the

matter of dissemination of information and education between giving free circulation to newspapers circulating in the county and giving it to those that circulate more widely?

Mr. NEAL. The only difference so far as we are concerned is that the county paper has political influence and we have not.

Mr. MOORE. I do not want to get into the realm of politics, because that is a very dangerous subject; but since you have been asked pointedly, and I was one of those who wanted to hear you answer that question, whether or not second-class matter generally should be free because of its educational advantages. As you have been asked that question, I would like to know whether if that is a subsidy as it stands to-day free-in-county circulation is not also a subsidy and perhaps a more direct one to those who are the beneficiaries of it?

Mr. NEAL. It is to the readers; yes, sir. I question whether the county publishers get anything out of it. Most of them are struggling along with a bare existence.

Mr. MOORE. Have you observed that any Member of Congress in either House coming from any rural district has ever raised the question of making the papers that circulate free in counties pay their way?

Mr. NEAL. That I do not know. I have not observed any.

Mr. MOORE. I heard something to-day about the salaries of city letter carriers, contrasting them with the free rural delivery carriers. Don't you know that in large cities where we have letter carriers the post office not only pays its way but makes a profit?

Mr. NEAL. I have heard so. I have no exact information on that. I believe that is so, however.

Mr. MOORE. Isn't it fair to assume, however, that if they do make a profit it is a fact that a large proportion of it might go into the expense of making up the deficiency of the Rural Free Delivery Service?

Mr. NEAL. It is a fair inference.

Mr. MOORE. On the question of principle, on which you apparently did not want to commit yourself, let me again ask you whether there is any difference in principle whatever between giving free circulation to second-class matter generally and giving free-in-county circulation?

Mr. NEAL. I do not think there is any difference in principle.

Mr. MOORE. Well, we do give free-in-county circulation without any question, do we not? The law authorizes it; it is so specified, so written in the law. You see no difference in the principle?

Mr. NEAL. I see no difference in principle.

Mr. MOORE. That is all.

Mr. NEAL. Do you wish me to proceed now?

The CHAIRMAN. Just one minute on that. You say that you thought the reason the Government did not make any charge for the free-in-county circulation was because the little local papers had more influence than you people have?

Mr. NEAL. Trade papers do not deal in politics at all.

The CHAIRMAN. The estimated cost is at least 8 cents per pound to handle the papers and magazines through the mails, and they pay 1 cent. The Government pays seven-eighths. Now, the man who gets it free in the county only gets one-eighth more than those that use

the mails not free in the county. So wouldn't it appear that while the local fellows have an influence with the Members of Congress you publishers have seven-eighths as much influence? You are not going to be jealous of them over that one-eighth, are you? [Laughter.]

Mr. NEAL. We are not. That is a very clever argument, Mr. Chairman.

The CHAIRMAN. Since 1845 or 1850 this free-in-county circulation has been on the statute books. Nobody has ever objected to it. The big papers as well as the little papers get the benefit of it. Take a paper in a county that circulates widely; the part that goes in the county goes free, of course. The part that goes out pays its 1 cent flat rate and will pay this zone rate. So the big papers as well as the little papers get the benefit of this free-in-the-county circulation.

Mr. NEAL. Aren't you mistaken, Mr. Chairman? It is the paper published in the county.

The CHAIRMAN. I understand, but if it is published in the county under the same conditions, then it goes free in the county.

Mr. CRISP. That is only true where there is no free delivery.

The CHAIRMAN. That is true.

Mr. NEAL. There is no free delivery in the office of mailing, but it does apply to the place of destination.

Mr. MOORE. But the Government still pays something.

Mr. NEAL. Of course.

The CHAIRMAN. Then the free-in-county circulation goes such small distance the cost of transportation is estimated at a very small fraction of a cent, but when it goes out farther, 200, 300, or 1,000 miles, that your magazines go—the average of your magazines or trade papers is over 600 miles—then the cost to the Government amounts to considerable.

Mr. DICKINSON. It is all free, whether published in the county or not.

Mr. NEAL. It is well to bear in mind that the main cost through the post office is in the terminal charges and the cost of handling and not in the cost of transportation itself, just as it is true in railroad transportation and all other forms of transportation that terminal charges are the big element.

The CHAIRMAN. Mr. Koons says it will average about 1 cent for every 200 miles; that is, the transportation cost.

Mr. NEAL. Mr. Koons gives the overhead at 3.86 cents, which is more than the average rate of transportation on a transportation line.

Mr. MOORE. The chairman thinks it is a little thing, but isn't it as great a sin to steal a pin as to steal a gold watch?

Mr. NEAL. I am afraid that I am a little limited on my theology, but I get the point.

The CHAIRMAN. But you have heard of exemptions in other laws—in the tax law, for instance—so we have an exemption in this postal law, and have had for over 60 years.

Mr. NEAL. The papers which I represent weigh less than the free-in-county papers, nearly 50,000,000 pounds.

The CHAIRMAN. And your papers cost the Government three times more. They are carried over ten times the distance as the county-free-circulation papers.

Mr. NEAL. It costs less.

Mr. MOORE. A substance by another name will smell as sweet.

Mr. NEAL. I think you put it very well. The average weight of the trade paper is  $1\frac{1}{2}$  to 2 pounds, which requires one handling, one delivery. The average weight of a small country newspaper would run about 5 to the pound and take 10 to 15 handlings of the paper, where it would take only one of the technical paper.

The CHAIRMAN. Yet that pound of your paper, considering the distance hauled, costs about eight times as much.

Mr. NEAL. I doubt that. I can not recall the figures, but I doubt that, because it has been brought out that the main cost is the delivering cost.

The CHAIRMAN. 3.86 cents is the overhead general post-office expense.

Mr. NEAL. Shall I go ahead and finish? I have the utmost sympathy for you people——

The CHAIRMAN (interposing). We get a lot of information——

Mr. NEAL. And I will try to make it as interesting as I can.

I have told in a way which I wish might have been stronger and more impressive something of the invaluable service that the trade and technical papers are rendering industry and the people. Now, let me call your attention to the vital relationship of these papers to the United States Government at this tragic and critical hour in our history. You have appropriated thousands of millions of dollars; you have not hesitated to delegate unlimited powers to the executive and administrative branches of the Government; no just appeal for legislative action has gone unheeded; you have realized that quick, smashing blows must be struck; that every hour's delay would mean the needless sacrifice of our splendid young soldiers.

And if I may pause to make a personal remark, I want to say that as a citizen and as a father you have my gratitude for the speed you have made in these matters, because my only son, who is a 20-year old boy, is pumping machine-gun bullets into the Huns over in France, and I have a deep personal interest in anything that has to do with the winning of the war.

I would not withhold from you one iota of the credit that is due you for the eager support you have given to our boys in khaki and to our entire war program. In the light of all that you have done, I can not believe that you will knowingly take away from the departments of Government here in Washington one of the chief instrumentalities which they are employing in the prosecution of the war.

That has not been your way—you have been giving, giving, giving without stint, whether it was men, money, or power that was needed.

Gentlemen, the trade and technical press, and the other papers, have become practically an arm of the Government, as I will soon demonstrate, and I am here to plead with you to let our Government continue to use the full power and strength of this arm.

I ask you to remember that the huge sums you have appropriated are flowing back into almost all necessary industries with the exception of the publishing business. We are getting none of it; we have no "war babies." On the contrary, we are struggling against high prices and shortages of material without any compensating advantages. Besides all this, we are the only industry in this country which is giving its product to the Government without limit, condition, or cost.

Back in April, 1917, I came to Washington in company with a committee, and laid before the various departments of the Government this offer:

In common with others, the business papers of the country—technical, trade, and class publications—place service above expediency and patriotism above profit.

There are bonds to be sold. Industries are to be mobilized. The Government must speak to the men who plan and do things. The business of the country must be enlisted. Knowing that we can perform this service at this critical hour, and answering the President's call, we, the publishers of the following papers, hereby tender to the Government our advertising pages without expense, and our editorial columns.

And, gentlemen, at the time that this offer was made, the question of whether the Government should pay for advertising was very seriously discussed, and the organization that I represent took this action by telegram. Since that time we have had 100 or 200 names—I haven't the exact number, but it was between 400 and 500 publications that report to my office, whose columns absolutely belong to the Government. As an instance, the trade and technical papers with which I am in contact—and I represent only the trade and technical papers—donated for the three liberty loans alone 11,000 pages of advertising and specially written editorial matter. When we were here before it was on war-savings day. At that time over 300 of our papers were carrying trade advertisements of war-savings stamps.

On November 23, last fall, we had this letter from Hon. Newton D. Baker, Secretary of War. It was addressed to my office:

NOVEMBER 23, 1917.

SIRS: The great need for skilled mechanics in the Aviation Section of the Signal Corps is well known to your association.

Appreciating the fact that your members, publishers of technical and trade papers throughout the United States, are in close touch with the employers of such skilled labor as we need, and fully appreciating the influence and efficiency of the business papers in their respective industrial fields, you are asked by the War Department of the United States to assist, through publicity and organized personal effort, in securing for the Aviation Section the large number of mechanics and skilled workmen necessary back of the lines to keep the air service in effective action.

The Government knows and appreciates your excellent work and previous patriotic efforts, and notwithstanding your previous work in the present crisis, feels that you will welcome this further urgent call for efficient patriotic service.

Very truly, yours,

NEWTON D. BAKER,  
*Secretary of War.*

ASSOCIATED BUSINESS PAPERS (INC.),  
220 West Forty-second Street, New York City, N. Y.

That was written on November 23. You may realize the rapidity with which we moved in that matter when I read you this quotation from a letter signed by Maj. W. L. Moose, of the Signal Corps, who is in charge of that section of the work. I may state in passing that one of the officers told our committee that if they got 12,000 men before the 15th of December they would be breaking all records. This letter from Maj. Moose, which I will not bother to read in its entirety, states that, according to the Adjutant General's Office, there were approximately 42,800 men secured in the drive between December 1 and December 15 for the Signal Corps. The total number of enlistments

for the Signal Corps for the month of November was 9,870. He states that "this office is very grateful for this most successful campaign which was conducted under you directly. For without the aviation section of the Signal Corps would be much in need of men at the present time."

(The letter is as follows:)

FEBRUARY 7, 1918.

SIRS: With reference to our conversation in regard to the number of enlistments that were procured between December 1, 1917, and December 15, 1917, in your campaign for men for the Aviation Section of the Signal Corps, I have been unable to get accurate data as to the number of enlistments. According to the record in the Recruiting Division of the Adjutant General's Office, there were approximately 42,800 men secured in the drive between December 1, 1917, and December 15, 1917, for the Signal Corps. The total number of enlistments for the Signal Corps for the month of November was 9,870.

From the above you can see that the enlistments after your drive was started were more than four times what they had been during the previous month. I am of the opinion that most of this increase was due to you and your committee's advertising campaign.

This office is very grateful for this most successful campaign which was conducted under your direction. For without it the Aviation Section of the Signal Corps would be very much in need of men at the present time. The stoppage of enlistments in the draft age and the delay in starting the special draft of the Provost Marshal General's Office has made it practically impossible for the Aviation Section to secure men before February 15, 1918. For this reason you can see that your campaign was a godsend to the Aviation Section.

Again thanking you and your committee for your untiring efforts in this campaign, I am,

Very sincerely, yours,

W. L. MOOSE,  
Major, Signal Corps.

ASSOCIATED BUSINESS PAPERS (INC.),  
Committee on Recruiting for Aviation Section, Signal Corps,  
220 West Forty-second Street, New York, N. Y.

I have a letter from Maj. Steever, of the Signal Corps, in which he refers to the same matter, and credits the committee with the responsibility for the success in the campaign.

(The letter is as follows:)

WAR DEPARTMENT,  
OFFICE OF THE CHIEF SIGNAL OFFICER,  
Washington, January 17, 1918.

SIRS: You will, no doubt, be gratified to know that the recent recruiting campaign for skilled workers was successful beyond our needs and expectations. The number of men obtained by far exceeded the requirements of the moment.

The earnest and active cooperation of the business papers in this recruiting drive was a great factor in its success. The publicity, reaching directly into the business houses of the trades required, exerted a powerful influence, as was shown by the number of direct inquiries coming into this office traceable to the business papers.

In addition to the combined efforts of the business papers for publicity, this office wishes to express its appreciation of the individual efforts of the members actively engaged, through whose activities it was possible in record time to print and distribute a large quantity of literature, posters, etc.

Very truly, yours,

E. E. STEEVER,  
Major, Signal Corps.

ASSOCIATED BUSINESS PAPERS (INC.),  
Committee on Recruiting for Aviation Section, Signal Corps,  
220 West Forty-second Street, New York, N. Y.

I wish to state in passing that I am a member of the Federal division of advertising, one of seven men who are handling all of the Government publicity and advertising absolutely without cost to

the Government except \$1 a month. We get that whether we earn it or not.

Mr. MOORE. Are you stationed here in Washington on that work?

Mr. NEAL. I am here a great deal of time on the work, but we have as our headquarters an entire floor of the Metropolitan Tower in New York.

Mr. MOORE. Are you a dollar a year man?

Mr. NEAL. A dollar a month, which is 12 times as good as the dollar a year man.

Mr. MOORE. That doesn't pay your expenses going back and forth to New York.

Mr. NEAL. No; I think I have put in a bill only once to the Government for my expenses, and there was so much red tape that I have since paid them myself.

Mr. MOORE. How many members of the advertising committee are there?

Mr. NEAL. Seven directors, but we have a clerical force of some size.

Mr. MOORE. To whom does your committee report?

Mr. NEAL. We report to George Creel's Committee on Public Information.

Mr. MOORE. Do you receive funds from the Creel Bureau—

Mr. NEAL (interposing). Not one cent.

Mr. MOORE. To pay for advertising, or do you prepare the advertisements?

Mr. NEAL. We work for nothing, and the advertisement writers work for nothing; the artists work for nothing; even the printers who set the advertising—who do the composition work—do it absolutely free, because we have allowed them to use the name United States Volunteer Print Shops; or some such name.

Mr. MOORE. Is this a supervisory committee; I mean to say, do you come together for consultation purposes, or do you do the work yourselves?

Mr. NEAL. We each have a desk in the office of the division in New York, and we report there at regular intervals, and the planning of the work is done by the director. Of course, the detail work is done very largely by clerks.

Mr. MOORE. Do you cover the matter of the liberty loan?

Mr. NEAL. We did a great deal of work for the liberty loan. We are not able to properly coordinate all the advertising activities on that, and as they probably will be coordinated a little later. We did handle the Red Cross campaign complete from start to finish.

Mr. MOORE. That is not paid for by the Government, is it?

Mr. NEAL. No.

Mr. MOORE. I mean the Red Cross expenses. That is not paid for by the Creel Bureau?

Mr. NEAL. No; nothing at all. The total cost of the millions upon millions of dollars worth of work that has been done by our committee was estimated to coast about \$9,000 or \$10,000 a year, and that covered rent, hire of stenographers, and the clerical force.

Mr. MOORE. You spoke of the franking privilege, with which you are familiar, in the early part of your statement. I intended to mark it up and ask you about that when my turn came. You are sending out a vast quantity of literature now.

Mr. NEAL. Not a vast quantity, but we have to keep in constant touch with the various publications throughout the country, and the advertising men.

Mr. MOORE. Have you anything to do with the circulation of the volume of information on German kultur, and things of that kind, prepared by Mr. Creel?

Mr. NEAL. We have prepared advertisements sent by the Committee on Public Information describing these volumes and asking people to send for them.

Mr. MOORE. So that you have a propaganda working to bring to their attention Mr. Creel's publications?

Mr. NEAL. Well, we have—I would not put it exactly that way. They are the publications of the Committee on Public Information, most of them.

Mr. MOORE. Is your system something like that which Mr. Post adopted with regard to obtaining expressions of opinion from the people?

Mr. NEAL. No, not at all.

Mr. MOORE. You do not cover the literary work, as I understand it, except as it is part of the advertisement?

Mr. NEAL. That is all.

Mr. MOORE. Does your advertising include posters that go upon the billboards?

Mr. NEAL. A great many of them that are in some way connected with the publication advertising. Many of them have come direct from the artists who are organized under Charles Dana Gibson. Some of the highest priced men in the world are donating their services, and they have been dealing direct with some of the departments in Washington without our intervention, but little by little most of that work is gradually being coordinated and being carried out through our bureau.

Mr. MOORE. Take this well-known poster, Uncle Sam with his white hat and his finger pointed out saying, "We want you." Who puts that out?

Mr. NEAL. It comes from our department.

Mr. MOORE. That is what we want to know. I wanted to know whether this work is centralized in the Creel Bureau, or whether a department of the Navy and a department of the Army have separate bureaus, and whether this is duplicated. There is so much of it that there seems as though there must be duplication of the work and unnecessary expense.

Mr. NEAL. The development of that work was so rapid that there was a great deal of duplication, and President Wilson has said several times that he had appointed the advertising division to eliminate this waste, stepping on each others toes, and working at cross purposes, and have the thing handled in a clean businesslike way, and little by little this work is being correlated and coordinated and brought to one place.

Here, for instance, is a poster that came from our division of advertising. The man who drew that got not one cent. He was not paid even for the drawing material, nor was any one connected with the printing, except the printer who reproduced it in large quantities.

Mr. MOORE. Who arranged for the distribution of that?



Mr. NEAL. One of our directors, Mr. Thomas Cusack, who is the king of the outdoor sign business in the United States.

Mr. MOORE. The man whose name appears on the billboards along the railroads?

Mr. NEAL. Yes; he is one of the seven men.

Mr. MOORE. The seven men, including Mr. Cusack and yourself, are \$12-a-year men?

Mr. NEAL. Yes.

Mr. MOORE. You are serving the Government for a nominal consideration?

Mr. NEAL. Yes.

Mr. MOORE. How many people are employed by those seven men?

Mr. NEAL. In our New York office?

Mr. MOORE. Yes; there and elsewhere, at your distributing points.

Mr. NEAL. I do not recall the exact number now that we have. It is in the vicinity of 10.

Mr. MOORE. Is that all, to handle all this advertising matter and all these posters?

Mr. NEAL. You understand that we are able to call upon every advertising agency and any writer and printer of consequence in the United States.

Mr. MOORE. Do they get pay?

Mr. NEAL. They do not.

Mr. MOORE. Do you mean to say that that circular costs the Government nothing?

Mr. NEAL. Except the printing. The printer does not get paid for the composition on advertising. The printers are donating that work.

Mr. MOORE. But that circular goes through the mails franked, does it not?

Mr. NEAL. I do not know how they are distributed.

Mr. MOORE. You said in the beginning, and that attracted my attention, that you were sending out a great deal of franked matter.

Mr. NEAL. The matter that I send out is only to trade and technical papers, inclosing copy for their publications, that is being donated to the Government.

Mr. MOORE. There has been a great increase in second-class matter since the war began, owing to its own activities.

Mr. NEAL. That is true, of course.

Mr. MOORE. Isn't it a fact that you have been sending out tons upon tons of matter through the Creel bureau?

Mr. NEAL. That I do not know. I would refer you to a hearing had before the House Committee on Appropriations. It is there, I believe, in every detail. I would hesitate to quote from that without having it before me.

Mr. MOORE. It would have some bearing on the general questions of the loss of profits from second-class matter, because if the Government is increasing the cost, that is a matter that might be very well considered in connection with the matter that you are presenting now.

Mr. HAWLEY. When you spoke about the printer getting no pay in the printing of the posters—

Mr. NEAL. (interposing). I said the artists.

Mr. HAWLEY. And the men who set the type up. All they get paid for is the actual presswork and printing.

Mr. NEAL. Yes. I tell you, gentlemen, it has been a refreshing, wonderful experience to see the almost unanimous and eager expression of patriotism on the part of these people, who would be insulted almost if you offered them pay for anything. I have said with Dr. Frank Crane that anyone on our committee could agree with the statement that the American people, generally speaking, are not going over the top for pay—at least, that has been our experience. A short time ago the United States Shipping Board wanted 350,000 shipyard volunteers. The first thing that Mr. Hurley did was to take the train to New York, and we elaborated the entire campaign. Mr. Hurley and the others connected with it, including the Secretary of Labor, credit that campaign with getting not 350,000, but 400,000 shipyard workers.

This is the letter that Mr. Hurley addressed to me:

MAY 14, 1918.

Mr. JESSE H. NEAL,  
*Executive Secretary the Associated Business Papers,  
220 West Forty-second Street, New York City.*

MY DEAR MR. NEAL: I want to tell you and those connected with the division of advertising that the services rendered to the United States Shipping Board and the Emergency Fleet Corporation by the business papers in our recent campaign for shipyard volunteers deserves our highest commendation.

The editorials which these papers published and the advertisements bearing coupons and post cards to be filled in by those desiring to enroll in the shipyard volunteers materially helped us in securing our full quota of volunteers.

I recognize the great force of the technical and trade press of the country and particularly in these critical times, both with relation to business as well as to the war.

Please accept this as a testimonial of my appreciation of your very-valuable services and the assistance given us by the Associated Business Papers.

Sincerely yours,

EDWARD N. HURLEY, *Chairman.*

Shortly after that we entertained the President's Cabinet and the heads of the Government at a dinner at the Willard Hotel, and in the course of that dinner the Secretary of Labor stated:

Mr. MOORE (interposing). Who is "we" there?

Mr. NEAL. The directors of the division of advertising.

Gentlemen, we of the Department of Labor have already had considerable experience with your work. In connection with the Shipping Board and the Fleet Corporation, we undertook the registration of 250,000 workingmen. We secured the cooperation of your advertising agencies, and as a result, in the time that we had specified, we registered more than 300,000 workers who are made available for shipbuilding operations. We have other work developing which I believe you can help us to bring to a successful conclusion.

Then Mr. Julius Holl, of the shipyard organization, said:

Last January, when the Shipping Board started to enroll 250,000 volunteers for work in the shipyards, we welcomed the assistance extended to us by the division of advertising. Your cooperation, your skill in preparing editorials and advertisements, enabled us to reach practically every trade and industry throughout the country from which we desired shipyard volunteers. In a little over two months we enrolled over 275,000 men.

Your campaign, which consisted of placing editorials and advertisements in 36 of the foremost magazines and 42 trade and technical journals, having a combined circulation of 8,000,000, helped to make our enrollment a great success. We enrolled thousands of men as a direct result of the coupons received in response to these excellent advertisements and editorials.

You know what that service was worth in dollars and cents to the Government? I question whether you could put a money valuation upon it.

I have here a letter from Mr. Clarkson, secretary of the Council of National Defense.

JUNE 24, 1918.

MY DEAR MR. NEAL: \* \* \* Your aid to us, I am already well aware, has been of the most definite, wise, and unselfish nature, and we consider ourselves greatly in your debt for the generous manner in which you have contributed the columns of your papers, which may almost be said to be the official organs of the industries and trades which they represent. \* \* \*

Very truly, yours,

C. B. CLARKSON,

*Secretary of the Council and of the Advisory Commission.*

JESSE H. NEAL, Esq.,

*Executive Secretary, the Associated Business Papers (Inc.),  
220 West Forty-second Street, New York.*

I have a letter here from E. J. Johnston, colonel of Engineers. In this connection I will state that our papers have undertaken to recruit the members of engineering and technical regiments. Mr. Hawley's son is in a searchlight division. A great majority of the men in that division were obtained by the technical papers serving the electrical trades.

This letter is addressed to the editor of the Engineering News-Record, from Camp Meade. He says:

HEADQUARTERS TWENTY-THIRD ENGINEERS,  
Camp Meade, Md., January 4, 1918.

Mr. C. N. LURIE,

*Editorial Assistant, Engineering News-Record,  
Tenth Avenue at Thirty-sixth Street, New York, N. Y.*

MY DEAR SIR: Referring to past correspondence, I take this occasion to thank you heartily for the effort which you made to assist the recruiting for this regiment. The result of your effort has been very gratifying indeed.

The regiment now contains about 4,500 men, of a finer type, I believe, than will be found in any other regiment of the Army. To obtain this large number of recruits by voluntary enlistment within about two months and a half is, I believe, a remarkable achievement, especially when the character of the personnel is considered.

Again thanking you for your efforts in behalf of the regiment, I am,  
Very sincerely,

E. N. JOHNSTON,

*Colonel of Engineers, National Army.*

Further, an extract from a letter from C. H. Sessenden, captain of ordnance:

Could you furnish us with about 500 reprints of the series of articles on the manufacture of the panoramic sight? We would like to have these copies as soon as possible, as we desire to furnish them to enlisted men who are being sent here to receive instructions in the repair of fire-control instruments.

Col. Carter, of the Ordnance Department:

May I thank you for the poster left here entitled, "Is this my boy?" The caption on this is so very good that we wish to use it on a poster, 100,000 copies of which will be distributed to plants engaged in the manufacture of ordnance material for Pershing's forces overseas.

Gen. Crozier, of the Ordnance Department:

Accept our thanks on your wonderful accomplishment in securing 100 skilled draftsmen and designers. Your efforts in this matter constitute a constantly valuable aid to the Government.

One of our editors came to Washington and found that they had working here, if I remember correctly, about a half a dozen skilled machine designers. They had scoured the country for men. The

wages were less than were paid in other divisions of the industry, and they were not able to get them. This man went back and in three weeks' time, through personal efforts, brought to Washington over 100 of the best draftsmen and designers in the country, which he was able to do because of the connection with the trade of the paper which he was on.

A letter from Col. S. E. Blunt, Ordnance Department:

I would remark that your magazine has for many years been consulted by the ordnance arsenals and by a great majority of its employees, containing as it does not only reading matter but also many advertisements of kinds and methods of manufacture. It is of great value to the employees and also to officers directing the work at manufacturing establishments.

The CHAIRMAN. I suggest that you print those. We want to try to close in five minutes.

Mr. NEAL. I hope, however, that when I do print them you will read them. They are most remarkable.

The CHAIRMAN. We will do that.

Mr. NEAL. Here is one that I would like to call your attention to, one from Mr. Garfield, addressed to Mr. Floyd W. Parsons. Mr. Garfield says:

APRIL 9, 1918.

Mr. FLOYD W. PARSONS,  
*Editor Coal Age,*  
*Tenth Avenue and Thirty-sixth Street, York City.*

DEAR MR. PARSONS: I have read with great interest your recent articles, and wish to express my appreciation of these contributions to a too little known subject. It is unimportant that the Fuel Administration should be justified, but it is highly important that the public should understand the problems with which the Government is confronted at the present time, and none is more fundamental and important than the one with which the Fuel Administration is called upon to deal. Pray accept this word of appreciation from the Fuel Administration as a whole. You are telling the story accurately and effectively.

I have expressed to you, on other occasions, my appreciation of the articles you have published concerning the work of the Fuel Administration. You have the great advantage of speaking to the industry directly and with more insight than most other writers. Possibly your entire freedom from connection here lends more force to what you write than as if you were formally associated with the Fuel Administration, but I venture to ask whether you would find it possible without formal association here to devote a definite amount of time each week to publicity work, giving special attention to magazine articles, both in the technical and nontechnical publications. Awaiting your reply, I remain,

Very truly, yours,

H. A. GARFIELD,  
*United States Fuel Administrator.*

The CHAIRMAN. Just file the others; give them to the stenographer. (The letters and statements referred to are as follows:)

DIRECTORS OF THE DIVISION OF ADVERTISING,  
*Committee on Public Information, Washington, D. C.*

GENTLEMEN: Mr. Creel has kept me informed of the work done by you and your associates, and I beg to convey my very deep appreciation of what seems to me a remarkable record of achievement. The effective campaigns carried through by you in behalf of the departments of Government have amply demonstrated the value of coordination, and it is my hope that the advertising profession will perfect still further the splendid machinery of service.

Cordially and sincerely,

WOODROW WILSON.

Mr. Chairman, I am very much more interested in hearing from the gentlemen who are going to tell us what you have been doing and I feel that I should trespass on your time if I were to attempt to say anything.

The Department of Agriculture has profited through this service and I hope will discover ways of profiting very much more largely than it has.—From address of the Secretary of Agriculture.

JUNE 7, 1918.

Mr. WILLIAM H. JOHNS,  
*Chairman Division of Advertising,  
 Committee on Public Information, Metropolitan Tower,  
 New York, N. Y.*

DEAR MR. JOHNS: Mr. Frank C. Bulta has told me how splendidly your committee cooperated in helping us get out advertising for our campaign culminating on national war savings day June 28. He has also handed me a report showing that you have during the last month placed war savings advertisements in 1,130 national publications with a circulation of more than 55,000,000 copies.

I want to tell you how grateful our committee is for the help you have given us. It would have been practically impossible for us to have turned out the advertising for our June 28 campaign without the assistance of your committee, and, of course, we could have done nothing in getting space in national publications.

It is expected that the campaign for the sale of war savings stamps will last as long as the war does, and we shall from time to time take advantage of your very kind offer to prepare special advertisements for us and shall greatly appreciate such space as you are able to give us in publications of general circulation.

Sincerely, yours,

H. E. BENEDICT,  
*Executive Secretary, National War Savings Committee.*

JUNE 3, 1918.

Mr. WM. H. JOHNS,  
*Division of Advertising, New York, N. Y.*

DEAR MR. JOHNS: On behalf of the American Red Cross and all of us here at headquarters, may we express our appreciation and indebtedness most heartily for your splendid cooperation and practical support which you have given in the second war-fund campaign.

Our subscriptions went over the top by 68 per cent, and this splendid achievement is due in no small part to the advertising in the magazines, farm press, and trade papers which supplied space for publicity purposes through the division of advertising.

Your cooperation was invaluable to us, and we want you and all who aided us to know how warm our feelings are toward each and every one for the help which has been given to the Red Cross.

Very truly, yours,

HENRY P. DAVISON,  
*Chairman Red Cross War Council.*

John G. O'Kelley, of the Fuel Administration: Advertising is one of the most powerful weapons which the Federal Fuel Administration has made use of in winning its fight against a nation-wide fuel famine. No man, who has followed the course of public events since this country entered the war, can help but realize that publicity is doing its part in helping this country to defeat Germany.

Mr. GEORGE FOWLER, of American Red Cross: Mr. Chairman and gentlemen, from Mr. Davison down—or, as Mr. Davison would say, from Mr. Davison up—everybody at the Red Cross appreciates the thing that has been accomplished by the work of you men who are working in the Division of Advertising under the Committee on Public Information. We had faith. Faith has been spoken of as essential. We have felt that the first war fund was raised largely on the faith of the country. That may or may not apply in the second war fund. It will apply if we use publicity, advertising, in the proper way, to create faith.

I had the pleasure of sitting next to Mr. Britton, Mr. Daniels's secretary, who, before he came to the Navy Department, was running a few papers down in North Carolina, and I said to him that it seemed to me that this meeting was an indication that advertising is coming into its own, along with the editorial locally, as a national force to mold and make public opinion. In fact, this body here is putting the order into coordination and serve into conservation. That is what they are accomplishing.

The recognition by the Government of advertising has affected, first, I am happy to say, the work of the Red Cross for the second war-fund campaign. Owing to the difficulties that the Treasury Department experienced, naturally, in the settling upon the date for the Liberty loan, the Red Cross did receive that earlier help, and it was not an ill wind for us.

When Mr. Newell and I first met with the Division of Advertising, we said to Mr. Johns and his associates, "We want to get help for the Red Cross war-fund campaign." Mr. Johns said, "What can we do now?" He used the word "now," which I think was typical of Johns and typical of the committee on advertising. It was not what we can do next week or next month, but what we can do now. The work that we have done with the Division of Advertising has been to act as their client.

The preparation of copy, as Mr. Johns has outlined, was arranged through the various advertising agencies. We took our cue from Cusack in the Outdoor Advertising, and at the end we found ourselves with the modest 57,000,000 of circulation, and an appropriation for advertising, through the patriotism of the advertisers and publishers, contributed through the division, to the extent of \$170,000, which is a very respectable appropriation for many commercial houses extending over a whole year of time.

There has come to my mind, as I have seen the mechanics of the division worked out, as I have seen them prepare copy, take all charge of the preparation of plates, produce such drawings as "The greatest mother in the world," which you see on the screen—as I have seen them do things, which are going to affect, not the mere raising of this \$100,000,000 which the Red Cross is going out after, but the attention of the country as a whole, through the Red Cross, it has seemed to me that the division, while it is occupying a higher place, will find maybe even a greater place for itself in those days of reconstruction which shall come after the war is over, and that there is something which has naturally occurred, and I believe that they will lay their lines so that the work after the war shall be one of education, and that the work done now shall have, as Mr. Schwab says, words of encouragement.

The Napoleon story that Mr. Schwab told made me feel that we were fortunate in having the division take the Red Cross as its first battle, because it is going to win, and in winning the Red Cross battle I think that possibly the Red Cross will help to serve the purpose of putting advertising on the governmental map, as it should be placed.

The Red Cross is not actually a governmental department. It is headed by the President. It is authorized by Congress, its accounts are audited by the War Department, and in all but name it is a part of the Government. It seems to me the Red Cross comes very close to the Government in placing, as it did last Christmas time, twenty millions behind the Red Cross. Anything the Division of Advertising can accomplish will affect the country as a whole, because practically no family now is without a member of the Red Cross, practically no newspaper is without 90 per cent of its readers members of the Red Cross.

And so it seems to me that the mere raising of \$100,000,000 is a very minor part that the Division of Advertising will have to play. They will play the much larger part of taking the country to the Red Cross and the Red Cross to the country. That is what the Division of Advertising has done. As I heard the other night Solicitor John Davis tell a story of a Scot who believed in predestination, and before he went over the top he stuck an extra pistol in his belt. The man next to him said, "Scotty, I thought you believed in predestination." "Ah, but I thought I might meet a German whose day had come." So in the Division of Advertising you have no need for extra pistols, because you have seven good revolvers.

JUNE 21, 1918.

MR. FLOYD W. PARSONS,  
*Editor Coal Age, Tenth Avenue and Thirty-sixth Street,  
New York City.*

DEAR MR. PARSONS: I have seldom read an article dealing with so technical a subject as coal with as much interest as I read your War as an industry last week. You not only have made a clear exposition of dry facts, but have illuminated them and given the public a very readable article.

Sincerely, yours,

H. A. GARFIELD,  
*United States Fuel Administrator.*

Capt. L. B. Lent, Signal Corps, United States Army: I have been a reader of the American Machinist for the past 17 years and in my present duties as chief Engineer

officer at this flying field, I find it to be of great assistance. Our method of keeping in touch with what is doing in the machinery world, and of finding out how others would do the things that we are called upon to do, is to read the American Machinist.

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Commander H. E. Lackey, Naval Proving Ground, Indian Head, Md.: Upon the receipt of the American Machinist it is looked over by the officer in charge and passed on to supervisory force with articles of special interest marked for attention. The magazine then goes to machine shop and drafting room at which points supervisory mechanics and all draftsmen have access to same. The advertisements are of particular interest to those charged with getting out specifications.

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Inspection Division, Ordnance Department: The articles on the production of war materials have been timely and instructive. You have attempted with a great degree of success the coordination of the Government's requirements and manufacturers' production along essential lines. The munitions makers as a body avail themselves of the information contained in your advertising columns as to machine tools which will meet their requirements in the production of war material.

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Gen. Dickson, Ordnance Department: The American Machinist has for some time past printed illustrated articles describing the methods employed in Government establishments which have helped manufacturers to produce different articles of ordnance. These articles have been of assistance in obtaining prompt and economical production of urgently needed ordnance.

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President Dayton-Wright Airplane Co.: We feel it would be improper to the manufacturers, especially to those who are assisting the Nation by supplying it with war material, to deprive them of the invaluable assistance which your magazine affords. We find the American Machinist a great help in many lines of our work.

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Curtiss Aeroplane and Motor Corporation: Your paper is invaluable to us and I do not see how we could get along without it. It has kept us posted up to the minute on all new machine-shop practices; also on the designing of new tools and equipment. It further has been of great value to us in placing orders for new machinery.

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War Board American Electric Railway Association: We appreciate very much what the Electrical Railway Journal is doing, and especially in this particular case. Mr. Cole's work is a very valuable one and should have the attention of the electrical men throughout the world. Our board was very much pleased with the spirit of cooperation shown by you in this manner and on behalf of the board I desire to express our great appreciation of your assistance.

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Mr. NEAL. I can finish in about 15 minutes, when you get back from lunch.

The CHAIRMAN. Mr. Post wanted to come in then. It was hoped that we would be ready for him.

Mr. POST. You said that Mr. Post wants to be heard. I am at the service of the committee. I think that that would be the more accurate way of putting it.

The CHAIRMAN. We are rushed for time now to write the bill, and I promise you that I won't keep you as long as we did the other day. In fact, I think that I have asked you practically all I want to, because we have got the information from other gentlemen and you together. I just want to make a little correction of the figures, and

I will do that the first thing. You can make any correction you may want to.

Mr. POST. I am at the service of the committee.

The CHAIRMAN. And I may want to put in some quotations from the Post Office Department.

Mr. POST. That will make it a mutual affair, so we will exchange quotations.

The CHAIRMAN. We will give you the 15 minutes, Mr. Neal. You quoted in your remarks this morning a great many prominent men, governors of States and I believe, others, judges, giving their opinion generally that the zone system was improper and unjust. I want to say that we would be glad to hear any of those gentlemen whom you quoted, and if they desire to appear before us it would be our pleasure to allot them time, and I am sure that it would be a matter of enlightenment to us and perhaps to them if they would appear before us and give us the data on which they formed an opinion, and let us know the extent of their investigations, how minutely they had looked into this matter and weighed the proposition pro and con, what investigations they have made, and what data they have.

Mr. FORDNEY. And whether they wrote those letters at the request of these gentlemen or whether they came voluntarily.

The CHAIRMAN. I believe that if they would do that, would come before us, who have given some little attention and study to this subject of zones and rates and increased rates on second-class matter, and who have made investigations—thorough investigations, some of us—that we would enlighten those gentlemen, and it may be that we would convert them to change their opinion. I wish you would let them know.

Mr. NEAL. I will do so.

The CHAIRMAN. We will be glad to hear them, and stop work on the bill at any time to hear them. They are prominent men. I would not say they are politicians; they are prominent men, and we would not want to cut them off. We think it fair to us and to Congress that such gentlemen, in giving their opinions, should come before us to give us an opportunity to see what they really know about this matter, you know, like you and Mr. Post. You have given your opinions and have given your reasons, and we have cross-examined you, as it were, to see what you really did know and whether or not your opinions were worth anything.

(Thereupon, the committee at 1 p. m., took a recess until 2 p. m.)

#### AFTER RECESS.

(The committee met at 2 p. m., pursuant to adjournment.)

The CHAIRMAN. Mr. Neal, you said you wanted 15 minutes more. Well, go right ahead and finish.

Mr. NEAL. Mr. Kitchin, I gave the stenographer practically all that I had there. The only thing that I would have done at all would have been a summing up, and that is not really necessary. You fellows have got it all anyhow, and it will save the time.

The CHAIRMAN. I wish to say that you had a very splendidly prepared paper.

Mr. GARNER. You were a good witness, and probably avoided the issue as much as a man could.



MR. NEAL. Gentlemen, the following extracts from letters refer to the patriotic service now being rendered the South by the Manufacturers' Record, of Baltimore, Md.

Stanley Howland, vice president and general manager Ashville & East Tennessee Railroad Co., Asheville, N. C.: I wrote a letter to the Manufacturers Record last week asking them to send me some reprints in pamphlet of their leading editorial, and ended my letter by saying, "Keep up the good work. I wish you had 10,000 subscribers in this county." If I had the means, I would invest in subscriptions to the Manufacturers Record with just about the same feeling I would buy liberty bonds, to make a dollar go just as far as possible and do the country the most good and the damn Huns the most harm.

I have done some soliciting for bonds in the country and I am absolutely satisfied that if people out in these mountains were in the habit of reading the Manufacturers Record, solicitors for bonds would find very little to do. They are very patriotic but they don't understand the situation and German propaganda is rampant. I denounced two men in two days for pro-German talk, though I feel satisfied it was simply ignorance. Such talk as this, though, would be promptly counteracted if the most intelligent were reading the Manufacturers Record, and a tremendous blow would be struck for liberty and civilization.

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Warlick Lumber Co. (Inc.), Gilkey, N. C.: I have at least begun to realize what a potent force the Manufacturers Record is in the great struggle in which we are now engaged, and for some time I have been passing my copy on to others and have been pointing out to them the editorials of most force.

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P. G. Bush, Nashville, Tenn.: As it is my desire to help, in my small way, this movement of awakening the people to a realization of present circumstances, I will volunteer my service to your paper, gratis, and secure any data or articles on any subject desired from this section. I wish to thank you for your article on the local powder plant and its record which stands as a monument to the "Awakened South."

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John R. Boddie, St. Louis, Mo.: Your fly leaf article on the front of June 6 number rings with a melody akin to that of the Liberty bell at the birth of America, and will awaken patriots to a realization of their duty to suffer death rather than leave their posterity to the Hohenzollern and Hapsburg dynasties.

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Laurel Coal Corporation, Putnam, Va.: Your work for our Nation is invaluable. You certainly express my views more fully than I can hope to do. Keep the good work going. We must and will win.

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Burnham, Glenwood, on the Caddo, Ark.: The Manufacturers' Record is a power. Every issue is a 40-centimeter shot for Americanism and in every issue the red corpuscle glows. The last number is a classic. I wish I could be the means of putting your publication in every business office and home in America and then begin on a foreign list to Pan-American friends who need it.

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Atlas Powder Co., Knoxville, Tenn.: Am of the opinion that what you are writing is doing more for the good of this country than what is being published in any other paper or periodical in the United States.

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Philadelphia Wool and Textile Association, Philadelphia, Pa.: We desire to express our appreciation of the good work which you are doing, both from a patriotic standpoint and from the standpoint of intelligent effort for a constructive development of our national resources.

Mobile Oil Co., Atlanta, Ga.: This is the best paper ever published for the man who loves his home, his State, and his country, and the development of it. You are doing more to the upbuilding and improvement of the South than all of the daily papers combined. It has all the local and world-wide news of importance.

Respectfully, yours,

CHAS. C. BRASWELL.

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G. C. Weeks, Scotland Neck, N. C.: I am passing Manufacturers Record around to my friends on account of your strong editorials on the war.

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F. K. Huger, Melbourne, Fla.: Next to my Bible, I swear by your publication; if we fail to win this war, it will be because the administration and the people have failed to follow your lead.

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Warlick Lumber Co. (Inc.), Gilkey, N. C.: The writer is a member of this firm, and in talking with Mr. Killian, the manager, this morning, we decided that it would be a good thing to subscribe for the Record and just leave it lying in a conspicuous place in the store where the public would have access to it and thus get some of the good things with which it is filled every week.

I believe that this will produce larger results than the investment of a similar amount in war-savings stamps, because it will no doubt be the means of bringing many indifferent ones to a sense of their duty and bring about the sale of many war-savings stamps.

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J. J. Finklea & Son, Buena Vista, Ala.: Keep up the good fight you have been making, and the great God of Heaven help all of us to do as well in this hour of trial.

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Morgan Lumber & Manufacturing Co., Charleston, Kanawha, W. Va.: We have been reading this journal with a great deal of interest and satisfaction, particularly so throughout the present war period, and we only regret that it is not within our power to express to you our full appreciation of the grand and noble work you are doing along this line. We feel that you are doing considerably more than your "bit," and wish it were within our power to place your journal in the hands of millions of readers throughout our country.

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Home Canner Manufacturing Co., Hickory, N. C.: In our opinion there is no paper in the country that is doing more for America than is the Manufacturers' Record.

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Wier Long Leaf Lumber Co., Houston, Tex.: Please permit me in behalf of myself and associates to thank you for the patriotic, effective work you are doing toward winning this great war. The writer has just finished reading your issue of the 9th, and surely no thinking, free people could resist the call to support the Government to the last man and dollar.

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United States Cast Iron Pipe & Foundry Co., Austin, Tex.: I congratulate you on your several articles, "America's Relation to the World's War." I wish it were possible that your pamphlet containing these articles could be placed in the hands of every citizen in this country.

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Asheville Board of Trade, Asheville, N. C.: Your journal is doing a national service and we will in every way possible endeavor to increase its circulation.

**ADDITIONAL STATEMENT OF MR. CHARLES JOHNSON POST,  
DIRECTOR OF THE PUBLISHERS' ADVISORY BOARD.**

The CHAIRMAN. Mr. Post, we will get through in a very few minutes, I know. I want to call the attention of Mr. Post and this committee to an error in the hearing of June 29, No. 19, on page 1740. It appears at the top of the page that I said this:

Instead of being what you said, for the 6 years preceding this reduction of the postal rate on second-class matter in 1885 the deficit in the Post Office Department on domestic mail averaged yearly \$14,600,000.

Then I subsequently said:

For the 6 years immediately succeeding or following 1885 the reduction of the second-class postal rate, it averaged \$23,000,000.

Down near the bottom of the page the reporter has me saying, which doubtless I did:

The deficit in 1885 was \$15,000,000. The next year it rose to \$16,500,000, and so on for several years.

This is a mistake, and the mistake was made by deducting the wrong row of figures in the statistical abstract. While the figures even as they appear in the hearing are very unfavorable to the statement you made as to deficits and to your map, still the actual figures are more unfavorable but not as large as these, and I want to correct them.

The facts are that the total deficits from 1880 to 1885, inclusive, under the old rate, prior to the taking effect of the act of 1885, amounted to \$13,995,000, while the total deficits from 1886, the year the reduced rates took effect, to 1891, inclusive, 6 years, were \$33,705,000, more than twice as much for the 6 years after the reduction of rates as the 6 years before. The average annual deficit for the 6 years prior to the taking effect of the reduced rates was \$2,333,000, while the annual average for the 6 years following the reduction of the rate was \$5,617,000, more than twice as large annual average deficit the 6 years after the reduction of the rate as it was before.

In 1882, under the old rate, prior to the reduction of 1885, there was a surplus, a favorable balance to the Government of \$1,253,000, and in 1883, under the old rate, a balance or surplus of \$2,181,352. This was the first surplus since 1865, and the 1865 surplus was the first surplus since 1852.

Mr. Post. 1851.

The CHAIRMAN. It was the year 1851-52, and from 1883 to 1911, there was not a surplus or balance in any year. The next one appeared in 1911.

I have changed it for the permanent record in accordance with the statement I have made.

Mr. Post. On that matter, Mr. Chairman, you will recall that you referred to a map or a chart which I had here, and it became apparent when I went over the record that we were talking at cross purposes, although dealing with the same facts. These charts, whose accuracy you challenged at that time, were on the ground of variation that I spoke of at that time, in volume 6, \$10,000,000 or \$9,000,000, or whatever it was, and I had computed them on the percentage of deficit, on the difference between the money expended by the Post

Office Department and its receipts, the deficiencies being expressed in terms of percentages, so of course we were comparing unlike quantities, and the figures you were reading would not correspond with those. As a matter of fact, these percentages are from the identical figures that you mention, and give the same situations on the percentage basis.

The CHAIRMAN. The figures which I have just given are taken from the Statistical Abstract, and I compared it with the Postmaster General's reports, both of which I have before me.

Mr. Post. They are identical, only I took them from the Postmaster General's report, and computed them in terms of percentages, so the variations are the same, and in that connection, I have, at the request of the committee, had plates made of these charts, which I am ready to turn over to the committee and have printed, and they will speak for themselves.

The CHAIRMAN. The main thing in your statement to which I referred in producing the figures when you introduced the map was to the effect that the reduction of the rate in 1885 was accompanied by a reduction in postal deficits.

Mr. Post. The percentage of deficits.

The CHAIRMAN. And you said the reduction in rate on second-class postal matter caused a reduction in deficits. I looked up the figures to be accurate, and my point was that the figures showed that there was an actual increase of deficits and that the reduction from 2 cents to 1 cent in 1885 on second-class matter could not have had any effect in decreasing the postal deficit or increasing receipts. It decreased its receipts 50 per cent. That was the only point I desired to make.

Mr. Post. I think we were talking about the same thing.

The CHAIRMAN. I had one map, maybe, and you had another. I never did understand it, and it may be your map sustains the figures I have given this morning. If so it refutes many of your statements and arguments.

Mr. Post. It does, Mr. Chairman. It does not make any difference whether we compute it in volumes or percentages, provided we bear in mind the fact. Suppose the appropriation was \$100,000,000 and the loss was \$5,000,000. The loss is very much less if the appropriation had been \$300,000,000 and the loss \$6,000,000. Six million dollars would be a less percentage of loss in the latter case than \$5,000,000 in the first case.

The CHAIRMAN. You must remember, and the figures will show that, while you stated the other day, and perhaps your map shows, that there was an increase in receipts, general receipts, of the Post Office Department after 1885, there was also the same or larger proportion of increase of expenditures. For instance, if we received \$250,000,000 and expended \$260,000,000 at one time, one year, and another year we received \$300,000,000, the net receipts would increase, but suppose our expenditures went up to \$325,000,000, there would be a corresponding increase in expenditures and a larger deficit. So while you stated the receipts had increased, you failed to state that the expenditures had increased also. That is the point.

Mr. Post. I feel that I expressed both of those factors by computing the percentages.

Mr. STERLING. I asked you about that while you were exhibiting those maps, and I said that they did not amount to anything unless they showed expenditures as well as receipts.

Mr. POST. Then I did not grasp the full import of your question; because the answer that the percentage embodies that fact would be the correct answer.

The CHAIRMAN. But you just took the percentage of the receipts.

Mr. POST. The difference between the expenditures and the appropriation, because the appropriation covers the expenditures and the deficiency, was the difference.

Mr. STERLING. The figures on the map did not show the net receipts, they simply showed the increase in gross receipts. It did not show whether expenses were increased or not.

Mr. POST. This is the map [indicating] as I recollect it, to which your question applied. That map does not. It did not show it on that map, but in this chart [indicating], in these two charts in both of which the computation is made on the basis of the percentage, that does include those two factors that you speak about.

The CHAIRMAN. All right, Mr. Post.

Mr. POST. I do not think there is a difference of opinion on that factor at all.

Mr. GARNER. I would like to ask you again the questions that I asked this morning, to see just what your opinion would be now. Assuming it to be the public policy of this Government to have each piece of mail pay its way through the Post Office Department, and it should be ascertained what the cost of transporting magazines through the Post Office Department would be, would your organization object to it?

Mr. POST. There is no question about that, Judge Garner. The sole point that I was emphasizing in that connection, and Mr. Neal was emphasizing, was that you suggested that if the Congress made that decision, well, we would have the natural right to appeal to the country if we did not agree with it, to propagandize the country. That is an inherent American right. But if a competent tribunal, such as Congress, should come to a decision, considering that factor—which I feel it is not considering at present in the passage of this law, from which we are appealing—I think that would be all right.

Mr. GARNER. I have read some of your ideas about government, and I gather, maybe erroneously, that one that you had in your mind was that it would be well to cut out all matter that went through the mail free.

Mr. POST. No; if I have given that impression, I want to correct it most energetically. I believe that the mail, the postal function, is one of the greatest democratic functions—and I mean that with a little "d," not in the party sense—is one of the greatest democratic functions of modern civilization, this means of communication. I do not believe that the cost of that service bears any relation whatsoever to the charge that should be made. I think that that is perfectly illustrated in Alaska, where, I think, Mr. Kuhns in some of his testimony stated that it cost \$6.80 for delivering a letter there which carried only a 2 cent stamp to Americans at Point Barrow.

Mr. GARNER. I agree with you, but I do not think you got the exact point I made. It has been suggested by some that it might be well to take away from Congress the franking privilege, because

it has been sometimes abused, and they have the idea that we could better ascertain the cost of transacting the business of the Post Office Department if we did not have so much franking matter. You do not agree to that?

Mr. Post. No, I do not; and I think that calls for just a little more than a yes and no answer. I think, and I think a great many Congressmen hold similar views, that there may be better ways of applying the franking privilege.

Mr. GARNER. I am one of them.

Mr. Post. In the early days, a great many years ago, they sent pianos and trunks under the franking privilege.

Mr. GARNER. I believe in a limitation, but I do not believe that it would be good public policy in this country to in any way interfere with the legitimate circulation of the Congressional Record or speeches made in Congress among the people. But there can be a limitation on it so that any one of the 435 in the House or the 96 in the Senate can not abuse it. It is the abuse only that I would complain of, and I judge that is your view.

Mr. Post. Absolutely. I do not think that under present conditions there is any substantial abuse, and I do not think there is any abuse in the direction of the volume of matter that is sent out by Congress itself.

Mr. GARNER. There hasn't been abuse in this particular and I can illustrate how it can be abused in this particular instance that we have here. These hearings are published documents, and they can be sent out through the mail under the frank of a Congressman. Let us suppose that your organization desired to take advantage of the privilege, and it was able to find one Member out of the 435 that could use the franking privilege and he sent out millions of copies, presenting your viewpoint, that would be an abuse, and an abuse that I would want to correct.

Mr. Post. There is no disagreement between us at all on that. The whole point is this, that it would be unfair to ask the publishers' advisory board or any particular organization that it cease to avail itself of that opportunity of its own free will when it is open to every other element in the country. If that prohibition or that regulation should apply, it should not be left to a man's individual conscience.

Mr. GARNER. I agree with you, but when a Member of Congress, for instance, loans you his franking privilege and you at your own expense have printed documents and have them go out and become subject to be sent under his frank, that is abuse of it.

Mr. Post. I do not think there is any question about it; that right has been abused.

Mr. GARNER. That kind of abuse is the kind that I would like to put a limitation upon, and therefore I would like to have some other regulation than the present law.

Mr. Post. I assume that you do not want to put it on the publishers' advisory board merely. I think there is no question at all as to the absolute soundness of your position. I would like to say also in regard to the Congressional Record that I have a very strong criticism to make of the Congressional Record and its publication in that its price is prohibitive, and I think the number of copies that are available for distribution—I think it is 50 copies—should be increased.

Mr. GARNER. It is 60 now.

Mr. POST. And then the price he has to pay for it. It is \$25 a year, isn't it?

Mr. GARNER. It is according to the length of the session. It is about \$8.

Mr. POST. That is a prohibitive tax.

Mr. GARNER. One of the reasons of that is—probably Congress is responsible, the House and Senate. You send—an American citizen sends a petition to Congress with certain grievances. Now, under the viewpoint of some Senator, not us in the House, you will see that all those petitions are inserted in the Congressional Record, and the result is that it becomes voluminous, and the larger the Record the higher the price. If the Record simply contained the proceedings of Congress and not the proceedings before this committee or any other committee, you could get that Record and it would not cost more than \$2 to \$5 a year.

Mr. POST. What you are urging is what I believe should be the rule. The daily proceedings of Congress should be most accessible.

Mr. GARNER. And confined to the business of Congress.

Mr. POST. And confined to the business of Congress; and these other things should be separated, and people could get them if they sent for them.

Mr. RAINEY. The entire issue amounts to 33,000 copies a day.

Mr. POST. I think it would amount to more if the cost was not so high.

Mr. RAINEY. It is only 33,000 copies.

Mr. POST. It should go out like reports from the Agricultural Department.

Mr. RAINEY. I agree with you.

The CHAIRMAN. If you have anything special, we want to hear it.

Mr. POST. There are other corrections that I want to make in the hearing of June 29, on page 1403.

Mr. RAINEY. What page is that on?

Mr. POST. Page 1403. That is, in regard to the zone rate in Texas and the letter you quoted. I feel that I am responsible for the letters and statements that go out from my office, and I assumed responsibility there which I think I might better have waived, in that thing; and your correction of the rate of postage on zone magazines containing 50 per cent reading matter and 50 per cent advertising matter sent to a subscriber in Texas, that it was 2½ to 3 times more than it was on the same magazine sent to a subscriber in Boston, or that the Texas reader would have to have paid 2½ to 3½ times more postage than the reader in the first two zones of publication was right. Boston is just outside of the first two zones. That was an error. But I think it was venial one, in view of the fact that you and Congressman Rainey have spoken of \$90,000,000 deficit, and we differ very materially about that. I do not know of anything that would correspond to \$90,000,000 deficit, and I think that in Congressman Rainey's own speech he spoke of that and spoke of a very much less amount.

On page 1379 Congressman Rainey asked about a letter from "Mrs. Holland Louise Johnson." That name should be "Helen Louise Johnson." It was suggested very positively that she denied that she ever gave authority or permission to use a letter from her.

I have here a letter dated February 15, 1918, from her, which reads as follows:

FEBRUARY 15, 1918.

CHARLES JOHNSON POST,  
*Director Publishers' Advisory Board,*  
*New York City.*

MY DEAR MR. POST: Your letter dated February 6 would have had an immediate answer had it not been for the fact that I have been suffering from an attack of grip.

You ask for permission to send out copies of my letter to you dated January 22, 1918. "Of course I should like to take out of it that which is of a purely personal character."

If my letter to you will be any help you surely have my permission. My permission is based as in the above paragraph. One change must be made, however; second paragraph, "through the records of the —" should read, "through the recommendations of the —."

I shall be glad to receive a full reply from you relative to joining the periodical Publishers' Association.

Very truly, yours,

HELEN LOUISE JOHNSON,  
*Director Service Office, G. F. W. C.*

MATTER OF ZONE POSTAL REPEAL.

THE GENERAL FEDERATION MAGAZINE (INC.),  
*Washington, D. C., March 8, 1918.*

MY DEAR CONGRESSMAN: As I understand the matter, the original bill was introduced through the recommendations of the Postmaster General, Mr. Burleson, "to clean up the magazine situation," whatever that may mean.

His stated belief was that too many magazines were issued and they should not carry advertising matter. Further, the discussions in Congress were based almost wholly on the circulation of the Ladies' Home Journal and Saturday Evening Post and their advertising rates and income.

This is manifestly unjust to the educational magazines and those disseminating the data by which public opinion is formed, whose circulation is limited and advertising rates in keeping.

The enforcement of this unjust and unintelligent zone postal law means as great a detriment to the men and women of rural and small towns as the breaking down or limiting their school systems.

The most valuable and needed magazines will be forced out of business while those published by the extremely wealthy corporations can continue. Such medium of public expression as *The Independent*, the *Outlook*, etc., can not distribute far.

As for advertising matter in magazines, it seems incredible that any intelligent person should fail to recognize the impossibility of selling goods without letting the public know they are made and where to get them, and I predict the utter destruction of the scenic beauty of the country if magazines are forced out of business. The billboard nuisance will become a necessity of trade.

Yours, very sincerely,

HELEN LOUISE JOHNSON,  
*Editor General Federation Magazine,*  
*Director Service Office, G. F. W. C.*

It was on the basis of that letter that we made use of the facsimile of Miss Johnson's letter.

Mr. RAINY. She evidently did not understand, when she was talking to me, that she had given that permission.

Mr. POST. I saw Miss Johnson, she called on me in New York, and I recalled her letter and showed it to her, and she felt that I had not read it in the same sense in which she read it; but the letter itself of course is the best evidence as to that.

Mr. RAINY. I think myself that it was sufficient to warrant you in making that use of it.



Mr. Post. Yes; she said she had an interview with you when the matter came up, there. Now in the hearings, page 1414, June 29, Chairman Kitchin referred to a quotation from a letter to Congressman Helvering of Kansas, and I should like to introduce that letter into the record as a full statement of the conditions and surroundings there.

The CHAIRMAN. All right.

Mr. Post. This is to Congressman Helvering. [Reading:]

MAY 8, 1918.

Hon. GUY T. HELVERING,  
House Office Building, Washington D. C.

DEAR SIR: Your letter of the 6th in regard to your Kansas constituent and the postal "zone" law, and my reply thereto, at hand. For the length of my present letter I offer you my apologies, together with the importance of its subject matter as justification!

While you characterize my statement as to the \$4.40 special carrier service in Lawrence and the \$1.50 mail rate in California and elsewhere as "ingenuous" (sic), yet I can not help but comment on the fact that you do not argue it or discuss it and merely add that it is begging the question.

I am unable to determine whether you understand what the carrier system means or not. The carrier system means that a newspaper is delivered by a news dealer who has a news route and who delivers the papers as soon as they come from the press. The mail service does no such thing unless first-class postage is paid at 3 cents an ounce and an additional special-delivery stamp of 10 cents is affixed.

The point is that you stated that the Lawrence newspaper was charging a California subscriber \$1.50 a year for the identical kind of service given in Lawrence for \$4.40 a year—which is not in accord with the facts.

You believe that low postage is a "subsidy" to publishers. That line of thought has been successfully challenged by every student of postal matters and by the development and principles of the postal function itself. A low postage rate is a benefit—"subsidy," if you choose to call it—to the readers of a nation. It makes accessible intellectual intercourse in the exact measure of the cheapness of postage.

Let me answer the rest of your letter seriatim:

1. Neither I nor the Publishers' Advisory Board is "intimidating" Congress, as you state. We are bringing this important matter of hasty and disastrous postal "zone" legislation to the consideration of the citizens and homes of the United States. This is not "intimidation" of Congress, unless Congress regards its acts as sacrosanct and to discuss them or oppose them through the channels of discussion lese majeste. I feel, for myself and for the Publishers' Advisory Board, that we are correct and within our fundamental constitutional rights in presenting this serious postal "zone" question to the public for discussion by them.

2. I think you are under a misapprehension as to the handbook of petitions. It is not a handbook of petitions; it is a campaign handbook presenting the views of various able thinkers, including many Congressmen. It is indexed so that the reader may follow any line of argument he desires. I inclose one in order to set you right on this minor point.

3. You characterize my work as "coarse." I am sure that your belief in the coarseness and clumsiness of this campaign will reassure you as to its ineffectiveness. The public can never be deluded on great public questions by coarse and clumsy stimuli.

4. The Tribune is cordially for this "zone" law, as I am aware. It is the only paper in New York that is. The Tribune is further celebrated in New York for its persistent efforts to hamstring the Administration since the war began. Furthermore, the Tribune has been for 30 years the strongest Republican champion of Mark Hannaism, of reactionary policies, and an unswerving supporter of Wall Street and the special-privilege interests. When any question of public policy has ever confronted the Nation, the Tribune invariably showed the side of special privilege. Your quotation of their editorial is simply additional proof of the infallibility of their instincts.

May I ask if on any other public matter, or at any other period in our national history, you have ever taken the Tribune for mentor and guide?

5-a. Now as to the Tribune's argument. It is only entitled to consideration because you have adopted it. The Tribune regards low postage as a "subsidy" to publishers. I assume that you will agree with the authorities in the field of economics that the ultimate consumer pays the tariff, and that it is the reader of periodicals who receives

the benefit of low postage thereon, or who pays the high postage which is embodied in the subscription price or reflected in the decreased quality of the product. I can not assume that you stand alone in opposing the established principles of this economic law.

5-b. Now as to the value of widespread circulation of printed matter. You will be interested to know that two years before the American Revolution, the British postal authorities, in order to suppress the spread and dissemination of the restlessness born of liberty-loving idealism, raised the postage charges in order to prevent the spread of ideas. I am sure you will be struck by the startling contrast of that action by the British authorities to suppress liberty with the action of our own Congress in similarly raising postage rates during a war period and with the avowed effect of restricting newspaper and magazine circulation and their accessibility to reading and thinking Americans.

5-c. George Washington has a large place in our history. When the Constitution was before the States for ratification, he said in a letter to Mathew Carey, on June 25, 1788:

"I entertain an high idea of the utility of periodical publications, insomuch that I could heartily desire copies of the Museum and magazines, as well as common gazettes, might be spread through every city, town, and village in America. I consider such easy vehicles of knowledge more happily circulated than any other to preserve the liberty, stimulate the industry, and ameliorate the morals of an enlightened and free people."

And three weeks later, July 18, he wrote to John Jay:

"It is extremely to be lamented that a new arrangement in the post office unfavorable to the circulation of intelligence should have taken place at the instant when the momentous question of a general government was to come before the people. \* \* \* Now, if the Postmaster General, with whose character I am unacquainted, and therefore would not be understood to form an unfavorable opinion of his motives, has any candid advisers, who conceive that he merits the public employment, they ought to counsel him to wipe away the aspersion he has incautiously brought upon a good cause. If he is unworthy of the office he holds, it would be well that the ground of a complaint apparently so general should be inquired into, and, if unfounded, redressed through the medium of a better appointment. It is a matter in my judgment of primary importance that the public mind should be relieved from inquietude on this subject."

This was in the discussion of the circulation of newspapers and periodicals. Further, in his fifth annual message to Congress, December 3, 1793, he said:

"But here I can not forbear to recommend a repeal of the tax on the transportation of public prints. There is no resource so firm for the Government of the United States as the affections of the people, guided by an enlightened policy, and to this primary good nothing can conduce more than a faithful representation of the public proceedings, diffused without restraint throughout the United States."

The CHAIRMAN. Did you ever really write that?

Mr. MOORE. He is coming to the signature, and I wanted to see who wrote that.

Mr. POST. I am a little bit confused as to what you want. Do you want me to—

The CHAIRMAN. Go ahead and read the rest of it.

Mr. MOORE. It is a pretty powerful letter.

Mr. POST (reading):

6. The postal "zone" system was abolished by President Lincoln in 1863, upon the recommendation of Postmaster General Blair, who made an elaborate report based upon an exhaustive study of the "zone" system and its disadvantages. Since then United States postal commissions appointed to consider postal matters have also joined in the condemnation of the postal "zone" system.

I can not forbear quoting Ambassador Gerard, who said in a speech in Philadelphia: "Now we have to meet this German propaganda. The war is not going to last forever—and you have seen what German propaganda has done in Russia. These are grave dangers, and they only go to show what can happen in a country like Russia.

"Fortunately, they can not propagate this country as they can Russia, because we have great publications that go all over the country and have unified the whole country and the whole continent. That is why I am against the postal zone law passed in the last Congress putting an extra tax on papers sent from the cities where published.

"They forget that, whether these publications go from Philadelphia, from San Francisco, or from Chicago, it is the exchange of these papers from and to all parts of the country that makes one, universal, united America.

"They unify the sentiment, and that is worth far more in this war than the small amount of extra postage which the Government will obtain."

The foregoing are considerations involved in the postal "zone" legislation.

The only sound basis for postal legislation is the consideration of the postal function and its service to the people of this Nation. The Post Office is not a business institution, nor was it ever intended as a revenue-producing agency. I can not do better than quote you from the speech of the Hon. Charles Sumner, delivered in the Senate on June 10, 1870, which discusses the Post Office and the postal function in a most comprehensive manner:

"Of all existing departments the Post Office is most entitled to consideration, for it is most universal in its beneficence. That public welfare, which is the declared object of all the departments, appears here in its most attractive form. There is nothing which is not helped by the Post Office. Is business in question? The Post Office is at hand with invaluable aid, quickening and multiplying all its activities. Is it charity? The Post Office is the good Samaritan omnipresent on all the highways of the land. Is it the precious intercourse of family or friends? The Post Office is carrier, interpreter, and handmaid. Is it education? The Post Office is schoolmaster, with school for all and with scholars counted by the million. Is it the service of Government? The Post Office lends itself so completely to this essential work that the national will is conveyed without noise or effort to the most remote corners, and the Republic becomes one and indivisible. Without the Post Office where would be that national unity with irresistible guarantee of equal rights to all, which is now the glory of the Republic? Impossible—absolutely impossible. Therefore, in the name of all these, do I insist that now, in these days of equality, the Post Office shall be admitted to equality with all other departments of the Government, so that it may discharge its own peculiar and many-sided duties without being compelled to find in itself the means of support. It has enough to do without taking thought of the morrow. On every side and in every direction it is the beneficent helper."

A surplus in the Agricultural Department would mean that the farmers of this country had been deprived of the service and educational possibilities of that department by just the amount of such surplus; a surplus in the Department of Commerce would mean inefficiency in administering its functions; so does a surplus in the Department of the Interior, the Department of Labor, etc. In the Post Office Department a surplus by some strange, illogical process of political reasoning is regarded as a triumph. The Postal Department makes a surplus out of decreased efficiency of service. Merchants and business men all over the country know that mails are retarded and delayed, not only to our soldiers but in the old-established channels of post-office administration, and all with a view to economy. The business of the post office is not to economize in service, but to develop its functions to the highest and widest possible state of efficiency.

In view of the importance of this matter, may I ask the following questions:

This postal "zone" law is a revival of a system abolished by President Lincoln. It is clearly legislation of the most serious character.

(a) Do you approve of such serious legislation being passed without consideration from the Post Office Committee?

(b) Do you approve of such legislation being adopted hastily, without hearings or representations as to these various factors involved?

(c) Do you believe that such legislation is justifiably attached to a war-revenue act and forced through under implied threat that otherwise that vitally important war-revenue act would be held up?

(d) Since Representative Kitchin, chairman of the Ways and Means Committee, stated on the floor that this was not a war tax but permanent postal legislation, do you believe that permanent postal legislation of such seriousness should originate in the Ways and Means Committee and be passed in the manner it was?

These perhaps are questions of detail, for I am perfectly willing to concede that great parliamentary shrewdness was used in securing the adoption of this postal "zone" law and that no attention seems to have been paid to the discussion of the fundamental principles of the postal function to the people of the country.

Respectfully, yours,

Director.

Mr. POST. (That is signed by myself.

The CHAIRMAN. As I showed the other day, when you were before us, many of the statements you reiterate in this letter are absolutely unfounded.

Mr. RAINEY. To whom was that addressed?

Mr. POST. To Congressman Helvering, and I asked that the letter be introduced because Congressman Kitchin had brought up the correspondence with Mr. Helvering.

Mr. RAINEY. Who wrote that letter?

Mr. POST. This is a letter from myself.

Mr. RAINEY. Oh.

Mr. MOORE. You did not confer with Postmaster General Burleson before you wrote that letter, did you?

Mr. POST. I did not.

Mr. MOORE. I was wondering if you had conferred with any Democratic member of the committee before you included your reference to the New York Tribune?

Mr. POST. No; I did not consult with anybody. I have lived in New York for a good many years—there, and elsewhere, outside—so that I felt that I knew the Tribune.

Mr. MOORE. That was a rather offensive proposition, about Mark Hanna; that is calculated—

Mr. POST. I am an old, old, man. I can remember back that far and farther.

The CHAIRMAN. You did not write that letter to that lady in Texas, did you?

Mr. POST. No. That was an individual letter to Congressman Helvering.

The CHAIRMAN. Well, Brother Post, I see that you repeat in that letter all these misstatements as to the real facts, and I am not going to bother you any more on that, to try to have you correct them. I am going to heed the scriptural admonition and let you alone, for I see that "Ephraim is joined to his idols."

Mr. POST. I think that most of the quotations that we can quote at each other bear with equal force both ways.

Mr. RAINEY. That letter, of course, was written before our examination of the other day?

Mr. POST. Oh, yes; long before that.

Mr. RAINEY. Yes.

Mr. POST. I only felt that I would like to have this letter speak for itself.

Mr. RAINEY. That is all right.

Mr. POST. On page 1405, in the hearing of June 29, I just want to amplify my answer to your question there, in regard to the increase of rates, from 50 per cent to 900 per cent, that some portions of those rates are embodied in each publication, and that the postage is paid as a lump sum.

Mr. LONGWORTH. Mr. Post, I do not know whether I got the statement correctly. I have just come in. Did you say that the New York Tribune was the only newspaper that advocated the zone system?

Mr. POST. No; my recollection is that I said it was the only newspaper in New York. That was my statement.

Mr. LONGWORTH. I did not know how broad your statement was.

Mr. POST. Oh, no; because I can tell you that there are 15,000 papers of very local circulation which think that the postal zone law is a grand thing because it is going to give them discrimination for their own advertisements as against periodicals, and who state that with

perfect, absolute frankness. I would like to read that, because it is perfectly naive.

Mr. GARNER. Just to be perfectly fair, all of these papers advocating the zone system do not advocate it on that ground.

Mr. POST. I think that is a fair statement.

Mr. GARNER. Many of them advocate it on the ground that in fair dealing and justice and equity with the American people no business in this country ought to be subsidized; that no business ought to lean on the entire people for its prosperity; and you, by your argument, and these gentlemen this morning, have shown that you are leaning on the Government and the people, because if the Government should collect from you what it costs the Government to furnish these facilities for the transportation of your publications, you would not be quite so prosperous as you are now.

Mr. POST. Let me amend this, now, by saying that this is true, as it is of other public questions, that there are honest differences of opinion on fundamental policies; but I have in mind those who make no pretenses of having honest differences of opinion as to principles, but who frankly acknowledge that they are interested in it and advocating it simply because they think that it means more money for them in their business; and devil take the hindmost.

Mr. GARNER. That would not apply to all of them.

Mr. POST. Oh, no.

Mr. GARNER. Because there are many of them that carry no advertising.

Mr. POST. I do not know of any newspaper that does not get advertising, and try to get it. This is the Publishers' Auxiliary, the official publication of a western newspaper organization, that represents around about 1,000 newspapers; probably a Hughes organ. In an article of the issue of June 1, 1918, signed "Wright A. Patterson," this was their general argument:

The contents of nearly all of these classes of publications range from 50 to 80 per cent advertising. For them the Government has been for many years carrying this vast quantity of advertising at the flat rate of 1 cent per pound, and it is this cheap postage rate that has made it possible for them to carry national advertising at rates ranging from 5 cents per inch per thousand of circulation down to as low as 1 cent per inch per thousand of circulation.

It was debated on the floor of Congress as a war revenue measure—as a war tax to be levied upon the advertising manufacturers and merchants of the country through the newspapers and other publications.

That, of course is a misstatement of fact, because the disproportion was not argued on that ground. It continues:

But the increased cost on that portion of the Saturday Evening Post devoted to advertising will be heavy, and this increase the advertisers will have to pay in the form of an increased advertising rate.

Now, continuing, this article says:

If the advertiser wanted to cover only certain communities he could not afford to use the national mediums, but when he wants all communities he can do so, and at a price per thousand below any price the local newspaper can possibly name and live.

Then, speaking of the magazine, again, it says:

But if it does not wish to pay this transportation charge it can get circulation in Colorado and Wyoming and other States by sending its advertising to the papers published in the several communities in the United States, and they will not have to make the heavy additional charge for space because they will not have to pay extra postage for this advertising on any papers circulated within a radius of 150 miles from the point of publication.

Then again:

He must pay it if these publications are to live. When the advertising rates are made high enough to cover these costs it will then be possible for the country daily and weekly newspapers to meet these advertising prices and so secure at least some of this national publicity business.

I do not think these gentlemen are considering this matter upon any grounds of differences of social conditions and functions at all. It is purely a matter of bread. They are in favor of the discrimination.

Now, I want to just mention one other point on that, Congressman Garner; that is that, these newspapers totally misapprehended not only the function of advertising but the principles that govern advertising, both as to publications and as to advertisers. The national periodicals are used by advertisers as a great means, widely spread all over the country, for the purpose of establishing a brand and general knowledge of a business. For example, to make it concrete, if a manufacturer is going to put out a new product, or he is going in for a popular product that he wants to put before the public, he starts a tremendous advertising campaign all over the country through the national periodicals, because they are the only papers that can serve his purpose. His salesmen can then go out to the jobber or the wholesaler and show him a copy of this advertising matter, and they will say—

We are going to spend \$100,000 or \$250,000 or \$500,000 in advertising this product. Now your local people, your retail merchants, who are buying from you, will have to stock up on this product. You will have to stock up on it in order to supply them or else they will have to go somewhere else and get it.

It proves to him that here is a great demand that is going to be made for some necessary article of household economy or manufacturing, or what not; so that the retailer, instead of having to stock up on a product that you take and show to him and tell him is pretty good, that you think it is pretty good, but something that the merchants and the people do not know anything about because there is no sale for it, can stock up with articles as to which he knows there will be a sale because there is going to be this great advertising campaign for their sale all over the country. They sign up not only for months but years, in making the public acquainted with a slow selling article. That is the first stage; advertising in national periodicals.

The local periodicals and country papers and newspapers have a very high intensive circulation.

For example, I think it was down in Steubenville I was talking with an editor there, and he said that his paper had a circulation of 8,000. I said, "What do you suppose is the greatest circulation that any national periodical has in your territory?" He was very much in favor of a zone law. The national periodicals he thought were terrific competitors of his and he would like to see them put out of business. I said, "What is the national periodical that is your greatest competitor in that zone? You have 8,000 circulation there. How big is the circulation of the biggest national periodical you can think of?" Well, he sort of hesitated, in that district, between the Saturday Evening Post and Colliers. He named one of them. I said, "How many do you think circulate?" He said, "I think the circulation is 300 in that district." I said, "There is no competition over that." He admitted it. I said, "There is no competition there because that circulation can only serve 300 or 500."

As for the business proposition, when an advertising agent goes to an advertiser and the advertiser says, "I have covered the whole country and my retailers are stocked up with this," and he sees that he is getting splendid sales in the Middle West States—Illinois, Indiana, Ohio, and Iowa—but he is not getting sales proportionate to the population or the general character of the country in New England, he says, "I have got to do some local, intensive advertising there;" so he maps out a local advertising campaign; it may cover a State or it may cover a group of States or a section of the United States, in which he uses newspaper advertising heavily and intensively for the purpose of making a great intensive selling campaign in that district. Now, so far as these people being correct in assuming that if they can kill national periodicals they will fall heir to their advertising, I think it is generally a perfectly safe statement to make that there is not a dollar's worth of appropriation by any great manufacturing concern that goes into a newspaper merely by reason of shrewd, adroit selling. It is the interest and the policies of that great national advertising manufacturer that dictate whether he will use national or local advertising. Now, these people do not understand that thing. They think they are competitors; but that gets back to our point—

MR. GARNER. You have an additional burden, then, of educating the newspapers of the country as well as the entire public, with reference to your viewpoint of this matter?

MR. POST. I do not think of the newspapers, because there are many of them that we both like to think of that are open-minded and are anxious to get the facts underlying these figures. The figures are of no more consequence at this period, on this factor, than the figures of the amounts levied on tea imports prior to the revolution. Then the country needed democracy and liberty, and it did not give one whoop whether the tax on tea was too high or too low, but the principle that a foreign government should be able to impose an injustice, and wrong in principle was the only matter that was at stake.

MR. CRISP. I unfortunately did not hear all your former testimony, and you may have answered this question:

Assuming that Congress feels like there should be some increase made in second-class postage rates, which would you prefer, a flat rate with a tax on all advertising, or a zone rate, as is now the law?

MR. POST. A flat tax of any kind. The objection to the zone rate is that it is a discriminatory rate against periodicals of national circulation, and their advertising pages or columns, in favor of periodicals, weeklies, or dailies of comparatively local circulation who, as this paper from which I have read very plainly indicates, will be able to make a less charge for their advertising or subscriptions for the periodicals they name.

I think, Mr. Chairman, you computed that this postal law would bring in about \$3,000,000, or \$4,000,000 the first year. Did I not hear some such figures?

THE CHAIRMAN. No; the daily newspaper men said that Mr. Koonz said that the first year we would get \$2,000,000 from daily newspapers.

MR. POST. Well, the exact figures, \$2,000,000 or \$3,000,000, would be unimportant in this. It would be, I assume, under \$5,000,000?

THE CHAIRMAN. That was on daily newspapers alone. On all

second-class mail it would be much over that. They calculated on the same poundage as last year. Of course, the poundage would increase. It would probably bring in an increased revenue of from \$25,000,000 to \$30,000,000 when the system goes into full effect, or if the magazines and larger papers that go long distances should be carried and delivered other than through the mails, the Government would save that much, and perhaps more.

Mr. POST. That was after the first year?

The CHAIRMAN. Yes. The \$2,000,000 on daily papers was for the first year, and the \$25,000,000 to \$30,000,000 was after the system went into full operation—after July 1, 1921.

Mr. POST. The only point I had in mind was that the revenue this year would be virtually negligible. If you want to approach this from the standpoint of a war-revenue measure that would give an immediate return, to be put on as you have put on letters a war-revenue tax of 1 cent a pound, it will give \$12,000,000 instant revenue, without raising any of these questions of what we regard as destructive postal laws. It will raise none of those questions at all.

Mr. CRISP. For what rate do you think business would stand?

Mr. POST. That is a question I do not think anybody could answer, even a publisher. You gentlemen know the general principles underlying these business conditions as well as I do; that any manufacturer is charged all that he can get for that production in the open and live. Now, how much tax can be put on without extinguishing production; that is, the service itself, is a matter that I do not believe anyone could decide. I could not even make a guess at it, but I could say this much, that a flat rate that cuts evenly through the classes of publications would affect them all alike and would not raise distinctions and discriminations, and it is the discriminations in this bill that are most serious; so that a flat rate is favored.

The CHAIRMAN. Let us see whether there is any great discrimination. Take the Ladies Home Journal, Collier's, and the Saturday Evening Post, the strongest publications. It is estimated that their average haul throughout the country is from 1,000 to 1,200 miles. The Saturday Evening Post averages 1,200 miles. The average haul of the daily newspapers is estimated—the Hughes committee reported that, by the way—at 255 miles.

Now, do you think that the Saturday Evening Post, for instance, that is carried by the Government an average of 1,200 miles, should pay the same rate as and no more than, say, the New York Tribune, whose average haul is about 250 miles, and especially in view of the fact that the Saturday Evening Post costs the Government to transport it over four times as much as does the Tribune. Do you think that is not a discrimination existing in the old law by making the New York Tribune pay four times more for the service it receives than it makes the Saturday Evening Post pay?

Mr. POST. No, Mr. Chairman, I do not. I do not think that the question of distance enters into this matter of first and second class at all.

The CHAIRMAN. Yes, but the Government must pay the railroads on the classification according to the distance hauled. If the railroads would give the Government a flat rate of 1 cent, all over the United States the Government could afford to haul at a flat rate.



Mr. POST. I will answer that the question of distance does not enter into first and second class postal matters at all, for the reason that they are means of communication of human intelligence. That you can illustrate perfectly well in that case of the Point Barrow, Arctic Circle, delivery, \$6.40 a letter. It is a tremendous haul up there, and it costs tremendously there. It is unquestionably a good thing. I think where the fundamental difference lies is in this, that your question is based upon the theory that a periodical is a commodity in the ordinary sense, and that is where the difference arises.

The CHAIRMAN. I am comparing the New York Tribune now with the Saturday Evening Post. One has an average haul of 255 miles and the other has an average haul of 1,200 miles. The Government pays the railroads for transportation according to the distance, on the second class mail matter, and the Saturday Evening Post costs the Government four times as much to transport it, that it has got to pay out of its pocket to the railroads and other transporting agencies—four times as much to handle the Saturday Evening Post as it does to handle the New York Tribune. Now, I can not see, to save my life, the justice and fairness in making the Tribune pay as much per pound for hauling it 250 miles as the Saturday Evening Post pays for hauling 1,200 miles, while the Government is compelled to pay four times as much for hauling the Post as for hauling the Tribune.

Mr. POST. Mr. Chairman, I believe that it is just as important to send the one paper 1,200 miles or 3,000 miles away from its publishing point as it is to send the other 250 miles away; that these things which bear on the question of remoteness—

Mr. GREEN. You are forgetting provisions as to the flat rate on reading matter and on advertisements.

Mr. POST. That is a nice bookkeeping distinction, Congressman; but as I think you recognize, it is of no substantial value or application, in that whoever pays the postage pays postage from cover to cover; that the advertising pages make the magazine possible by reason of this peculiar condition, that magazines to-day are the only manufactured product in the world that are sold to the ultimate consumer at less than the actual cost of production.

The CHAIRMAN. It is conceded, I think, that the overhead charges, and general post-office expense, whether just or not, are more than a cent a pound for newspapers and magazines. That being admitted, then the Government is transporting and handling in transit the periodicals and newspapers and magazines for nothing. That is true. And the publishers put it upon the ground that it is a dissemination of intelligence and information, and bringing the minds in the different parts of the country, close together. Why should we not take off, then, this 1 cent tax, and why should we not pay the transportation to the newspaper plant of print paper upon which this news and intelligence is going to be impressed? Would not that be still more in the interest of the dissemination of information and intelligence?

Mr. POST. No, sir; the distinction still exists between unprinted paper, which is absolutely a commodity, and the printed paper, which is a means of communication.

The CHAIRMAN. That print paper is worth nothing except to print on, and your periodical buys the paper to print its reading mat-

ter and advertisements on, and it is worth nothing except for that. I can not see the difference; if you are going to transport free of cost and in the interests of dissemination of intelligence and information the periodical, the paper that has got the print on it, why the same reason would not apply to the Government hauling free to the publisher's plant the paper from the paper plant, because you must get that paper into that printing house from some paper mill, somewhere, before you can get this intelligence impressed upon it to send it out; and then why should it not also be in the interest of this same dissemination of intelligence and information and bringing of minds together for the Government to pay the transportation—all transportation—upon the apparatus, the type and printing presses, and everything else that a newspaper or a magazine publisher must use in getting this information and intelligence out? Now, you can not name a reason, on principle, to save your life, why the Government transports one free and not the other.

Mr. POST. If you are arguing for the free transportation of those things, I would not want to contradict you; but it does not seem to me that it is a logical deduction.

The CHAIRMAN. I am not arguing for that, but I say I see no reason why there should be any difference.

Mr. POST. I know that you are not arguing for it; but, Mr. Chairman, there is a vital and fundamental distinction. If you take that paper before it is printed upon, it is nothing but a commodity which can be utilized for a dozen things; but a stage farther on it has become one of the most important instruments in civilization. We had paper long before we had civilization.

The CHAIRMAN. All right; suppose, now, the Government should say: "In the interest of the public we are going to haul shoes free. It is in the interest of the public to keep people's feet warm and protected." Would not the same principle apply to say that the Government should haul the leather that went to the shoe factory free? Would not that be still more to the interest of the people, to the keeping of their feet warm and protected?

Mr. POST. I will say that every time a social emergency is presented we do haul shoes and medicines and everything else free; as, for instance, in the instance of the Galveston flood and of the disaster at Dayton, Ohio.

The CHAIRMAN. You have now appealed to my sympathy, and you may get away with something on that line. Now, you really want us to treat the newspaper publishers as objects of charity. That would touch me quicker than anything else.

Mr. POST. If I have reached you through your sympathies, Mr. Chairman—

The CHAIRMAN. When these gentlemen are down on their knees, just begging somebody to come to their relief as a matter of charity, begging the Government to give them something—[Laughter.]

Mr. POST. No; we are debating as to a matter of social service. There was no charity in what was done in Galveston and in Dayton and in other great social emergencies.

I just want to finish that one thing. Bricks in any schoolhouse are on a par with paper before it is printed upon. It might be conceivable under certain social conditions that in the future anything connected with the publishing business might be of such importance that

the Government would facilitate it in innumerable ways, just as we facilitate the building of schoolhouses. Bricks are a commodity. A schoolhouse is an educational construction.

The CHAIRMAN. How about the Bible. Is that a commodity or is it a means of disseminating of Christian intelligence?

Mr. POST. Sometimes the Bible is a commodity.

The CHAIRMAN. Sometimes it is not?

Mr. POST. Sometimes it is not. The distinction I made the other day I think is absolutely sound. When the Bible is sent to the ultimate consumer, the reader, it should be accepted at the same rate as the periodicals. It is just as important an element of social progress. When it is sent by box loads or car loads to a merchant for resale, it is a commodity.

The CHAIRMAN. You must give me credit for converting you to the view that the Bible is almost as good as a periodical—was as much entitled to the 1-cent flat rate as a magazine. You never before advocated such a rate for the Bible. The Government charges them about two to twelve times more to send the Bible the first way you stated it, to the ultimate consumer, than to send a newspaper or a magazine. You publishers never opposed that.

Mr. POST. That is merely the provision of the law. I was simply laying down what I believed to be the principle there, and I believe the law should conform to it.

The CHAIRMAN. The fact is that you have got to get away from this idea that the Government must transport it free because it disseminates intelligence and information and educates the people—

Mr. POST. I have not argued for freedom.

The CHAIRMAN (continuing). Unless you also send histories and novels and schoolbooks and Bibles to the people free of cost?

Mr. POST. There are several classes of books that you have named there, and I should not like to make a blanket answer as to all of them; but taking educational books, I think that distinction is sound.

The CHAIRMAN. Here is a publisher of the Bible. He could say, "Gentlemen, we ought to have one flat rate, and the Government ought to carry the Bible free of all cost. While, of course, I am in it for a profit that we will make, that is not my main object. My main object is to spread Christianity among these people, and I think that the Government should carry this free and it is an outrage to tax Christianity, as you are doing by compelling the publishers of Bibles to pay any postage charges." And then the publisher of the geography and the spelling book and the reader used in the schools, could come to us and say, "We think that the Government ought to carry these books free of all postal charges to the school children throughout the country. It prepares the little minds. It brings the little children out of ignorance. Without the education of the children our civilization will be lost. The postal rates on these books is a tax on education, a premium on ignorance, and an outrage on the millions of little ignorant children throughout the country. It is a tax on civilization. Repeal it. Repeal it." They could make a much better and more plausible argument for sending out spelling books and readers and geographies to school children free of all postal charges.

Mr. RAINEY. How much does Everybody's Magazine sell for, a year?

Mr. POST. I will have to refer, for that. I think of those magazines in terms of the copy. If you have the figures, I have no doubt they are correct.

Mr. RAINEY. It is \$2 a year. Do you know that magazine is going to increase its subscription price on account of the zone rate?

Mr. POST. I do not; but as that is one of the Butterick publications, and the Delineator has already changed its rate by zones, I think it is probable that Everybody's will change.

Mr. RAINEY. You do not know that Everybody's Magazine has changed?

Mr. POST. No; that is only my inference from the fact that the Delineator has changed.

Mr. RAINEY. Taking \$2 as the price of the publication known as the Review of Reviews, do you think that they will increase that on account of the zone law?

Mr. POST. I think it is a fair inference. I think they will have to.

Mr. RAINEY. The Metropolitan Magazine sells for \$3 a year. Do you think they will increase that, too?

Mr. POST. I think it is fair inference from the facts. I have no right to speak for any individual publication in a matter of that kind.

Mr. RAINEY. I know you have not. I am going to speak from what they have done since this zone rate went into effect. These three magazines, the subscription price of which is \$7, have sold for \$2.68 on the 10th of July.

Mr. POST. What are the three?

Mr. RAINEY. Everybody's, the Review of Reviews, and the Metropolitan, all of which Mr. Post says are going to increase their subscription price.

Mr. POST. I said that was my inference.

Mr. RAINEY. You have studied this situation so closely that you ought to know if anybody does.

Mr. POST. Oh, no; not in a matter of that kind.

Mr. RAINEY. Those three magazines, the subscription of which is \$7, you can buy, since July 10, for \$2.68.

Mr. POST. That is under one of these clubbing offers, is it not?

Mr. RAINEY. On the 10th day of July, eight days after the law went into effect, these magazines were sold, on account of a clubbing offer, by the Mother's Magazine, of Cleveland, for \$4.80 a year, less 15 per cent off for cash. This purchaser of this magazine paid the cash, so that he got them for \$4.08; \$7 worth of magazines on the 10th of July.

Of this amount, 40 cents went to the solicitor who came around and got the order, and at least \$1, and perhaps \$1.50, went to the Mother's Magazine for its commission. We will call it \$1. Therefore, taking away 15 per cent cash deduction that this subscriber got and the \$1.40 which went to the Mother's Magazine and the solicitor, that left the price of these \$7 magazines at \$2.59.

Now, that was not all they did. They gave this purchaser of these subscriptions three months' subscription for 40 cents, to each of these magazines. In other words, for 40 cents they gave him a magazine which would cost, at the regular price, \$1.75. So that on July 10, 1918, a subscriber purchased these three magazines for 15 months for \$3.08.

Mr. POST. Those are simply attractive methods of disposing of one's goods, that are common in all merchandising enterprises, to

make one's goods to appear as attractive as possible through these well-known clubbing offers.

Mr. RAINEY. They can not be losing anything on that, can they?

Mr. POST. It is not infrequent for magazines to lose money on their circulation in order to secure circulation, just as is done in any other merchandising enterprise. I am not speaking with my figures up to date, but this was some years ago that I have this information; it used to be that the cost of getting a new subscriber was about \$1. The advantage came, in having a subscriber, that through the habit of taking that periodical the subscriber would continue, and a publisher was, in general, willing to spend \$1 to secure a new subscriber.

Mr. RAINEY. That is not the advantage. The advantage is in getting another subscriber to add to their list of subscribers in order to be able to charge more money for their advertising.

Mr. POST. Well, if one makes a product more valuable he naturally receives a better price for his services; but that is entirely apart from the ordinary business routine. These figures and these computations that you have there are simply on these clubbing offers; the energies of the periodicals in getting new business, in setting forth their wares as attractively as possible. I see nothing new or uncommon in that, nor do I see that it has any bearing on the fact that if a publication or any product becomes more expensive, somebody will either have a decrease of quality or an increase in its price.

The CHAIRMAN. Take these figures that Mr. Rainey called your attention to showing the price for which the subscriber gets Everybody's Magazine, the Review of Reviews, and the Metropolitan Magazine—

Mr. POST. That is one of these clubbing organizations, is it not?

The CHAIRMAN. Yes. Is not that evidence that these magazine folks are stating to their subscribers something that is not so, to wit, that they are going to increase the price of the subscriptions according to the zone rates? That does not even ask them what zone they live in. It is a flat rate that they offer, here. Is not the continual statements by publishers here and in their propaganda against the zone system that subscribers living in far-off zones must pay much more for the magazine or paper than those living in a nearer zone a bluff they are making to Congress and the public?

Mr. POST. If it costs more to deliver them in Texas, of course, the people in Texas will have to pay more. That is simply the ordinary business rule.

The CHAIRMAN. But you do not know that they are going to strike an average as to the increased postage cost and give the same price to every subscriber?

Mr. POST. No; I do not know, Mr. Chairman. I think I can illustrate that.

The CHAIRMAN. But I ask you if what Mr. Rainey quotes is not evidence of that?

Mr. POST. That is what I want to reply to, Mr. Chairman. Let me illustrate it in this way: Here is your starting point with the postage rate [drawing diagram]. This, we will assume, is New York, or in the first zone. The postage rate constantly rises as it goes across the continent until, we will assume, here is the highest rate [making drawing]. I would like to ask Mr. Neal to illustrate this, because he is letter-perfect in this sort of thing.

The CHAIRMAN. I know how this zone matter is going to work, and I know what the increased cost will be in each zone. But, tell us, is it your opinion or not that the magazines and periodicals are going to charge the subscribers of next year or any other year a price, say, of \$2 in Washington City and \$3 in Texas?

Mr. POST. There will be a ratio; I would not pretend to say whether it is \$2 or \$3.

The CHAIRMAN. But you do not mean to say that this was considered on July 10, here, when this subscription was made, eight days after the zone rate system went into effect? This magazine does not seem to have increased the price on account of the zone rate or made a different price for the different zones.

Mr. POST. I think you are taking that clubbing offer too seriously.

Mr. STERLING. Have you an instance where they have raised the price on distant subscribers?

Mr. POST. Yes.

Mr. STERLING. Where?

Mr. POST. In the instance of the Butterick publication, the Delineator magazine, they have raised the price by zones.

Mr. STERLING. Do you know of any other instance?

Mr. POST. I do not, no; but that is a matter that is under discussion in every periodical office in the country, because it is something that confronts them, and action must be taken on it. As you gentlemen know, the rates are lighter the first year and increase in severity. I can not give you any information as to time, or any date, but it is inevitable, in the very nature of this law, that since the law makes discriminatory charges, these discriminatory charges must be faced.

Mr. GREEN. Let me see if this is inevitable. I will show your statement is wrong, because the Independent, a \$4 magazine, is putting out an offer to send that magazine for five years at \$10. That goes clear beyond this rate, and does not have anything to do with zones, and it does not make any difference where a man lives. The Independent evidently believes that it will get enough increase of circulation to make up for the payment of the tax.

Mr. POST. That is making a gamble on the future, in which they bet that the zone law will be repealed. [Laughter.] You know that anybody who makes a proposition five years ahead is betting on the future. I think it is a good bet from the publisher's point of view.

Mr. Chairman, I would like to show you this one question about these flat zone rates; while I understand the theory very well, I would like to have Mr. Neal take the time and present this matter to the committee.

Mr. STERLING. Before you do that, Mr. Post, I would like to ask you a few questions. You think it is thoroughly logical that the magazines should increase their prices to distant subscribers?

Mr. POST. Oh, it is inevitable.

Mr. STERLING. That is based on the fact that it costs more to get the magazines to the subscribers?

Mr. POST. Yes, sir.

Mr. STERLING. Isn't it just as logical that the Government should charge more, since it costs more to get the magazines to the subscribers than the publishers are now paying?

Mr. POST. If the Post Office is to be run on commercial principles, and if every article that goes through the Post Office is to pay its cost, there is nothing to be said against that, but we contend that that is not the—

The CHAIRMAN (interposing). Aren't these magazine publications, and the corporations that publish them, organized on commercial principles?

Mr. STERLING. I would like to have you answer the chairman's question.

Mr. POST. He hadn't finished, I think.

Mr. STERLING. Every one of these magazines is a commercial business enterprise, carried on for the purpose of making money?

Mr. POST. No; there are many of them that are not. But I don't want to appear to evade the question in that way. The publisher is in the publishing business, it is true, to make money, or many of them are in it for that reason. But there is an element that enters into the publications; the element of social service; the element of conveying thought; it is the one great civilizing instrument of all the world. It is not, therefore, a commercial product merely.

Mr. STERLING. Do you think the character of magazines has improved since 1885?

Mr. POST. I think perhaps there can be no question as to that.

Mr. STERLING. Let us go back. Prior to 1885 I can remember the Atlantic Monthly, Scribner's, and Harper's Weekly, and magazines of that kind. Is the general run of magazines to-day better than those were in that day?

Mr. POST. All of those magazines you mentioned are still in existence, and are still of fine quality, with the exception of Harper's Weekly, which has merged with the Independent. In addition to them, there have come in a large number of magazines of which there was no counterpart in that day. You take the Ladies' Home Journal, which is mentioned so much here, or you take the Woman's Home Companion; prior to 1850 they had Godey's Ladies Book, and if you want an amusing experience you get an old file of Godey's Ladies Book and look it over, with its illustrations of crinolines—they were supposed to have skirts of crinolines. Just see what a tremendous improvement there is in women's home magazines.

Mr. STERLING. Do you know that prior to 1885 these magazines I mentioned, and similar magazines, did not carry more than 14 per cent of advertising?

Mr. POST. Advertising was not the instrument of business then that it is now.

Mr. STERLING. The North American Review had but two pages of advertising, and they paid their way.

Mr. POST. Those magazines you are mentioning, those are not the magazines that sold for less than the cost of publication. They are the 25 and 35 cent publications. Harper's Monthly is 35 cents, and Scribner's is 35 cents, and were even in those days. The North American Review up to 50 cents.

Mr. STERLING. In those days there were very few trashy magazines?

Mr. POST. Do you remember the counterpart of them, Dick Deadeye, and Jack Hudaway, and those?

Mr. STERLING. Those were books that gentlemen read, like you and Mr. Moore.

Mr. MOORE. They did not carry advertisements?

Mr. POST. No; they did not.

Mr. STERLING. Isn't it a fact that the cheap postage, the Government subsidizing it, is responsible for these cheap magazines?

Mr. POST. It is responsible for the cheap magazines at low cost. You mentioned the Atlantic Monthly; it used to be 50 cents in those days. The people paid it and got the worth of their money.

Mr. GREEN. The price, I think, was always \$4 per year.

Mr. POST. Well, I was speaking of the per copy price; it is easier to compute in that way. Harper's was 35 cents.

Mr. STERLING. The North American Review had 160 pages of substantial reading matter and it was worth the money?

Mr. POST. I think good reading matter is always worth the money.

Mr. STERLING. And the people spent their money and bought it.

Mr. POST. Yes; there is no question of that. They were very expensive, and from the purchasing power of money to-day, those would be worth to-day 75 cents to \$1, and the reading would not be as widespread.

Mr. MOORE. You take Godey's Ladies Book, it didn't have a circulation beyond 200 or 300 miles of Philadelphia, the point of publication, did it?

Mr. POST. I don't believe it did.

Mr. MOORE. It couldn't get beyond that. I want to ask you this on the subject of advertising, because there is a disposition to tax advertising and some feeling that magazines are published for the benefit of advertisers. If that is true I am not sure that it is a good proposition from a revenue viewpoint. How long would Scribner's last without advertisements to-day?

Mr. POST. I don't think that, even at its high price, Scribner's could continue without advertisements.

Mr. MOORE. Well, this publication that George Harvey is the editor of has been running along in various forms for some years, and has got down finally to a mere vehicle for the expression of opinion.

Mr. POST. The North American Review.

Mr. MOORE. Is that a profitable paper?

Mr. POST. I really don't know.

Mr. MOORE. It has very little advertising in it?

Mr. POST. It has very little advertising in it. It is a paper in which Col. Harvey takes a great deal of personal pride, and if he was facing a total loss I think he would still continue it.

Mr. MOORE. Magazines come and magazines go, like men. Everybody's Magazine, everybody was reading it in its heyday, when Mr. Lawson was writing his sensational articles which it published. How long would Everybody's last to-day if it had no advertising?

Mr. POST. It wouldn't last at all. It couldn't exist at all except for the advertising.

Mr. MOORE. Pearson's was a popular magazine?

Mr. POST. Yes, sir.

Mr. MOORE. Its editorial policy changed twice, and it has deteriorated, I suppose, from the point of view of thinking men, and did not its advertising fall off?



Mr. POST. Yes, sir; Pearson's changed its policy three times. First it was purely fiction; it built up a clientele as a fiction magazine; it changed then to more serious articles, and fiction, also; and it built up a clientele in that way; and then it ran into extreme radicalism, or bolshevism.

Mr. MOORE. Let us take two publications, the Saturday Evening Post, which is constantly quoted here, and which is a very successful publication; and Successful Farming, which is published by Mr. Meredith in Des Moines. The Saturday Evening Post has a very large circulation; is that a fact?

Mr. POST. Yes; it is a fact.

Mr. MOORE. And it maintains its prices, both on circulation and advertising?

Mr. POST. It does.

Mr. MOORE. It does not make any reductions or any rebates?

Mr. POST. No, sir: it is like joining a club to get into the advertising columns of the Saturday Evening Post.

Mr. MOORE. It is a solid publication?

Mr. POST. Yes, sir.

Mr. MOORE. That attracts the business man who pays as high as \$6,000, or \$9,000, and I think Mr. Rainey said here the other day sometimes as high as \$11,000 for a back-page advertisement?

Mr. POST. Yes, sir.

Mr. MOORE. And you were interrogated about that and interjected this suggestion, that possibly the use of that back page was worth \$11,000?

Mr. POST. It is, by virtue of the service it gives.

Mr. MOORE. Isn't it presumed that if a business concern is willing to pay \$11,000 for the back page of a publication like that it is getting something out of it?

Mr. POST. It is getting back every dollar, and more, in its business.

Mr. MOORE. Do you know anything about the limitations of the Saturday Evening Post, which is highly respected, notwithstanding what is said here? Do you know what limitation it places on its advertisers?

Mr. POST. I do.

Mr. MOORE. As to the truthfulness and business standing and the tone and fair dealing of its advertisers?

Mr. POST. Yes, sir.

Mr. MOORE. If you know anything about those things I wish you would state them.

Mr. POST. As I said a moment ago, in order to become an advertiser in the Saturday Evening Post, it is like joining a club. You put your name up and you are very carefully scrutinized; your standing as a business man, your reputation for fair dealing, and your ability to carry out your promises, and all those things are carefully scrutinized and investigated before you are admitted. It isn't like putting up your money and furnishing your copy and being admitted, but you are investigated as to its truthfulness.

Mr. MOORE. Could you put a cheap patent-medicine advertisement in the Saturday Evening Post?

Mr. POST. You couldn't put a cheap or expensive patent-medicine advertisement in the Saturday Evening Post or in any of the Curtis publications.

Mr. MOORE. You can't get your advertisements about all kinds of hair restorers and kink producers and things of that kind into the Curtis publications?

Mr. POST. No, sir. They make too great a distinction between those things and the high-grade goods which they will permit to be advertised. In fact, the Curtis people were the first, or among the first, to start a campaign against the advertising of these cheap patent medicines and all kinds of nostrums. You can find those in many magazines.

Mr. STERLING. This is in papers with a low rate for advertising?

Mr. MOORE. When you see an advertisement published of one of those things in the large cities, what would be your estimate of the life of the publication that has that as its course?

Mr. POST. It is down hill. The good advertiser will demand a good magazine to advertise in.

Mr. MOORE. So a high-grade magazine that is built up to demand high prices, such as the Saturday Evening Post is, protects itself as well as its readers and subscribers by scrutinizing everything in that publication, so that the public may not be deceived.

Mr. POST. Yes, sir; and so that the reader may not have occasion to complain.

Mr. MOORE. So much for the Saturday Evening Post. Let us take the Successful Farming, of which Mr. Meredith is the editor, and he was here the other day speaking for himself. That paper, circulating in the farming communities, has to depend on the circulation——

Mr. POST (interrupting). Yes; and advertising.

Mr. MOORE. I mean, it seeks circulation for the purpose of selling advertising?

Mr. POST. Yes, sir.

Mr. MOORE. Mr. Meredith admitted that when he was here.

Mr. POST. Yes, sir; that is the fact.

Mr. MOORE. Now, isn't it a fact that such a paper, with a view of getting circulation to attract business men to its columns, offers some inducements that the other papers do not offer?

Mr. POST. Yes, sir; there is competition to secure circulation to attract the business.

Mr. MOORE. Isn't it a fact that the price is fixed for farm papers sometimes as low as 2 cents, and they produce no return whatever for the publisher?

Mr. POST. I would like to comment on that.

Mr. MOORE. So that in a case of that kind, where a bid is made for circulation by reducing the subscription price, it is for the purpose of getting advertising? I mean, from the publisher's viewpoint?

Mr. POST. The one thing which he has for sale is the columns of his paper for that purpose; he must make his product as attractive to the public as he can; in order to give a high-class publication to the public, you have to get a high grade and quality of paper, and some of those that were mentioned here are low grade. It is high grade that attracts the public.

Mr. MOORE. You are well posted on this subject, and I want to ask you—I am interested in the revenue end of this thing particularly. I want to ask you if you can tell what the aggregate amount of advertising is in the magazines you represent, per annum, or any given period?

Mr. Post. I don't think I have that compilation, but I could give it to you in a few hours. I have the data from which it can be compiled. I would have to separate out the trade journals, because they are in a different class. The periodicals of general circulation, I should say that it would run between—a few publications would run 25 or 30 per cent, and it would run from there up to about 65 per cent, because there is a fixed ratio, or almost fixed ratio between the amount of advertising a periodical can carry and its reading matter, because if the reader feels he is getting too much advertising he loses interest. That balance is very nicely fixed; it makes all the difference between a successful publication and one that is going down hill. I should say an average would be between 40 and 50 per cent, but I can compute those figures.

Mr. MOORE. That would be the proportion of advertising matter to literary matter?

Mr. Post. Yes; the average from 65 to 10 per cent.

Mr. MOORE. Can you estimate the worth of that?

Mr. Post. Yes; I can tell you that no advertiser ever invests a dollar in advertising in these days without knowing he will get his dollar back, and a good return on his investment, because advertising in these days is not a hit or miss proposition, but it is a science, with indexes and cross indexes, showing the investment in it and the returns from it.

Mr. MOORE. He undoubtedly gets some return.

Mr. Post. Not only some returns; but profitable returns.

Mr. MOORE. What I want to get, if you can give it, is the amount of aggregate income from advertisements?

Mr. Post. You mean the income—the amount of income to the publishers?

Mr. MOORE. Yes, sir.

Mr. Post. I could compute it on some——

Mr. MOORE. Would it be \$100,000,000 or \$500,000,000?

Mr. Post. That amount never has been asked for before, and I am a little at a loss how to answer it.

Mr. MOORE. It is extremely important, if we are going to take up the question of taxing advertising.

Mr. NEAL. The total volume of advertising in the trade and technical papers does not exceed \$25,000,000 for the entire country.

Mr. MOORE. In these papers for which you have been spokesman?

Mr. NEAL. Yes, sir.

Mr. STERLING. He said for the entire country.

Mr. NEAL. That is the trade and technical papers; they go to the trades and different professions.

Mr. MOORE. In the papers spoken of by Mr. Post it is more extensive?

Mr. NEAL. Yes, sir.

Mr. MOORE. And in the newspapers it is still more?

Mr. NEAL. Yes, sir.

Mr. MOORE. The newspapers carry the largest value and volume of advertising?

Mr. NEAL. Yes, sir.

Mr. MOORE. The newspapers first, and then the papers spoken for by Mr. Post?

Mr. NEAL. Yes, sir; first, the newspapers; then Mr. Post's papers; then the farm papers; and then the religious papers.

Mr. MOORE. And if we are looking for revenue it wouldn't help us to discourage the paper that seeks advertising?

Mr. POST. It would cut off sources of revenue, if you have in mind a specific tax; if you have in mind a specific tax it would be very difficult to administer. Of course, on a percentage basis it would be equal.

Mr. MOORE. Why would it be difficult to levy a tax of 5 per cent on advertising receipts?

Mr. POST. No; that wouldn't be so difficult. I thought you had in mind \$1 a page, or something, ad valorem.

Mr. MOORE. I thought you didn't disagree to it if we had to come to it.

Mr. POST. The publishers do not object to a war tax at all, but it should be a flat basis, and equal.

Mr. MOORE. All like.

Mr. POST. Alike.

Mr. MOORE. They would be in position then to pass that on?

Mr. POST. They would be in position to pass it on.

Mr. MOORE. Then the second-class publishers, those you represent and those Mr. Neal represents, would be satisfied with a 2-cent flat rate?

Mr. POST. Any rate that was a flat rate.

Mr. MOORE. Any rate that was a flat rate, in lieu of a zone rate?

Mr. POST. Yes, sir.

Mr. STERLING. You didn't understand, Mr. Post, that the price quoted by Mr. Rainey, or any other member of the committee, was by way of criticizing those prices, did you?

Mr. POST. No; I didn't take it that way, exactly.

Mr. STERLING. You didn't understand that the members of the committee did not consider that the advertising space was not worth that much for it?

Mr. POST. Well, I rather inferred that they regarded that as beyond any conceivable value attached to it.

Mr. STERLING. I understood them simply to mean this: That if they got rates of that kind for advertising, that they certainly ought to be able to pay the cost of sending the advertising through the mails, which the Government expends for it; that is the only purpose of mentioning that.

Mr. POST. The question we are presenting is the question of the principle of postal operations. This discriminates against publishers of a certain character of national scope; it follows that by virtue of such discrimination and rate, which must be passed on to the subscriber, this and other things which have been mentioned, show the destructiveness of this law.

Mr. STERLING. If they do not raise the subscription rates?

Mr. POST. It is evident they must raise the rates.

Mr. STERLING. It is evident they are not raising them; they are not raising the price, and some are even lowering them. Wouldn't it give additional advertising pages; that is, couldn't they get additional amounts by adding additional advertising pages, and thereby make up the difference in amount.

Mr. POST. If they could add any more advertising they would do it; they are not looking any bet in a business way.

Mr. STERLING. Didn't it develop in the Senate hearing that they were increasing the advertising to make up the deficit?

Mr. Post. No, sir; I think not.

Mr. STERLING. Mr. Koons testified on that subject, I believe.

Mr. Post. Mr. Koons is hardly an expert on publishing matters. I understand he is a postal expert.

Mr. STERLING. You stated a while ago that Everybody's and some others you mentioned could not exist without advertising.

Mr. Post. I don't think any of the magazines known as the popular magazines could exist without advertising.

Mr. STERLING. The North American carries a good deal of advertising.

Mr. Post. I am speaking simply from impression, but I think—

Mr. STERLING (interposing). I know it was carrying two pages before the increase, and now it is carrying more.

Mr. Post. It is not regarded as a strong advertiser.

Mr. STERLING. The magazines that were regarded as strong advertisers prior to 1885, those magazines have been compelled to increase the advertising space 50 and 60 per cent by reason of the fact that the low postal rate has made it possible for cheap, trashy magazines to come in and crowd them out.

Mr. Post. They did not compete with them at all, say Scribner's and Harper's—I take those because they are illustrative, and they are outside of the 5 and 10 cent line. The cheaper magazines appeal to people who like easy reading; facile, easy reading.

Mr. STERLING. If we did not find on the news stands the cheaper, light magazines, don't you think we would be more liable to buy the standard magazines if we could not buy the others?

Mr. Post. I don't know. Of course, that involves the censorship of the public taste. I don't think they would. I wonder if we are talking with the same magazines in view. I have in mind, and possibly you have in mind the gaily covered magazines, which may indicate cheapness, and appeal to the people; that does not follow at all. The lowest magazine, the most trashy, are the ones you don't see on the news stands at all. But these important publications I don't think we would differ as to the improvement of those, such as the Ladies Home Journal and the Woman's Home Companion and the Popular Science Monthly, which has a very gaudy cover.

Mr. STERLING. I take that, and think it is worth double the money it costs.

Mr. Post. So do I.

Mr. STERLING. A lot of them are worth double the cost. But you must admit that there are a lot that the country would be better off without.

Mr. Post. I don't deny that, but I don't think you or I, individually or as legislators, have a right to censor matters that are matters of taste and education in the process of development.

Mr. STERLING. I think it is possible to cultivate the public taste, and it is better to do that with good literature than poor. The only point I am making is this, that the low postal rate has made it possible for the cheap trashy magazines to come in and crowd out a lot of good ones.

Mr. Post. No; I don't think that is correct. I spoke of a number of publications, 12 weeklies and 19 monthlies, my recollection is that there wasn't one of those publications in existence prior to 1885; all of them have come in since that time. They reach 12,

people. I will venture to say that the magazines you have named, Atlantic Monthly, North American Review, Scribner's, and Harper's, all combined, their circulation was not 1,000,000 then.

Mr. STERLING. How many people are reading them now?

Mr. POST. Twelve million.

Mr. STERLING. Of these high-class magazines?

Mr. POST. You mean the ones I have just named?

Mr. STERLING. Yes.

Mr. POST. I don't think there is a single one of those 12,000,000 that are taking these publications. You see, these publications that have grown up under this low rate, have grown up not by stifling readers, but by cultivating reading; they go to people who never read before, or to people who read very slightly, and who now come in contact with these publications.

Mr. STERLING. I agree with you in that, and understand what you say. I say good magazines have grown in number in the last 25 years. Do you say the standard magazines in existence prior to 1885 have increased or have remained about the same?

Mr. POST. No; they have increased. The circulation of the six highest-class magazines, the big-gun magazines, is 760,000; their circulation has doubled, while others have come along from almost nothing.

Mr. STERLING. I agree with you that they have increased greatly.

Mr. DICKINSON. They naturally would, with the growth of wealth and population.

Mr. POST. It is not the growth of wealth. The growth of population does not show that there is an increase always in magazines. Before the days of printing presses, the population increased. The growth of magazines is due to the performance of a great service by the publishers and a profit to the people thereby.

Mr. STERLING. While the good magazines have increased in numbers and circulation since that time, it is also true that the trashy magazines and, I will say, harmful, because some of them are harmful, magazines have sprung up since that time.

Mr. POST. I couldn't agree to that.

Mr. STERLING. The only one there was before that was the Police Gazette.

Mr. POST. That is still going. The Police Gazette is one of the survivals of the almost pre-Victorian era.

Mr. STERLING. The Police Gazette has been barred by the Post Office Department?

Mr. POST. I don't know. I guess it has, from time to time, perhaps. But, Congressman, the point is this; I am not contending that there are not trashy magazines. There are. Those are the magazines this law helps; they carry the smallest amount of advertising of any of the magazines, consequently they are carried for less. As to the question of developing or restricting magazines, the law of the survival of the fittest applies there, the same as anywhere else. As people grow and develop, they will outgrow their taste for them. Your recollection and mine proves that perfectly. As to the character of magazines to-day, the trashy magazine is comparable with the dime novels and the character they were.

Mr. STERLING. I am speaking about magazines, the novels did not circulate on second-class mail rates.

Mr. POST. They were issued weekly, and there was a big fight to bar them. They did circulate for a long time.

Mr. STERLING. I think they should have been suppressed, don't you?

Mr. POST. We can not disagree as to that.

Mr. STERLING. I think also some of these cheap, trashy magazines should be suppressed.

Mr. POST. We can not disagree as to that, either.

Mr. STERLING. They should, at least, be made to pay their own way.

Mr. POST. The Post Office Department has ample power to make effective an order as to this harmful matter.

Mr. STERLING. I know it has.

Mr. POST. That lies with the Post Office Department, and not with the publishers.

Mr. HAWLEY. Mr. Post, before you close your testimony, I want to ask you about a few things that have been referred to here: During the progress of the hearing this morning mention was made of the rate on second-class matter in Great Britain and the method by which publications were distributed there. Have you any information on that subject?

Mr. POST. Yes, sir; I would be glad to inform you. I was talking not long ago with a publisher from England, who publishes one of these magazines. Great Britain has absolutely nothing that could be compared with our periodical postage laws. They have no periodical postage rate. In the first place, Great Britain is a very compact country; Birmingham and Liverpool and London can have a daily paper delivered to them on the same day of issue; it is a very highly populated country. The magazine distribution is similar to that which is conducted by the organization Mr. Faraly represented, the News Distributing Co. I am also informed that the New Distributing Co. in England is also practically the censor. The periodicals there have such a high rate in the mails that there is no distribution in the mails to speak of at all.

This gentleman of whom I speak was publishing a magazine in England with a circulation of 150,000, and the number he circulated through the mails was less than 200. Their rate there is 8 cents a pound; the result is that the distribution is done by this distributing company, and they do not want cheap postage because it would take away their business if the magazines were to be circulated through the mails, and therefore they try to prevent the enactment of liberal postage laws for the distribution of the magazines.

Mr. HAWLEY. Now, take two magazines, one published in this country and one in Great Britain, that you would say were of the same literary quality, what would be the price of that one in England as compared with the one in America?

Mr. POST. I can give you a concrete example; take *Colliers*, or the *Saturday Evening Post*, both are 5-cent publications. They have editorials, art subjects, cultural matters, articles by prominent writers, pictures of current events, and fiction. I think a perfectly fair comparison would be the *London Illustrated News* or *Graphic*; they are a little bit larger than the *Saturday Evening Post* and larger than *Colliers*; they are printed on heavy paper, superfinished; they carry incidentally a heavy amount of advertising, more than the

American papers do; they carry pictures and reading matter, fiction, and other matter, and they sell for a shilling; that is, 25 cents. That is five times as much as *Colliers* and the *Saturday Evening Post*.

Mr. HAWLEY. Do you think that is a fair comparison between the magazines in England and this country?

Mr. POST. Yes, sir. When you come to the lower priced publications, there is *Tid-Bits*. I am not certain of the price, but my recollection is that it is 4 or 5 or 6 cents. It is a publication about the size of *Colliers*, published on news-print paper; it is edited in good part with paste pot and shears; there are some articles in it. That magazine has attained a very good circulation from the news stand, their only means of distribution. It appeals to a certain class. The English publications are expensive publications. I should say, in fact, that the bulk of the periodicals, the periodicals of that country, compare with some of the more voluminous publications in this country. The publications are expensive and intended for the upper class, while our publications reach out and reach a large number of people who can read and who do read. Their publications are mostly of the 25 and 35 cent variety.

Mr. HAWLEY. How does the *Illustrated News* or *Graphic* compare with the circulation of publications of like character in this country, taking into consideration the population of England as compared with the population of America?

Mr. POST. I should say infinitely less. There are not many people in England who can afford them; I am informed it is around 125,000. It is a large publication, circulating in the Crown colonies, circulating outside of the Crown Kingdom.

Mr. HAWLEY. The point with me was I understood this morning that there are very few periodicals go through the post office in England.

Mr. POST. Very few; practically none. Out of 150,000 copies published by the gentleman I spoke of, under 200 copies go through the post office. He said, in fact, 150 or 175, he thought.

Mr. HAWLEY. Then they have a very small subscription list?

Mr. POST. Practically none.

The CHAIRMAN. We have a roll call for a quorum in the House. Are you through?

Mr. POST. Yes, sir; just two corrections. I want to make this change in the map—

The CHAIRMAN (interposing). All right.

Mr. POST. In making the map of the circulation in Canada I want to make a change in that map.

The CHAIRMAN. All right, you may make the correction, Mr. Post.

Mr. POST. And I would like to put in that one portion of the testimony that was left out. On page 1424, the hearing of June 29, in reply to the chairman's question in regard to the newspapers of local circulation, my reply was intended to apply to local as well as free-in-county papers. And I would like that portion of the colloquy that was omitted by request, I would like to have that in. I am afraid that by leaving all of that out, and the stenographer's memorandum showing that something is being left out, conveys something to the reader that was not intended; that is, in regard to my calling on officials here. I would like to state that the official I called on was my father, who is an official over there.



The CHAIRMAN. Very well, your statement corrects that.

Mr. POST. And in regard to the Shepherd's Journal. Have you a letter from Mr. Meredith in regard to the Shepherd's Journal?

The CHAIRMAN. No, sir.

Mr. POST. On page 1300 of the hearings, on June 28, when Mr. Meredith was here, he was inquired of about the Shepherd's Journal, and in which it was stated that that publication was still in existence. Our information is as follows: That the Shepherd's Journal was discontinued; it was printed by the Western Newspaper Union, and a representative of the Western Newspaper Union familiar with the facts states, to the best of his knowledge, that nothing has been printed in the Shepherd's Journal for the last 12 months, and that all cuts are still in the possession of the Western Newspaper Union, as well as a lot of accumulated matter. Information leads to the belief that it was discontinued because of inability to take care of printing accounts.

The office of the Shepherd's Journal, formerly in the Tower Building, Chicago, and investigation shows that there is no longer the sign of an office there, and the building knows nothing of the former editor, except that he is in Washington somewhere, apparently identified with the Food Administration. Inquiry at the office of the American Sheep Breeder, a publication that is in close contact with all sheep breeding or shepherd publications, revealed the fact that they had not seen nor heard of a copy in a long time. I wrote to the committee asking for a copy of the testimony of Mr. Reid, publisher of the Shepherd's Journal, but up to the time of making this statement have not received a copy of that testimony, or I should be glad to have it referred to for further details. That covers the Shepherd's Journal.

I just want to reiterate the fact that copies of all of the correspondence of the Publishers' Advisory Board, all of its financial transactions, is entirely at the disposition of the committee, and if the committee desires, we will furnish copies of that as it occurs from time to time.

The CHAIRMAN. If you think it will add anything to the enlightenment of the committee and Congress, and will relieve any suspicion that may rest on you gentlemen for the propaganda you have been carrying on, you might file it; all the receipts and expenditures—we will leave that to you.

Mr. POST. Just one other point in conclusion.

The CHAIRMAN. Very well.

Mr. POST. And that was, in view of the publicity that has been given to your statements in regard to a publishers' lobby or organization of any kind, of a sinister character, otherwise than as we have laid our matters before you, we want to absolutely disavow any such.

The CHAIRMAN. I think there is sufficient evidence before this committee of what the public would call a lobby—of a real lobby. There is abundant evidence that such a lobby has been maintained in Washington; but there is no intimation from anybody that there was any sinister influence, that is, that you gentlemen were trying to corrupt anybody or that you were trying by foul methods to unduly influence anybody.

Mr. POST. We are appealing to the public, as the record shows. I have only seen two Congressmen, both of whom are personal friends.

The CHAIRMAN. I think there is evidence to show, as I say, that there was maintained in Washington a publishers' lobby—that is, what we understand is meant by a lobby. I think the evidence shows that Maj. E. B. Stahlman spent a great part of his time here at the Willard Hotel at the expense of the Newspaper Publishers' Association as a lobbyist against the zone system. All of us here as well as the newspapers know that he has been most active last session and this session in his opposition and against the zone system. I think the evidence shows that Mr. Glass, president of the Daily Newspaper Publishers' Association, was here a part of his time, stationed at the Raleigh Hotel, in the interest of repealing or suspending the operation of this zone provision. While it was stated in his behalf that most of his time was given to the print-paper proposition, I think there is evidence that he and others were here in the interest of this zone matter; and he was maintained here—all his bills paid—by the Publishers' Association. There is no evidence, nor has there ever been a charge, that there was any corruption, or attempted corruption, or direct attempt by any sinister method to force any Congressman to change his views or to vote for the publishers.

I think there was a lobby, a very adroit lobby; I don't think there is a shrewder or more adroit lobbyist than Maj. Stahlman. He is a confirmed veteran lobbyist. We were anxious for him to appear before the committee. As active as he has been with the papers and Congressmen against the existing postal provision, and owing to his prominence officially and otherwise in the newspaper associations, it was his duty to appear here. But he dared not do so. He knew and knows that the committee knows him and knows him and his lobbying character well. He was the gentleman that made the fight last session for the newspapers. He has been a big factor in their propaganda. It is very significant that neither Mr. Frank Glass, president of the Newspaper Publishers' Association, who has been in Washington up to the time these hearings begun, a great portion of his time in the interest of the daily newspapers, nor Maj. Stahlman, who represented the Southern Publishers' Association, as well as the National Publishers Association, and who was in Washington most of his time, up to the time these hearings begun, has put in an appearance before this committee. It is a little strange that both these gentlemen had to leave Washington just about the time the hearings were begun, although they were invited to come before the committee. And I want to say to you, Mr. Post, that I was a little surprised that you came in view of your propaganda and the letters you had written, but you came like a man and presented your views, and that you did it mighty well.

Mr. POST. You can expect anything, Mr. Chairman, from a man who will maintain such a lobby as we are charged with maintaining.

Mr. MOORE. You do not speak for the newspaper publishers, I understand?

Mr. POST. No.

Mr. MOORE. I want to state this, in view of the chairman's statement, that these gentlemen are reputable men in the profession, and that they probably acted within their rights in appealing to Congress in the way they did.

Mr. POST. I want to point out, also, that the organizations which you mentioned, that Mr. Glass and Mr. Stahlman represented, are not members of the Publishers' Advisory Board, and never—

The CHAIRMAN. Let us understand that: That Publishers' Advisory Board—your board—represent the magazines?

Mr. POST. Yes, sir.

The CHAIRMAN. And trade journals?

Mr. POST. Yes, sir; and the periodicals.

The CHAIRMAN. And then, there is the Publishers' Association of daily newspapers, of which Mr. Frank Glass is president.

Mr. POST. Yes, sir.

The CHAIRMAN. Then there is a Southern Association representing the southern newspapers?

Mr. POST. Yes, sir.

The CHAIRMAN. And members of that are members of the American National Association? And there may be other associations representing publications?

Mr. POST. Yes, sir. I am very glad you made the distinction, Mr. Chairman. It is very important. Mr. Stahlman is not a member of our advisory board.

The CHAIRMAN. Maj. Stahlman and Mr. Glass do not represent your association? They represent the newspaper publishers.

Mr. POST. No, sir.

The CHAIRMAN. In fact, as I understood it, they were a little opposed to the same proposition that you gentlemen favored.

Mr. POST. They are for the zone system. That is the reason I am glad you have characterized them as you have.

The CHAIRMAN. They indorsed the zone system, but desired to limit the rate to the present rate within the third zone, which would take in all their papers, and they would not have to pay any increased cost; and they tried to throw the burden of increased postage wholly on the papers and publications you represent by increasing the rate within the zones to which they would go.

Mr. POST. They were willing for further discrimination if it did not affect them.

Mr. MOORE. Let us understand that more fully. Do you speak for the Newspaper Publishers' Association?

Mr. POST. No, sir; they are for the zone system.

Mr. MOORE. You speak only for the magazine publishers?

Mr. POST. Yes, sir; only for the magazines and periodical publishers.

Mr. MOORE. And there is a difference of opinion between your publishers and the newspaper publishers as to the zone system?

Mr. POST. Absolutely.

Mr. MOORE. A difference of opinion as to the application and manner in which the zone system should operate?

Mr. POST. Yes, sir. We ask that whatever tax might be necessary in the opinion of the committee, be a flat rate. We ask for a flat rate on all publications included within the publications which we represent, and that includes the newspapers who are before you contesting the zone system.

The CHAIRMAN. Now, on the other hand, after saying that the newspapers are in favor of the zone system, but no increase within the three zones in which they circulate, but that they desire to throw the burden on the magazines and periodicals. I should in justice to them say that the publishers of the magazines and periodicals are for an increase, if an increase is to be made at all, on a flat-rate basis, which would throw a larger burden upon the newspapers than they

themselves would share, for the reason that they go to a farther zone, and the newspapers go to the closer zones; the magazines, going to the farther zones, cost the Government more; the newspapers going to the closer zones cost the Government less, and therefore if you have a flat rate, the newspapers circulating in the near zones would pay the greater part of the increase, much greater than the magazines would pay to the farther zones. In justice to both I should say that as to both, each is trying to throw the burden of cost on the other.

Mr. POST. They would reach more people—

The CHAIRMAN (interposing). But the interest of your association is to have a flat rate?

Mr. POST. Yes, sir.

The CHAIRMAN. And their interest is to have no increase in the zone in which they circulate?

Mr. POST. Yes, sir.

Mr. RAINEY. But neither group has evinced any desire to protect the Treasury of the United States.

Mr. POST. Oh, we have, Mr. Rainey; I don't want that statement to go unchallenged.

Mr. RAINEY. But the attempt is to throw it on the other group.

Mr. POST. We want a flat rate, and are perfectly willing to pay any tax on the same basis any other publisher does, a 5 per cent tax, or 1 per cent tax, or whatever is levied on a magazine, a national magazine, exactly the same as that rate is on the newspaper, whatever it is.

The CHAIRMAN. Now, as I said the other day, while the Newspaper Publishers' Association and the Magazine and Periodical Publishers' Associations are not together on the zone rate, or system of rates, one wants one thing and the other wants another—whichever will make the other pay it—while they are very wide apart on that matter, they are an absolute unit and unanimous all round in the effort to prevent any increase in rates; they are together on that proposition.

Mr. POST. No; the testimony is to the contrary.

The CHAIRMAN. The testimony is—

Mr. POST (interrupting). The periodicals already have given, and they are the only manufacturers who have given of their product to the country. I have a telegram from the Committee on Public Information saying that the publishers have already given \$500,000 of their product to the country.

The CHAIRMAN. Yes; both newspapers and magazines have patriotically responded to the call of the administration, and the Secretary of the Treasury in giving to the country free advertisements, and all that, but you must remember that even if this zone rate goes into effect this same Government to which you have responded so liberally is going to pay for you gentlemen about \$50,000,000 a year, more than they get back from you—more than you pay to them, for the service rendered you and your patrons. In common gratitude you ought to have helped the Government out in its war aims. I am sincere in saying that you have patriotically responded. You ought to give the Government considerable credit for not making you pay even by the zone system the total cost of the service rendered you. We are only getting about one-third or one-fourth by the zone system.

Mr. POST. I think that is a safe proposition to accept that. I am v the committee did not take up the theory discussed and ad-

vanced the other day, which is absolutely sound. The publishers are paying their way. Not on the figures of the Third Assistant Postmaster General, but on the evidence we would like to produce.

The CHAIRMAN. I know your opinion is entitled to great weight in the matter of cost of carrying and delivering the second-class mail matter, but against your opinion is the Postmaster General's under Cleveland's administration and the experts they had in the department; the Postmaster Generals under McKinley's administration and their experts, who investigated this question thoroughly; the Postmaster Generals and their experts under Mr. Roosevelt; the Postmaster Generals under Mr. Taft's administration and their experts; and the Postmaster General and his experts under Wilson's administration; and in addition to that we have the solemn declaration of the resolution of the National Newspaper Publishers' Association saying the Government is sustaining enormous losses by reason of handling second-class mail matter and demanding an increase by a zone system; of the Southern Association of Publishers, and the National Editorial Association, that met in Kansas City just recently, in June, all of which in convention solemnly and emphatically declared that enormous losses were sustained by the Government each year in handling second-class matter for the publishers and that an increase in rate should be made. We have, also, against your opinion, not only these authorities but the authority of Mr. Justice Hughes, of President Lowell, of Harvard College, of Mr. Wheeler, a prominent business man and at that time he was appointed president of the Chamber of Commerce of Chicago, constituting the Postal Commission of 1911, who, after a full investigation and hearings, at which the publishers of the country were present or represented, declared emphatically that the loss to the Government annually was exceedingly large and that even with the increased rate from 1 to 2 cents a pound, which they recommended, there would be an enormous loss to the Government in transportation costs alone on second-class mail matter. Now, you wouldn't blame us for taking the judgment and estimates as to costs of those whose sole duty was to get at the facts for the Government and some whose life study has been devoted to the work, in preference to you, who are financially interested, who are a paid representative of the publishers and paid to make out as good a case for them as possible?

Mr. Post. If I was only an individual—if it was only my individual opinion—I would agree with you; but I have in support of that theory, Mr. Chairman, Prof. Taussig, the head of the—

The CHAIRMAN. Dr. Taussig is a very fine gentleman, and one of the most scholarly gentlemen in this country, a great student and thinker, and a gentleman preeminently well equipped to be chairman of the great Tariff Commission, and who is doing a great and valuable work with the commission; but he knows no more about the cost of the service rendered by the Government to these magazines and newspapers than the bootblack of the man in the moon if he says it does not cost the Government more than 1 cent a pound to transport and deliver the second-class mail matter. If he takes that position, I will have to change my opinion of Dr. Taussig. But you are mistaken. Dr. Taussig has been misquoted to you. He never said anything of the kind.

(Thereupon, at 4.45 p.m., the committee adjourned to meet Monday, July 15, at 10 o'clock.)