Mr. WALSH. Mr. Chairman, will the gentleman yield?
Mr. KITCHIN. I do.
Mr. WALSH. Is it the intention to read the bill by paragraphs?
Mr. KITCHIN. By paragraphs. Mr. Chairman, I move that the committee do now rise.
The motion was agreed to.
Accordingly the committee rose; and the Speaker having resumed the chair, Mr. SANDERS of Virginia, Chairman of the Committee of the Whole House on the state of the Union, reported the Committee of the Whole having considered the bill (H. R. 12863) to provide revenue, and for other purposes, and had come to no resolution thereon.

LEAVE OF ABSENCE.
Mr. PURSELL, by unanimous consent (at the request of Mr. SANDERS of Indiana), was granted leave of absence indefinitely, on account of illness in his family.

DISPENCING WITH CALENDAR MONDAY AND CALENDAR WEDNESDAY.
Mr. KITCHIN. Mr. Speaker, I ask unanimous consent to dispense with the business in order on the Unanimous Consent Calendar on Monday.
The SPEAKER. The gentleman from North Carolina asks unanimous consent to dispense with Unanimous Consent Calendar business on Monday. Does the gentleman include suspension of the rules?
Mr. KITCHIN. Yes; the business in order on Monday.
The SPEAKER. The gentleman asks unanimous consent to dispense with the business in order on next Monday.
Mr. LONGWORTH. Mr. Speaker, reserving the right to object, by the permission of the House to proceed now and finish the bill before any other business?
Mr. KITCHIN. Yes.
Mr. STAFFORD. I understand the gentleman asks unanimous consent to dispense with the business in order on Monday.
Mr. KITCHIN. Yes.
Mr. LONGWORTH. I suggest that the gentleman also asks for the dispensing with business in order on Calendar Wednesday.
Mr. KITCHIN. Yes; I will make that request.
The SPEAKER. The gentleman from North Carolina also asks unanimous consent to dispense with the business in order on Calendar Wednesday. Is there objection?
Mr. STAFFORD. As I understand it, Mr. Speaker, the gentleman does not couple with his request to dispense with business in order on Monday the request to postpone for the following Monday.
The SPEAKER. The way the Chair put it was to dispense with it next Monday and on next Wednesday. Is there objection?
There was no objection.

ADJOURNMENT.
Mr. KITCHIN. Mr. Speaker, I move that the House do now adjourn.
The motion was agreed to; accordingly (at 4 o'clock and 35 minutes p. m.) the House adjourned until Monday, September 16, 1918, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.
Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:
1. A letter from the Acting Secretary of the Treasury, transmitting copy of a communication from the Attorney General, submitting supplemental estimates of appropriation required by the Department of Justice for the current fiscal year (H. Doc. 1276); to the Committee on Appropriations and ordered to be printed.
2. A letter from the Acting Secretary of the Treasury, transmitting supplemental estimate of appropriation for the current fiscal year required by the Division of Loans and Currency and the Register of the Treasury (H. Doc. No. 1277); to the Committee on Appropriations and ordered to be printed.
3. A letter from the Acting Secretary of the Treasury, transmitting copy of a communication from the Secretary of the Navy, submitting a supplemental estimate of appropriation required by the Navy Department for the fiscal year ending June 30, 1919 (H. Doc. No. 1275); to the Committee on Appropriations and ordered to be printed.

PRIVATE BILLS AND RESOLUTIONS.
Under clause 1 of Rule XXII, Mr. WASON introduced a bill (H. R. 12944) granting an indemnity to P. H. Huff, which was referred to the Committee on Invalid Pensions.

PETITIONS, ETC.
Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:
By Mr. ELSTON: Additional petitions, containing many hundred signatures, submitted by the Northern California Branch of the American Committee for Armenian and Syrian Relief, appealing for American interest and aid in behalf of suffering Armenians in the Russian Caucasus; to the Committee on Foreign Affairs.
Also, resolution of the National Fraternal Congress of America, favoring the passage of Senate bill 3475; to the Committee on the Judiciary.
By Mr. LINTHICUM: Petition of the Daniel Miller Co., of Baltimore, Md., concerning the matter of inventories with respect to future adjustments; to the Committee on Ways and Means.
By Mr. RAKER: Resolution of the Common Council of the city of San Diego, Cal., relative to the United States service hospital conducted there by the Talent Workers; to the Committee on Military Affairs.
Also, petition of the Ripin Co., of New York City, against the shipment of wine into this country from Italy; to the Committee on Agriculture.

HOUSE OF REPRESENTATIVES.
MONDAY, SEPTEMBER 16, 1918.

The House met at 12 o'clock noon.
The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:
Our Father in Heaven, draw near to us with Thy holy influence, that we may be guided, in the test through which we are passing, to victory, for the eternal values—life, liberty, truth, justice, righteousness—and the battle never give o'er until a permanent peace shall be established in all the world.
We thank Thee that the Congress of the United States and the people which It represents are placing at the disposal of the Commander in Chief of the Navy means and men to further the war, with our allies, to the desired end.
Continue to inspire us by the signal victories of our arms. Especially do we thank Thee for the glories won by the American soldiers.
Continue to uphold, sustain, and guide them, with their allies, until the enemies of civilization shall be subjected to the peace proposition of the civilized world. And the glory shall be Thine in Jesus Christ our Lord. Amen.
The Journal of the proceedings of Saturday, September 14, 1918, was read and approved.

LEAVE OF ABSENCE.
By unanimous consent, leave of absence was granted to Mr. Flood indefinitely, on account of illness in his family.

BILLS AND RESOLUTIONS.
Under clause 1 of Rule XXII, the House resolved itself into the Committee of the Whole on the state of the Union for the further consideration of the revenue bill.
The SPEAKER. The gentleman from North Carolina moves that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of House bill 12863.
The question being taken, on a division (demanded by Mr. WALSH), there were—yea's 33, nay's none.

The SPEAKER. In the temporary absence of the gentleman from Virginia [Mr. SANDERS] the gentleman from Missouri [Mr. HAMILTON] will take the chair.
Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 12863) to provide revenue, and for other purposes, with Mr. HAMILTON in the chair.
The CHAIRMAN. The first paragraph is now subject to amendment. If there be no amendments, the clerk will proceed with the reading of the bill.
The Clerk read as follows:

BASES FOR DETERMINING GAIN OR LOSS.
Sec. 201. That for the purpose of ascertaining the gain derived or lost sustained from the sale of the property, real, personal, or mixed, the basis shall be—
(a) In the case of property acquired before March 1, 1913, the fair market price or value of such property as of that date; and
(b) In the case of property acquired after that date, (1) the cost thereof; or (2) the inventory value, if the inventory is made in accordance with section 302.
Mr. LONGWORTH. Mr. Chairman, I ask unanimous consent that section 202 be passed over for amendment. It is my inten-
tion later to offer an amendment to it. I ask that it be passed over, to be returned to at the pleasure of the committee.

Mr. HARDY. I wish to offer an amendment to section 201. I do not wish to make the increment equal, but to make it taxable.

The CHAIRMAN. The gentleman will not lose any rights.

There is no objection.

Mr. HARDY. Mr. Chairman, I wish to offer an amendment to section 201, and I ask permission to proceed for 10 minutes.

The CHAIRMAN. The gentleman asks unanimous consent to proceed for 10 minutes in connection with his amendment. Is there objection?

There was no objection.

Mr. GARNER. May we have the amendment reported?

Mr. HARDY. My motion is to strike out section 201.

The CHAIRMAN (Mr. SAUNDERS of Virginia). The Clerk will report the amendment offered by the gentleman from Texas.

The Clerk read as follows:

Amendment by Mr. HARDY: Page 4, beginning at line 20, strike out all of section 201.

Mr. HARDY. Mr. Chairman, I move to strike out section 201, which has no relation to any other section. The man sells his property for how much he thinks he can, and the laws of the county and State I suppose are such that what he sells it for is the sale value.

The CHAIRMAN. The gentleman asks unanimous consent to proceed for 10 minutes in connection with his amendment. Is there objection?

There was no objection.

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There was no objection.

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The CHAIRMAN (Mr. SAUNDERS of Virginia). The Clerk will report the amendment offered by the gentleman from Texas.

The Clerk read as follows:

Amendment by Mr. HARDY: Page 4, beginning at line 20, strike out all of section 201.
Mr. HARDY. That is one proposition, one ground of my objection to this tax.
Mr. BLACK. Would that not apply to the purchase of cattle, the purchase of oil, the purchase of steel, or the purchase of anything else in 1915, which was sold in 1918, so that there would be absolutely no such thing as profit in 1918 unless the money or the property is just as valuable in 1912 as it was in 1915?
The CHAIRMAN. The time of the gentleman from Texas has expired.
Mr. HARDY. Mr. Chairman, I ask unanimous consent to proceed in order to reply to that argument.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. HARDY. The fact that a principle applies to other things than those which I have named does not make it any the less just. If you are taxing an unearned increment for 1918, tax that, and do not go back with a retroactive act for five or six years. It is now five years since March, 1913, and 1919 will add the unearned increment of six years, and it will take from the decreasing purchasing power of the dollar. I do not care whether it be cattle or steel or iron or any other kind of property. The increased value that accrued in 1914 is not a part of the income of 1914, because it accrued in 1914, and no increase is merely the result of a fall in the value of the dollar is a profit, and to tax the increased price growing through five years of universally rising prices simply because the property is exchanged is unjust. The law is unjust as applied to every commodity, and it applies to personal, real, and mixed property. I simply make the statement that if you want to tax the unearned increment you should tax it whether the property is or not. That is just, and you can apportion the unearned increment of each year. If that property has increased in value 100 per cent in five years, you can apportion 20 per cent of it for the year in which the sale is made and the income ascertained. If you wish to put an embargo on increasing, I shall not ask to say anything more. In my opinion, this section defines as profits something that is not profits and as income something that is not income. A sale or exchange of property is merely a conversion of one kind of property into another.

Mr. KITCHIN. Mr. Chairman, either the gentleman from Texas [Mr. Hardy] does not understand the provision in section 201 and in section 213, or else the committee does not understand it, and neither did the Congress understand it in 1913 nor did the Congress understand it in 1916. This provision makes no change in existing law. It was in the acts of 1913 and 1916. No man on this floor or on the floor of the Senate made any objections to it upon the ground the gentleman makes objections now. In the consideration of the act of 1913 and the act of September 8, 1916, no man on the floor or on the floor of the Senate made the objections now made by the gentleman from Texas. As the gentleman from Texas [Mr. Garner] suggested, the reasoning of the gentleman from Texas [Mr. Hardy] would apply to every conceivable source of income. I would also say to the gentleman that you might strike out the provision which he asks us to strike out, and it would not affect the law at all. Gross income is defined in section 213.

Mr. BLACK. Mr. Chairman, will the gentleman yield?

Mr. KITCHIN. Yes.

Mr. BLACK. Mr. Chairman, it is not a fact that the income law and this excess-profits tax law is designed to tax incomes for the calender year and the fiscal year? That is the primary purpose, is it not?

Mr. KITCHIN. Yes.

Mr. BLACK. As this section stands is it not possible to tax an income extending over a period of five years?

Mr. KITCHIN. No, sir; let me call this to the gentleman’s attention: The Constitution gives us power to tax incomes from whatever source derived. A gain, whether over a period of one, two, three, or five years, can not be determined for income-tax purposes until a sale is made.

Mr. HARDY. Will the gentleman yield?

Mr. KITCHIN. I can not yield to the gentleman now. I am a lawyer, and say I had a case on hand which I had had for 10 years and I had been working on that case every year. I was earning a part of my fee each year, but what is my income? The amount they pay me, that is the income from my efforts extending over several years. So my income is taxable the year I receive it, the year I enjoy it, It is when it is an enjoyable income.

Mr. BLACK. Will the gentleman yield?

Mr. KITCHIN. I will yield.

Mr. BLACK. Suppose that man instead of holding the property in 1913, if he had sold it, and in 1918, he still has the same property, but pays less tax. Is there any equity--

Mr. KITCHIN. If there is any equity in an income tax. It makes no difference whether it is land you buy or a ship. If you bought a ship in 1916 for $100,000 and sell it in 1918 at $200,000, or if you bought Bethlehem stock or United States Steel Corporation stock in 1915, your income is the difference in five years from now we have a low, normal tax, and a man comes in and says, “I want you to take all for this year and not to go back to 1916.”
Mr. GARRETT of Texas. Will the gentleman yield?

Mr. KITCHIN. I will.

Mr. GARRETT of Texas. In the case of the lawyer which the gentleman referred to, suppose you were employed in that case in 1913 and it goes draging through the courts until 1918, a very important case, in which you were to receive $10,000, and you required your client to pay you $2,000 each year, and in the year 1918 you received $2,000, how much income tax would you pay?

Mr. KITCHIN. In 1918 you would be taxed upon the $2,000 received during that year.

Mr. HARDY. Mr. Chairman, I desire to ask permission to modify my amendment so that it can be discussed as modified.

Mr. MCFAIDEN. Is it not a fact that the trouble which the gentleman has pointed out in reference to investment is due entirely to the decrease in the purchasing value of the dollar, whether that is not the underlying scheme?

Mr. KITCHIN. That is one proposition. The proposition of the gentleman from Texas (Mr. Hardy) would apply to every income, and I will say that, in my opinion, if the theory of the gentleman was carried throughout this law that we would get from the war and excess-profits tax and the income tax $2,600,000,000 less than we expect to get under the proposed bill.

Mr. CARTER of Oklahoma. If I understand the gentleman the income tax is collected on the income as it is paid and not as it is earned?

Mr. KITCHIN. Not as it is earned. Mr. CARTER of Oklahoma. For instance, if a man earns his fee in 1915 and it is collected in 1918, the present law would govern?

Mr. KITCHIN. Yes; unless he kept his books on an accrual basis.

Mr. CHANDLER of Oklahoma. In the case of loss, is the seller permitted to deduct that loss?

Mr. KITCHIN. I will say to the gentleman from Texas that a person selling land has a right to add his permanent improvement as a part of the capital invested and deduct it from his increased income.

Mr. HARDY of the gentleman said that he would pay a tax on the income the year he made it. If a payment of $1,000 a year was received for five years, and there had been none of it collected until 1918, does the gentleman think that that would come in as income for 1918 or that the payment of a note that was due for services in 1914 and not paid until 1918 would be 1918 income?

Mr. KITCHIN. Oh, no. If you paid a note—

Mr. HARDY. Suppose it was not a note but just an agreement to pay?

Mr. KITCHIN. If I was a lawyer and in 1915 took a $5,000 note for a fee and did not collect that note until 1918, the gentleman would say if I would have collected in 1918 or 1915. If I was honest I would have given it in 1915, because that was income for that year. I could have enjoyed it by selling the note or discounting it.

Mr. MADDEN. Will the gentleman yield for a question?

Mr. KITCHIN. I yield.

Mr. MADDEN. Putting the reverse of the question asked by the gentleman from Texas (Mr. Hard), suppose a man bought property at a certain date in 1915 and sold it in 1918 at a loss, does this law provide that he shall be permitted to take credit for the entire loss or only a certain percentage of the loss, based on the number of years over which it existed?

Mr. KITCHIN. It answers itself.

Mr. MADDEN. It does not answer itself.

Mr. KITCHIN. You mean if it is prorated like the gentleman says?

Mr. MADDEN. What I mean is, that if he buys property in March, 1913, and sells it at a profit in 1918, of course he must pay the Government a tax on the difference between the purchase price and the selling price, but if he buys property in 1913 and sells it in 1918, the law permits him to take credit for the loss? I do not think it does.

Mr. KITCHIN. I think he can under the provision in the bill allowing a deduction of all losses, whether connected with the business or not.

Mr. MADDEN. Under this law, but it cannot be deducted under existing law.

Mr. KITCHIN. Any loss in connection with the trade or business can be deducted under existing law, but in an isolated transaction, not connected with the trade or business, only losses sustained not to exceed the profits arising therefrom can be deducted under existing law. The proposed bill provides for the deduction of the entire loss in such a case.

Mr. HARDY. Mr. Chairman, I ask unanimous consent to amend my amendment by, instead of striking out section 201 as an entirety, striking out all after the brackets and down to and including "1913," in line 25, and, after the word "date," in line 26, insert the words of the beginning of the year in which the sale is made.

Mr. HASTINGS. Now, Mr. Chairman, just one minute. He would also want to change the word "that," before "date," to "the," I think.

Mr. HARDY. Yes; that is right.

Mr. KITCHIN. Mr. Chairman, I ask unanimous consent that we take a vote on that when the gentleman from Michigan (Mr. FORDNEY), who desires to address the committee, has concluded.

Mr. CANNON. Let us have the amendment read now as amended. I have just come in.

The CHAIRMAN. Without objection, the Clerk will read the amendment as amended.

The Clerk reads as follows: Amendment by Mr. HARDY: Page 4, line 24, after "(a)," strike out the words "in the case of an income and one must compute the gain or loss, including those tracts of land and other estates which the person disposing of the property. Now, the reason why that date has been fixed is because at that time the court held the income-tax law constitutional. Property purchased prior to March 1, 1913, and sold this year is treated by the amendment as if it had been acquired a property 10 years ago and sold it to-day. You have held possession of that property for 10 years. The difference between the price paid for it 10 years ago and the price you sell it for to-day, including the original purchase price, is the amount of your taxes and your upkeep, whatever that may be. What you sell the property for above these costs is profit, and on that profit you must pay a tax; but pursuant your earnings on the profit from that property; obtained when you sold it from the time you purchased it to the time you sell it, you pay a tax upon what it earned pro rata from March 1, 1913, down to date of sale; but what it earned prior to March 1, 1913, is not subject to taxes under existing law or under the provisions of this bill. This language in this bill, as the gentleman from North Carolina (Mr. KITCHEK) has said, is exactly the language contained in the act of September 8, 1916, and in the act of October 3, 1917. There is no change in this as compared with existing law. The property purchased since March 1, 1913, and converted into money or profit this year is considered income of this year, and one must pay an income tax on that income. But, as before stated, by the provisions of the act, the property purchased prior to March 1, 1913, is not subject to an income tax.

Mr. HARDY. Mr. Chairman, will the gentleman yield for a question?

The CHAIRMAN. Does the gentleman from Michigan yield to the gentleman from Texas?

Mr. FORDNEY. Yes.

Mr. HARDY. If A and B, owning two tracts of land, exchange those tracts without any money being paid, although each one of them has enhanced in value, is there any tax on that exchange?
Mr. FORDNEY. No. They have received nothing. They have had no income. You do not have any income until you convert the land into money or the stock of a corporation.

Mr. HARDY. Let me put it this way: If a sells his tract of land for $100 an acre and buys B’s tract of land at $100 an acre, there are two income taxes to pay, are there not?

Mr. FORDNEY. No. If you do not convert it into money, then you must pay a tax; but if you do not make a profit you do not pay a tax.

Mr. HARDY. Then I made as much profit if you exchanged the land as if two sales were made and two purchases.

Mr. FORDNEY. No. unless you convert your property into money or stock of a corporation, you have no income. If you have an income, you pay the tax.

Mr. HARDY. Is nothing else but property considered an income?

Mr. FORDNEY. I know of no such sale. I have never converted property into anything except money or the stock of a corporation.

Mr. HARDY. Does not this bill put a tax on property?

Mr. FORDNEY. Not unless it is converted into money.

Mr. HARDY. If you trade for personal property, you do not pay tax?

Mr. FORDNEY. If you convert your property into stock, which is equivalent to money, you must pay a tax on it, but no other way.

Mr. BENJAMIN L. FAIRCHILD. Mr. Chairman, will the gentleman explain?

Mr. FORDNEY. Yes.

Mr. BENJAMIN L. FAIRCHILD. Referring to the proposition of the cost of the property, suppose in 1913 a man buys a piece of land and pays $1,000 for it.

Mr. FORDNEY. Yes; after March 1.

Mr. BENJAMIN L. FAIRCHILD. Yes; after March 1. Another man buys a piece of land and pays $5,000 for it.

Mr. FORDNEY. Yes.

Mr. BENJAMIN L. FAIRCHILD. In the meantime, if to-day this law goes into effect, the man who has the $5,000 land finds that his land has not increased in value, but the man who has the $1,000 land finds his has increased in value fivefold and that it is now worth $5,000, and they exchange. Does the $1,000 man not pay an income tax on that exchange?

Mr. FORDNEY. I believe I am right in saying that you pay no tax on any value you may get by exchange of property unless you convert it into money or its equivalent, which is stock or bonds, which this law provides shall be considered as income. Unless you convert property into money or money equivalent, you do not pay a tax upon it. If you purchased a piece of property for $1,000 on March 1, 1913, and convert it into money to-day, or its equivalent at $10,000, you are called upon to pay a tax on $9,000. If I purchased a piece of property then at $5,000 and converted it to-day, I pay a tax on $5,000, however my profit is and you pay a tax on your profit. If you made more profit than I did, you must pay more tax than I do. That is my opinion.

Mr. BENJAMIN L. FAIRCHILD. Under the bill, if the $1,000 man makes $4,000 profit by taking a $5,000 property in exchange instead of $5,000 cash, he pays no tax under this bill?

Mr. FORDNEY. He does not pay any tax unless he gets an income. I can answer any clearer than that. An exchange of property is not an income, in my opinion.

Mr. HARDY. Mr. Chairman, will the gentleman yield?

Mr. FORDNEY. Yes; I yield. But do not take up all my time.

Mr. HARDY. Suppose a case where land is sold and payment made in cattle.

Mr. FORDNEY. If you convert the cattle into income, then you have an income, and you pay a tax on that income. You do not get any income on your cattle until they are converted into money. Suppose you have cattle in your possession and feed them all this year. You have no income from them. I say you do not tax on an exchange of property unless you convert that property into money or its equivalent, and then you pay an income tax. Only then do you pay a tax on it. This law provides you may real estate and tax on incomes.

Mr. HARDY. The gentleman does not regard payment in cattle as an income at all?

Mr. FORDNEY. No. How can you use the cattle until you can sell them?

Mr. HARDY. You may have them for dairy purposes.

Mr. FORDNEY. You may keep them for 10 years, and yet you have no income until you convert those cattle into money.
Mr. HARDY. Mr. Chairman, I ask unanimous consent to proceed for five minutes.

Mr. GARNER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. HARDY. Mr. Chairman, if the gentleman is perfectly clear that this amendment of mine would sacrifice $2,000,000 revenue, I have no further contention, because necessity knows no law.

Mr. GARNER. I want to say to the gentleman that the theory of his proposed amendment would undoubtedly cut the revenue down 50 per cent.

Mr. HARDY. Mr. Chairman, I have suggested a straight tax on sales. I would make it apply to all sales of $500 and over. Put on a stamp tax of 1 per cent or over. I do not believe you would lose a dollar of revenue if you did that.

Now I want to say a word in reply to what the gentleman from Michigan said, that the sale of land by exchange for other property actually accrues no tax. By paying a tax the gentleman wants to get a dairy stock and he knows the market value of Holstein cows out at the Soldiers' Home—that cows, fine cows, are worth $200 a head. He finds a man with a fine herd of cows and he trades him land for the same. He does not get money, but he gets what would cost him money to buy. I am afraid that you will find that under this bill, standing as it does, there will be more ingenious devices to avoid the payment of the income tax than ever were invented to avoid any other tax because inherently wrong. The gentleman made the statement that in arriving at the profits he would take into the calculation of all the expenses for five years, deducting them together from the original purchase price. This seems to me to show that you are levying a tax to cover the profits of five years on men who sell, while everybody else is only levied upon for the profits of one year. It is unjust, it is unequal, and will be difficult of enforcement because men will adopt hundreds of methods of evasion.

If you want a tax on the increased value of 1918, you can find what the value was at the beginning of the year as well as you can find what the value was in 1913. The very obstacle that the gentleman from North Carolina insists would make it difficult to enforce such a law stands in the way of enforcing section 201. It is as difficult to find the value in 1913 as in 1918. If you have got to find the value as it was in 1913; can you not find the value at the beginning of the taxable year more easily than you can find what it was four or five years ago?

Mr. FORDNEY. Will the gentleman yield?

Mr. HARDY. Yes.

Mr. FORDNEY. If the gentleman's theory was put into law, every corporation in the country paying an income tax would be permitted to take from their profit deductions based on the value to-day instead of March 1, 1913, and your income to the Treasury Department would be far less than what it would be under this bill.

Mr. HARDY. Corporations are not engaged in selling the corpus of the corporation. This does not affect them, or affects them but little; it affects the private individual.

Mr. FORDNEY. A corporation has the benefit of an 8 or 10 per cent deduction based on the capital in making the income tax for this year. If permitted to take the value of their property this year instead of under the law, the original purchase price, there is a vast difference between the purchase price to-day and that.

Mr. HARDY. Does the gentleman mean under this law a man having goods on his shelves is to go back and see what the value was when he got them?

Mr. FORDNEY. His books will show what the value was in 1913.

Mr. GARNER. Let me say to the gentleman, take the corporation that is earning 50 per cent. If you take that as a basis of value, there would be no excess profits in this bill at all.

Mr. HARDY. This is not a question of excess profits.

Mr. GARNER. But it is the same theory that you are speaking of, taking the basis of value of the 1st day of January of the calendar year for which you collect it. When a corporation or an individual would be worth whatever the prop-
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Mr. KITCHIN. Let the gentleman make his statement.
Mr. CANNON. His income to show what the net amount is upon which he is going to pay a tax. How does that help him when he comes to sell, if a piece of property that has lain fallow and unused for four or five years, and which in March, 1913, was worth so much money—

The CHAIRMAN. The time of the gentleman has expired.

Mr. KITCHIN. Mr. Chairman, I ask for three minutes, in order to answer the gentleman from North Carolina?

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina? [After a pause.] The Chair hears none.

Mr. GRAHAM of Pennsylvania. How does that help a man who owned a piece of property worth $5,000 on March 1, 1913, and has paid $500, we will say, in taxes, and he has lost $300 in interest; that is, $800. Now, he sells the property for $800 more than he paid for it. Under this bill you are going to tax him, in the language of this section, for the difference between the value of it in 1913 and the sales price, and you do not allow anything for taxes or interest.

Mr. KITCHIN. I would say to the gentleman that he is not right, for it is exactly as it is in existing law, and there is no complaint about that. The gentleman seems to differentiate between profits from sales of property and incomes from other sources. There is absolutely no difference.

Now, I receive as a lawyer $10,000 for my earnings. And I have $10,000 of interest on bonds and I sell a piece of property and I make $10,000 on that. That bears no relation to my deductions come out of that, my deduction for paying the taxes on the $10,000 of property that I have sold, the cost of its maintenance and upkeep, all come out of the $10,000. Now, I have paid $1,000 interest on the piece of property that I have bought, on which I made a profit of $10,000 a year, so much, and I deduct that interest from the total. Now, if the gentleman means that I have bought a piece of property for $10,000 cash, and I sell it five years after, at a profit, that I should deduct the interest I earned each year, I would say it is practically absurd. I am investing my money for a profit, instead of my interest, and when I make my sale I am expecting my profit. I have $10,000 in hand and if I have an interest of 6 per cent. That is my profit. I am not allowed to deduct 6 per cent interest on the $10,000 investment in a bond because I am going to set my interest. When I am investing for a profit I am getting the rent. Now, when I sell the property with the expectation of making a profit, my interest, rent, and everything are merged into those profits. I am going into it for the profit. I should not be allowed interest on the property any more than the interest on the investment in a bond.

Mr. CANNON. Will the gentleman allow me a single question? I ask for recognition, Mr. Chairman.

The CHAIRMAN. The gentleman from Illinois [Mr. Cannon] may ask the one question.

Mr. KITCHIN. I would say to the gentleman from Pennsylvania [Mr. Graham] that in the case of a farmer who farms his land you do not permit him to deduct 6 per cent on his investment. The amount of investment is $5,000; you do not allow him 6 per cent on his investment. His income is the profit. No tax law in the world has ever allowed such a deduction as a deduction out of income-tax returns and permanent improvements. That makes an expenditure That is to say, that in the ascertainment of a certain amount as temporary improvements, that authorizes the deduction the gentleman from Illinois has spoken of.

Mr. KITCHIN. The improvements?

Mr. GRAHAM of Pennsylvania. Yes.

Mr. KITCHIN. That is included as investment, a part of his capital. And in every form the gentleman from Pennsylvania has seen is contained "permanent improvements." Yes, add it for invested capital and excess profit. You add it as part of your capital.

Mr. GRAHAM of Pennsylvania. I do not want to be contentious, but I would like to put this thought to the gentleman. Where I have seen those income-tax returns—and I have made out a good many of them for other people—

Mr. KITCHIN. I happen to have had an experience myself, for I sold a farm last year that I bought before March 1, 1913, and I looked at the part as to permanent improvements particularly, and the permanent improvements that I had put on were added to the purchase price of my farm. And it is in every other form that I have seen.

Mr. GRAHAM of Pennsylvania. And not added to the cost?

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. KITCHIN. I have a form here. If the gentleman wishes to see it?

Mr. GRAHAM of Pennsylvania. Mr. Chairman, I ask unanimous consent for five minutes.

The CHAIRMAN. The gentleman from Pennsylvania moves for the last two words.

Mr. GRAHAM of Pennsylvania. Now, what I wish to call attention to is this, and I ask the attention of the chairman of the Ways and Means Committee to this point: You are speaking of the form of return that is provided by the Treasury Department. Is it true that that form of return, in compliance with the law, contains a space for deducting from the income return for the particular year of taxes and the allowance for depreciation or improvement?

But that does not answer the proposition put by the gentleman from Illinois [Mr. Cannon] with respect to the ascertainment of a separate and different basis for taxes, to wit: You sell a farm, which cost so much money in 1913; you sell it for an enlarged price in 1918, and you have carried it without a tenant, we will say, without a penny of income from it. You have paid the tax on it; you have either paid interest on the mortgage in carrying it, or you have lost the interest on the sum that you have invested in the property. Now, my amendment provides affirmatively that the department shall recognize, in the case of a farm, the part that is covered by this section, the income-tax and the added elements; and in order to make it clear when the time comes, I am going to ask unanimous consent to add the words "less income from the property," so that it will be equitable both ways. That is to say, that in the ascertainment of a certain amount as profit or income you must allow for the taxes and the interest on the investment, less the income derived from the property, and this, together with the value in 1915, deducted from the amount that you receive, shows the amount that you must pay a tax on under this bill.

Mr. FORDENY. Mr. Chairman, will the gentleman yield?

Mr. GRAHAM of Pennsylvania. Yes.

Mr. FORDENY. My good friend, you are permitted to use as capital the interest paid on the mortgage or borrowed money, together with taxes or any other upkeep, but you are not permitted to use as capital the interest accrued upon your own cash payment, because that is income to you and is considered income of this year, although you paid out that money five years ago. That is to say, if you paid cash for the property in 1913, no accrued interest will be permitted to be used by you as capital, because that is considered income.

Now, suppose you made no more profit out of your purchase than the accrued interest on your original investment. That is the income, the interest on your original investment. But if you have $1,000 borrowed, you will be entitled to charge it as part of your cost the money paid out in interest upon that borrowed money.
Mr. GRAHAM of Pennsylvania. I can not understand the difference between borrowing the money and taking it out of my own pocket and putting it into the farm. You have lost your account? That is all. Mr. WINSLOW. But it affects the cost of production in competition. Why should one man, who rents property, be allowed to charge up the rent as a part of his expenses, while another man, who owns his property, is permitted the fact that he lives in a corporation?

Mr. KITCHIN. You must distinguish between an individual owning his home or renting his home—

Mr. WINSLOW. I said a corporation.

Mr. KITCHIN. If I own a house I live in. I can not deduct the rent, because that is a part of my living expenses. If I own my home, rent is not considered. If as a merchant or business man I own my storehouse I make no deduction, and that is true; but if I buy a store inside of a year, I am permitted to deduct that as a part of the operating expenses of my business. Mr. WINSLOW. But if a man owns his property he is not entitled to charge himself rent.

Mr. KITCHIN. I have answered the gentleman the best I know. A man can not charge himself rent on property that he owns as a part of his expenses.

Mr. GRAHAM of Pennsylvania. May I ask the gentleman one question, and then I am through?

Mr. KITCHIN. Yes.

Mr. GRAHAM of Pennsylvania. The gentleman has referred to section 214 as covering this subject. Now, does section 214, in the gentleman's amendment, make allowance, cover that subject? Let me illustrate just one thing.

Mr. KITCHIN. Section 214 covers all deductions.

Mr. GRAHAM of Pennsylvania. To be done how? Not in ascertaining the profit. As to putting his amendment in this section. This section is simply defining a rule and establishing the basis for determining the gain from the sale of property purchased before March 1, 1913. The amendment should be in section 214, the deduction section. I want to say that it has never been contended by an industry in this country that the gentleman's proposition is proper and right. We tax incomes of all corporations, of all mercantile business, and all kinds of industries. Take an industry, whether it is individual or corporate, with a million dollars' capital. We tax the profits of that concern just exactly like we tax the profits of the sales of land. Instead of this concern renting it a year or two months, it has a sale everyday. Now, suppose it has a capital invested at a million dollars. Do we permit this business concern to deduct from its income, as a part of the cost, 6 per cent on the capital invested? No. We simply permit them to deduct all the labor and raw material costs, insurance, taxes, bad sales, and overhead charges, and not 6 per cent upon the invested capital; and when it deducts those operating expenses and overhead charges to which I have called your attention, if it does not make but 4 per cent on the capital invested, it pays the income tax on the 4 per cent profits. But if you deduct 6 per cent on the $1,000,000 capital invested as part of the operating expenses, the concern would have to make a deal more than 6 per cent before the income tax would attach. Such a proposition would be an excess-profits tax.

Mr. WINSLOW. Mr. Chairman, will the gentleman yield?

Mr. KITCHIN. Yes.

Mr. WINSLOW. Do you think it fair for a corporation or individual to give himself credit for a rental in a case where he owns his own building?

Mr. KITCHIN. I do not.

Mr. WINSLOW. Mr. Chairman, I move to strike out the last three words.

Mr. GRAHAM of Pennsylvania rose.

Mr. KITCHIN. Mr. Chairman, I want to ask a question?

Mr. GRAHAM of Pennsylvania. Yes.

Mr. WINSLOW. I ask unanimous consent to proceed for five minutes.

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

Mr. WINSLOW. I would like to ask the chairman of the committee in his judgment, and in respect to his knowledge of this bill, he would consider that a man owning his property has the right to charge himself with that property as a rental or expense account?

Mr. KITCHIN. No.

Mr. WINSLOW. But if a man had property of the same value, he would charge himself value. He would have to.

Mr. KITCHIN. Yes. Under the existing law a corporation is allowed for rent actually paid.

Mr. WINSLOW. It is a pity we can not get two interpreters of that law to agree on the same thing.
and interest on the investment from said date, less all income derived from the property." The CHAIRMAN. The Clerk will report the amendment as read.

The Clerk reads as follows:

Amendment by Mr. Graham of Pennsylvania: Page 4, line 26, after the word "date" insert the words "plus taxes, improvements paid therefore, and interest on the investment from said date, less all income derived from the property." The CHAIRMAN. The question is on the amendment of the gentleman from Pennsylvania. The question being taken, on a division (demanded by Mr. Graham of Pennsylvania) there were—eyes 18, noses 47. Accordingly the amendment was rejected. The Clerk reads as follows:

PART II.— INDIVIDUALS.

NORMAL TAX.

Section 210. That there shall be levied, collected, and paid for each taxable year upon the net income of every individual a normal tax, as follows:

(a) In the case of a citizen or resident of the United States 12 per cent of the amount of the net income in excess of the credits provided in section 216: Provided, That upon the first $4,000 of this amount the rate shall be 6 per cent.

(b) In the case of a nonresident alien, 12 per cent of the amount of the net in income in excess of the credits provided in section 216.

Mr. KITCHIN. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from North Carolina offers an amendment, which the Clerk will report.

The Clerk reads as follows:

Committee amendment: Page 5, line 13, after the word "That" insert: "In lieu of the taxes imposed by subdivision (a) of section 1 of the revenue act of 1916 and by section 3 of the revenue act of 1917." A comma.

Mr. KITCHIN. That ought to have been put into the bill, and will be put in in many other places. It is in lieu of those taxes. Those words might be construed that this act is not inconsistent with those other acts, and it might be held to be in addition.

Mr. CAMPBELL of Kansas. Does this act repeal the other acts?

Mr. KITCHIN. Not specifically; but we provide here specifically in lieu of those taxes. There are some things in the other act that we could not repeal. All the tax features are carried in this act, and practically, of course, repeal the others.

Mr. WALSH. Do I understand, then, from the gentleman's statement that there are certain features of the act of 1916 and of the act of 1917 which are still contained in force?

Mr. KITCHIN. But take the act of March 3, 1916; there are certain tariff matters.

Mr. WALSH. But those are not tax features. The tax features of 1913 and 1916, are they specifically repealed?

Mr. KITCHIN. By putting in this language. It is provided in section 1400 "that any provision of any act inconsistent with any provision of this act is hereby repealed, subject to the limitations provided in subdivision (b)."

Mr. WALSH. Then what is the need of putting in these words?

Mr. KITCHIN. That is the point: it may be that it might be construed as not inconsistent; it might be construed as additional; and we want to make it clear.

Mr. WALSH. It looks to me like a double repeal.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina. The amendment was agreed to. The Clerk reads as follows:

According to the communication as follows:

The communication is as follows: UNITED STATES SHIPBUILDING CORPORATION.

Hon. J. HAMPTON MOORE, Chairman of the Board, Philadelphia, Pa., August 7, 1918.

DEAR SIR: Mr. Hurley has asked me to reply to your letter of July 24 seeking information concerning the number of workers in shipyards. It was necessary to subscribe to a rate of pay. I have no idea as to the number of workers in shipyards performing work for the Emergency Fleet Corporation is about $75,000.

I send you the scale of rates authorized for the different classes of these workers, according to the findings of the Shipbuilding Labor Adjustment Board.

As regards hours of work, the basic eight-hour day is being observed. In certain districts only 8 hours are actually worked. In other districts 9 and 10 hours are worked regularly at the rate of time and a half or double time for overtime.

If this does not give the information desired, I shall be very glad to supply such details as you wish.

Yours very truly,

CHARGERS, Vice President.

Mr. MOORE of Pennsylvania.--Mr. Chairman, I move to strike out the last word. A great deal was said in general debate about the propriety of taxing the income of wage earners making high wages during the war time. I have in my hand a communication from the Shipping Board giving a list of the schedule of wages paid in various shipyards in the United States, and I ask to extend my remarks in the Record by publishing that communication.

The CHAIRMAN (Mr. HAMLIN). Is there objection to the request of the gentleman from Pennsylvania? There was no objection.
Puget Sound district—Continued.

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Mr. KITCHIN. Mr. Chairman, I offer two amendments, which should be read as one.

The Clerk read as follows:

Page 5, line 24, after the word "That," insert the following: "in lieu of the taxes imposed by subdivision (b) of section 1 of the revenue act of 1916, and by section 4 thereof, revenue act of 1917, but;"

Page 5, line 25, after the figures "210," insert "of this act" and a comma.

The question was asked, and the amendments were agreed to.

Mr. GARRETT of Tennessee. Mr. Chairman, I move to strike out the last word. I notice in the normal-tax schedule, section 4, in case of a citizen owning the United States a 12 per cent tax is paid, and on the first $4,000 the rate shall be 6 per cent. When you come to the surtax you begin at $5,000.

Mr. KITCHIN. Where it is in the present law.

Mr. GARRETT of Tennessee. What is the status of that thousand dollars between $4,000 and $5,000?

Mr. KITCHIN. That is the normal tax, the normal tax on $4,000 we only desire to make one-half, or 6 per cent. If the man has $4,000 he would have $2,000 exemption and $4,000 subject—not to 12 per cent, but 6 per cent tax. When you get to the surtax that is on the whole income and has nothing to do with the $4,000 exemption.

Mr. GARRETT of Tennessee. I withdraw the prima facie amendment.

The Clerk, proceeding with the reading of the bill, read as follows:

Sixty per cent of the amount by which the net income exceeds $1,000,000 and does not exceed $5,000,000; and sixty-five per cent of the amount by which the net income exceeds $5,000,000.

Mr. CANNON. Mr. Chairman, I move to strike out the last word. I notice that the tax is 60 per cent of the amount by which the net income exceeds $1,000,000 and does not exceed $5,000,000, and 65 per cent of the amount by which the net income exceeds $5,000,000.

Now, it is 50 per cent on the amount by which the net income exceeds $100,000 and does not exceed $200,000: 45 per cent on the amount by which the net income exceeds $5,000,000 and does not exceed $100,000. There is considerable difference on the man that has $30,000 or $40,000 and the fellow that has $1,000,000 or $2,000,000, or $5,000,000. It seems to me that you decrease the tax as you go up. If the man has $5,000,000 you leave him $1,500,000. When you get down to the fellow that has a family and has an income of $30,000 you do not leave him a great deal, but when you get up into the multimillionaire class you strike him a grand fortune. "To him that hath shall be given; but whosoever hath not from him shall be taken away even that which he hath." I was just wondering why the tax that is so very little to the man of modest income is so high, and why the tax that would leave the millionaire that has many millions should be reduced.

Mr. KITCHIN. I think the gentleman has read the figures wrong. For instance, we tax a man who has $30,000 about 19 per cent.

From a man with an income of $50,000 we take 24.9 per cent, just about half of what Great Britain does.
Mr. KITCHIN. From the man who gets $5,000,000 we take 70 per cent as much as we take from the man who has an income of $30,000.

Mr. KITCHIN. But he is still left with a great deal, is he not, and they are both American citizens?

Mr. KITCHIN. I think that proposition put up to us pretty strongly by Mr. Marsh, secretary and treasurer of some kind of an economic society, and we had one gentleman on the committee who desired to follow out the principle which the gentleman evidently, and that is to take all over a certain amount—that is, not 60 or 70 per cent, but 100 per cent. I think the suggestion was made that we take all over $100,000, and then some one suggested that we take all over $200,000.

Mr. KITCHIN. Suppose a man had $10,000,000 income and we would take 60 per cent of it, it would still leave him a great deal more than some fellow with an income of fifteen or twenty thousand dollars. In the nature of things, we thought it was just and equitable to make the larger fortunes pay the larger percentage.

Mr. KITCHIN. But you do not do that.

Mr. KITCHIN. Very well, you do. Go ahead, I admit that.

Mr. KITCHIN. Where a man has $10,000 Income we take 8 per cent of his net income.

Mr. KITCHIN. But you have already taken 12 per cent.

Mr. KITCHIN. No; adding in the 12 per cent, and that bracket, I will say to the gentleman that what we do is this: In surtax and normal tax, where a man has an income of $10,000 we take 8.45 per cent. Where a man has $20,000 we take a total of 14 per cent. That includes the normal tax and the surtax.

Mr. KITCHIN. He pays the normal tax on everything, does he not?

Mr. KITCHIN. Yes.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. KITCHIN. Mr. Chairman, I ask unanimous consent that the gentleman's time be extended for five minutes.

The CHAIRMAN. Is there objection?

The Clerk read as follows:

-- Page 6, line 13: Twenty per cent of the amount by which the net income exceeds $30,000 and does not exceed $40,000.

Mr. KITCHIN. Precisely; but let me add right there: Does not a man pay all through these brackets 12 per cent.

Mr. KITCHIN. Yes; after deducting his personal exemption.

Mr. KITCHIN. From the first $4,000 of his net income subject to normal tax is taxable at 6 per cent.

Mr. KITCHIN. Twelve per cent on the whole thing after his deductions; but as he increases in income he adds to the 12 per cent an additional 20 or 30.

Mr. KITCHIN. Yes.

Mr. KITCHIN. Or 40 per cent.

Mr. KITCHIN. Where a man has an income of $100,000 we take 50 per cent of the total income, and where he has an income of $600,000 we take 91 per cent.

Mr. KITCHIN. Which leaves him how much?

Mr. KITCHIN. Forty and a-half per cent.

Mr. KITCHIN. Of his $500,000?

Mr. KITCHIN. Yes; where a man has a million dollars we take 64.70 per cent, and where he has $6,000,000 we take 70 per cent.

Mr. KITCHIN. Does the gentleman think that we have not gone high enough on those incomes? Where a man has an income of a million dollars, should we take more than $647,000?

Mr. KITCHIN. But I have listened to speeches of Members of Congress upon the stump who have an idea that nobody has any right to make $5,000,000 or $1,000,000. He receives protection in all his individual rights and all his property, and I have heard the argument made, Why should a person who has $5,000,000 or $1,000,000 or thirty thousands of dollars need but very little, while the man who makes a million or ten million dollars must have three or four million dollars remaining, as the case may be; and that God Intended that all people should approach equality, and all that kind of thing; and there is a very well-founded campaign existing throughout the country that we should take the whole thing when a man gets millions of dollars, and pay him but a fraction of what we think he ought to be made to pay. But that is not a fair way to do it. It is it is not enough to support the wife and family and care for them when he dies; that is a plutocrat, and we should take it all. That is a very plausible statement, but this bill is not framed exactly upon that foundation.

The CHAIRMAN. The time of the gentleman from Illinois has again expired.

Mr. KITCHIN. Mr. Chairman, I ask unanimous consent for one more amendment.

The CHAIRMAN. Is there objection?

Mr. KITCHIN. I would say to the gentleman that on committee here before the committee and outside of the committee some arguments along the line intimated by the gentleman from Illinois, but we did not think them sound, and therefore we did not go to the extent of conflation in these schedules. And I believe myself it is a bit higher than the gentleman himself is willing to go. I think, as the gentleman from Ohio [Mr. Longworth] said the other day and several other gentlemen, the gentlemen from Massachusetts [Mr. Treadway], and it was the thought of the committee, that on these high rates we have gone just as high as it is safe both for business and safe for the marketing of Government securities for us to go. Not after this.

Mr. KITCHIN. Well. I just wanted to call attention—it may be the bill does not quite agree with the stump speeches throughout the country.

The CHAIRMAN. The pro forma amendment is withdrawn, and the Clerk will read it.

The Clerk read as follows:

Sec. 215. That for the purposes of this title, (except as otherwise provided in section 238) the term “gross income” includes gains, profits, and income derived from salaries, wages, or other income for personal services, from sale of property, whether real or personal, from transactions in property, whether real or personal, or from dealings in property, whether real or personal, or from growth or sale of property, in the case of the President of the United States, the Judges of the Supreme and Inferior Courts of the United States, and all other officers and employees, whether civil or military, of the United States, or of any State, Alaska, Hawaii, or any political subdivision thereof, or the District of Columbia, or any transaction received as such, or in whatever form paid, or from professions, vocations, trades, businesses, commercial or financial, or dealings in property, or growing or sale of property, or from the ownership or use or interest in such property; also from interest, rent, dividends, securities, or the transaction of any business carried on for gain or profit, or gains or profits and income derived from any source whatever. The amount of all such items shall be levied upon the gross income before the committee and outside of the committee and the whole thing when a man gets his income.

Mr. BORLAND. Mr. Chairman, I offer an amendment to the paragraph. After the word “personal,” in line 2, page 8, insert the words “or.”

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

-- Page 8, line 2, after the word “personal,” insert the word “or.”

Mr. BORLAND. Mr. Chairman, it seems to me that a careful reading of that section discloses that the word “or” is left out of that language. It undertakes to define gross income, defines it as gains, profits, incomes, and so forth, received from professions, vocations, trades, businesses, commerce, or sales, or “dealings in property, whether real or personal,” and then in the original text following the words “growing out of the ownership” or “use or interest in such property,” Now, if that relates directly to the word “personal,” they may be limiting the word “property” as the Income and gains growing out of the use or ownership or use of or interest in such property. Now, clearly the word “dealings” refers to “or sales of property.” The clause in the case of the sale of property is by the dealings in property, and this is intended to tax this kind of transaction as income. Then, it seems to me that it is intended also to tax any other gains or profits and income derived from the ownership or use of the property which would include any profits on that in the way of royalty or rent or actual occupation of the property for business or any other use to which it could be put which would bring in an income return. In other words, those two things, “dealing in property” on the one side and “growing out of the use or interest in such property” on the other, are two distinct things—that is, they are two distinct sources of income.
"That the power to tax involves the power to destroy; that the power to destroy may defeat and render useless the power to create; that there is a plain repugnance in conferring on one government a power to tax and control the means of another, which other, in respect to those very powers, is declared to be supreme over that other. It is true that taxation does not necessarily and unavoidably destroy, and that the power to destroy, in order to be exercised, must not be anticipated; but the very power would take from the States a portion of the sovereign liberty which exerts within their sphere of their powers and would constitute to the State perpetual danger of embarrassment and possible annihilation. The Constitution contemplates that such a shackles upon State powers and by implication forbids them. Since the United States, therefore, can not tax a State municipal corporation or its resources, or the salary of a State officer, or the process of a State court or a railroad owned by a State, on the one hand, a State can not tax the salary or emoluments of Federal officers or officers of States of McCulloch against Maryland and Weston against Charles, as settling the principle that State governments can not lay a tax upon the constitutional means employed by the Federal Government to execute its purposes. As I said last evening, the reverse course was equally sound, and consequently it was not competent for Congress to impose a tax upon the salary of a judicial officer of a State. In the very striking opinion of Collector against Day the court said, among other things, that—

The General Government and the States, although both exist within the same territorial limits, have separate, unconfounded, and distinct spheres. The former in its appropriate sphere is supreme, but the States in the limits of their powers not in their sphere. The language of the tenth amendment, "reserved," are as independent of the Federal Government as the States are independent of the States. And if the means and instrumentalities employed by that Government to carry into operation the powers granted to it are, necessarily and, for the sake of self-preservation, exempt from taxation by the States, why are not those of the States depending upon their reserved powers, for like reasons, equally exempt from Federal taxation? Their unpurchased existence in the one case is as essential as in the other. It is admitted that there is no express provision in the Constitution authorizing the General Government to tax the means and instrumentalities of the States, nor is there any prohibiting the States from taxing the means and instrumentalities of that Government. In both cases the exemption rests upon necessary implication and is upheld by the great law of self-preservation, as any government whose existence is dependent would not exercise the control of another and distinct government, can exist only at the mercy of that government. Of what avail are these means if another power may tax them at discretion?"
and their municipalities. This contention, I submit, has been uniformly denied by the Supreme Court. In the case of Brusher versus Gillett, 240 United States Reports, page 12, decided January 24, 1916, the court, after quoting the amendment, which is as follows:

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States and without regard to any census or enumeration.—

Held that—

It is clear on the face of this text [of the amendment] that it does not purport to confer power to levy income taxes in a generic sense—an authority already possessed and never questioned—or to limit and distinguish its exercise from time to time and another. The whole purpose of the amendment was to relieve all income taxes when imposed by the Congress from a consideration of the source whence the income was derived.

In the case of Stanton against Mining Co. Incorporated, likewise found in 240 United States Reports, page 12, decided February 21, 1916, the court unanimously held that—

it was settled that the provisions of the sixteenth amendment conferred no new power of taxation, but simply prohibited the previous complete and plenary power of income taxation possessed by Congress from the beginning from being taken out of the category of indirect taxation, to which it inherently belonged, and being placed in the category of direct taxation, subject to apportionment by a consideration of the source from which the income was derived; that is, by testing the tax, not by what it was—a tax on income—but by a mistaken theory deduced from the wrong or source of the income taxed.

In connection with the two cases just cited, I ask the committee to observe that the decision in each case was unanimous and was assented to by Mr. Justice Hughes, former governor of the State of New York, and therefore Mr. Hughes as a Justice of the Supreme Court of the United States has disagreed 17, Mr. Hughes as the chief executive of the State of New York. This is his credit.

The last adjudication I am able to find of the Supreme Court is the case of Peck against Low, decided May 20, 1916. In considering a phase of an income tax involved in this case, the court held that the sixteenth amendment—

does not create new subjects of taxation, does not destroy any excepted subjects, but merely removes all occasion, which otherwise might exist, for an apportionment among the States of taxes laid on income, whether it be derived from one source or another.

So, Mr. Chairman, I submit it as beyond controversy that a tax upon salaries or compensation of State officials or upon securities of States or their municipalities has been clearly held by the Supreme Court not to be a new tax and not affected by the sixteenth amendment.

In the case of Pollock against Farmers' Bank, known as the famous income tax case, the question was as to the constitutionality of incomes in the form of rents from real estate and income derived from certain personal property. The constitutionality of the tax as a tax per se was not controverted. The position taken in that case was that such an income was a direct tax and therefore would have to be apportioned among the several States. In other words, the tax itself was valid, but the mode or method of laying the tax was invalid. Therefore, in 1895, when the Federal government was adopting the purpose of securing new subjects of taxation but to remove the clumsy and slow method of apportionment of the income due from a consideration of the source whence the income was derived.

The gentleman versus Hallway and without regard to any census or enumeration—

Mr. CHANDLER. Mr. Chairman, will the gentleman yield?

Mr. MADDEN. Mr. Chairman, will the gentleman yield?

Mr. MONTAGUE. Yes, I will.

Mr. MADDEN. Does the gentleman consider that in setting aside the necessity for an apportionment of the tax you extend the power of the Congress to levy without respect to whether or not it was taking away the right of the States to end revenue to maintain their own governments?

Mr. MONTAGUE. If I catch the gentleman's inquiry correctly, I think he is admitting that the amendment has not affected all the powers of the States or the Nation with respect to the subject of taxation. It has only determined the method by which Congress must exercise its power to tax.—It is wholly of a regulatory character.

To repeat, I would say that before the sixteenth amendment Congress could tax incomes, but it must then tax incomes by the method of apportionment among the States. Since the amendment, this power of the amendment, of course, means that Congress may tax incomes directly and not by apportionment. Therefore, the amendment does not create new subjects of taxation but does create a new method of reaching taxable subjects, namely, by the direct income tax.

Mr. Chairman, we should not grow hysterical by reason of this war. The equilibrium of the National Government and the State governments should be preserved. The tax proposed in this section of the bill will, in my opinion, destroy this equilibrium, and will dislocate our great Federal system. I hope the Congress will not impose the tax in question, and if the Congress moves to raise it to the power of taxation, it will do a futile and vain thing, because such action will be beyond the legislative power of Congress.

Mr. BORLAND. Mr. Chairman, will the gentleman yield?

Mr. MONTAGUE. The sixteenth amendment, and by virtue of the amendment, the Congress must exercise its power to tax—it is wholly of a regulatory character.

Mr. MADDEN. Mr. Chairman, will the gentleman yield?

Mr. BORLAND. Would not the gentleman's reasoning apply with exactly the same force, that the sixteenth amendment does not extend the taxing power along new subjects of taxation or impose a tax, but it is wholly of the power to tax with respect to whether or not it was a tax on income, but by a mistaken theory deduced from the wrong source of the income taxed.

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I have no fault or complaint to make at the salaries of the Federal judiciary. On the contrary, I do not believe the judiciary are sufficiently paid, and I will vote to increase their compensation. The distinction that because, forsooth, they hold a Federal judicial job with a large salary they should be immune from income taxes when the other citizens of this country pay income taxes. I do not think there is any question but that Congress has the power to tax them. The Constitution as to their salaries simply says:

The judges shall receive for their services a compensation, which shall not be diminished during their continuance in office.

That does not mean that they are exempt from taxes. That simply means that Congress by legislation shall not pass an act reducing their salaries. It does not exempt them or give them immunity from taxation. As I said before, I am perfectly willing to vote to increase their compensation. I believe the laborer is worthy of his hire, but I believe it is of no good to the body politic to have a certain class of officeholders exempt from taxation and the body of the people with similar salaries paying taxes.

The CHAIRMAN. The time of the gentleman has expired.

Mr. CRISP. I ask unanimous consent to proceed for five minutes.

The CHAIRMAN. The gentleman from Georgia asks unanimous consent that his time be extended five minutes. Is there objection?

There was no objection.

Mr. CRISP. Now as to the right of the Federal Government to tax State officials, that is a more serious question.

When we say that the Constitution was ratified it became, of course, a part of the Constitution. That amendment reads:

The Congress shall have power to lay and collect taxes on incomes from whatever source derived, without apportionment among the several States and without regard to the census or enumeration.

Now, I know it is a debatable question, but Mr. Justice Hughes in his opinion on the sixteenth amendment, which lawyer do you hear when Governor of the State of New York sent a message to the New York Legislature urging them not to ratify or adopt this sixteenth amendment, for the reason that it gave the Federal Government the right to tax municipal and State bonds and salaries of officials. That was the ground on which he urged the legislature to refuse to ratify this amendment.

As I stated, it is doubtful, but the courts have not passed on that amendment. Neither has any court said, since the sixteenth amendment was adopted, that it was not constitutional to require State officials and Federal officials to pay income taxes. I do not agree for one moment that if a State official pays an income tax it confers on Congress the power to destroy the State government. I grant that if Congress were to single out and levy a tax against the salaries of State officials it would not be constitutional, but I think it is very debatable when Congress passes a tax against the salaries of all the citizens of the United States, whether officeholders of the Federal Government or officeholders of the State, enjoying a certain income from whatever source derived, shall pay a tax thereon, whether the courts will hold that unconstitutional, and for one I want to put it up to the courts.

Mr. CHANDLER of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. CRISP. I yield to the gentleman from Oklahoma.

Mr. CHANDLER. Mr. Chairman, will not the amendment, if adopted, exempt Members of Congress from income taxes on their salaries?

Mr. CRISP. I do not think so. I think the salaries of Members of Congress are clearly subject to the payment of the income tax, with or without the amendment.

Mr. LONDON. When revenue is raised for war purposes, is it not raised for the purpose of enabling that very State government to exist?

Mr. CRISP. I think so. And, furthermore, I will say to the gentleman from New York that if any gentleman enjoying a Federal or State office, with an income sufficient to come within the purview of this law, wants to test it in the courts, I say to him, Go to it!

Mr. LONDON. But is not this revenue being raised for the purpose of continuing the very existence of the Government?

Mr. MONTAGUE. Will the gentleman yield?

Mr. CRISP. I yield to the gentleman from Virginia.

Mr. MONTAGUE. I am not going to urge the gentleman to say that he was in doubt about the constitutionality of this provision, and therefore wished to put it up to the courts.

Mr. CRISP. To try to recall exactly what I said, I think I said that the committee had doubts as to the constitutionality of it, but the committee thought in this national crisis and emergency they should resolve the doubt in favor of the Government.

Mr. MONTAGUE. Is it not the accepted practice and construction in every State to see to it that the unbroken principle of the decisions of the courts, that when you are in doubt about the constitutionality of a matter you shall not impose it?

Mr. CRISP. I think there is splendid authority for that.

Mr. MONTAGUE. And none to the contrary. This is new doctrine to me.

Mr. CRISP. Let me do the justice to my colleagues on the committee to say that I may not be expressing their views, and I assume full responsibility for the statement I have made.

Mr. LONGWORTH. Will the gentleman yield?

Mr. CRISP. I yield to the gentleman from Ohio.

Mr. LONGWORTH. Does the gentleman think this rests on the same ground as the taxation of municipal bonds? Is the same question involved here as is involved in our right to tax municipal bonds?

Mr. CRISP. Absolutely.

Mr. LONGWORTH. And we never will know whether we can tax them or not unless we pass this provision and leave it to the courts.

Mr. CRISP. The gentleman is absolutely correct.

Mr. WALSH. Mr. Chairman, I offer a substitute for the amendment proposed by the gentleman from Virginia.

The CHAIRMAN. The gentleman offers a substitute, which the Clerk will report.

The Clerk read as follows:

Mr. WALSH offers the following substitute for the amendment offered by Mr. MONTAGUE: Page 5, line 18, after the word "service," strike out all between the parallel lines in lines 18 and 24.

Mr. WALSH. Mr. Chairman, I have listened with much attention to the remarks of the gentleman from Virginia [Mr. MONTAGUE], and I agree with him in the opinion that nothing can be done in the amendment to the Federal Constitution, which the gentleman from Georgia [Mr. Camp] has cited, gives the Government the right to tax incomes received by State officials as compensation or salary. Much stress is laid upon the words "from whatever source derived," but that is not the important phraseology in that amendment. The important phraseology is "taxes on incomes," and the amendment creates no new incomes or sources and makes nothing an income that was not an income before.

We ought not to tax the incomes of State officials. We ought not to tax the salary of the President of the United States or the salaries of the Federal judiciary. We have demands pending in the House at present, and provisions of the Federal judiciary from $6,000 up to $11,000 or $12,000 in some instances; and, of course, if we go to levying this income tax on them for the purpose of getting revenue you will find that they will do all sorts of things to avoid these taxes, and because it will simply give impetus to the demand for increased compensation for the judiciary. The taxing of their salaries will be used as an excuse to increase their salaries and we will be urged to pay out many times more than what the tax amounts to.

But I desire to direct the attention of the committee to one of the clauses of Article II of the Constitution:

The President shall, at stated times, receive for services a compensation which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

We have no right either by taxation or by direction or indirect authority under that provision of the Constitution to increase or diminish the salary of the President. Under the schedule laid out in this bill he would be taxed 42 per cent on his salary, but no matter what the rate of taxation is it diminishes the salary of the President of the United States. Oh, gentlemen say let the people who are involved go to the court and have the question raised. That is an unfair and cowardly way to handle this matter. These people who are performing the service are not going to receive nor are they going to be taxed. If you want to pass an act permitting the President of the United States to serve without compensation, or judges to serve without compensation, why, pass that sort of a statute. But it is deplorable to say that the committee, or a member of it, may be doubtful as to the constitutionality of a provision, nevertheless because we are attempting to raise needed revenue we are going to bring in this gentleman and get him to say that he was in doubt about the constitutionality of this provision, and therefore wished to put it up to the courts.

Mr. CRISP. Will the gentleman yield?
Mr. WALSH. Yes.
Mr. CRISP. Does the gentleman contend that a provision requiring Federal officials to pay the income tax the same as all other persons is reducing their compensation within the meaning of the constitutional provision?
Mr. WALSH. I certainly do, as applied to the President and the Judiciary.
Mr. CRISP. I differ with the gentleman; I have no doubt as to the constitutionality of the provision.
Mr. WALSH. If the gentleman will tell me how you can tax the income which the President of the United States derives as compensation, and yet diminish his compensation, I should like to have him demonstrate it.
Mr. SHERLEY. Will the gentleman yield for a question?
Mr. WALSH. Yes.
Mr. SHERLEY. What was the purpose of putting that clause into the Constitution relative to the President's salary?
Mr. WALSH. I assume the purpose of it was so that the President's salary should be a certain fixed and definite sum that could not be tampered with while he held office.
Mr. SHERLEY. That is not the theory in the constitutional debates. The debates show clearly that the purpose was that Congress might not punish or reward. Now, can it be said that Congress is punishing or rewarding when it makes a rule that applies universally to the citizenship, including the President of the United States?
Mr. WALSH. On that theory I submit that if we should be permitted to tax him, as Mr. GARRETT of Tennessee suggests, to undertake to reach that point by placing it in the Constitution, it is an indirect attempt to reduce the office.
Mr. CRISP. I, perhaps, misunderstand the point; it is a diminution of the compensation.
Mr. SHERLEY. The gentleman misunderstands the point; it is a diminishing of the compensation in an indirect sense, but it is a diminution as the framers of the Constitution had in mind which would be special to the person.
Mr. GARRETT. If the gentleman says that it is not a direct decreasing of his compensation, but it results in the decreasing of his compensation, and it is an indirect attempt to reduce it. We ought not to step in and say to State officials, to legislators, or to the judges, or to the officers of Congress, that we will tax them, but do not intend to decrease their compensation.
Mr. FORDNEY. Will the gentleman yield?
Mr. WALSH. Yes.
Mr. FORDNEY. There is a provision of law that Congress cannot change the salaries during the term for which Members are elected, and they are subject to taxes under this law. Congress, by the passage of this act, is not changing the compensation to be received by the President. We have not changed the salary at all; but if he receives it, we will put him in the class of the common citizenship and tax him like all other people, and he ought to be taxed.
Mr. SHERLEY. The gentleman's reasoning would be better if his premises were sound. There is no provision against a change of salary of a Member of Congress.
Mr. FORDNEY. During the time for which he is elected.
Mr. SHERLEY. No.
Mr. FORDNEY. Perhaps I am wrong.
Mr. WALSH. There is no such provision as to Members of Congress.
The CHAIRMAN. The time of the gentleman has expired.
Mr. WALSH. Mr. Chairman, I ask unanimous consent to proceed for three minutes more.
The CHAIRMAN. Is there objection?
There was no objection.
Mr. STEWART of Illinois. Will the gentleman yield?
Mr. WALSH. Yes.
Mr. STEWART of Illinois. I want to ask the gentleman this question: After the President receives his salary it would be subject to taxation under the tax laws of the District, would it not, or is it not depressed by reason of his personal interest.
Mr. WALSH. I do not think so.
Mr. STEWART of Illinois. It seems to me that after an officer receives his salary and has acquired the property it could be taxed.
Mr. WALSH. An income tax by the State?
Mr. STEWART of Illinois. No; personal property tax, of any kind of a State tax.
Mr. LONGWORTH. A bank balance, for instance.
Mr. WALSH. Oh, I assume that that may be so.
Mr. STEWART of Illinois. That would diminish his income just the same as imposing an income tax on his salary. I do not think the gentleman would say that that was a diminution of the salary prohibited, and yet it does diminish the salary just as an income tax diminishes it.
Mr. WALSH. If the gentleman will permit, in the one case you are taxing property; in this case it is a tax on his income.
Mr. STEWART of Illinois. The gentleman makes this distinction and bases it on the ground that they can not diminish the President's salary, but they do diminish it when they tax him locally.
Mr. GRAHAM of Pennsylvania. Will the gentleman permit an interruption for me to ask a question?
Mr. WALSH. Yes.
Mr. GRAHAM of Pennsylvania. Do you not forget that you are discussing limitations in the Constitution as to the power of Congress? What has that to do with the question of local taxation? It says that Congress shall not do this thing.
Mr. STEWERT of Illinois. Congress shall not impose local taxes on the President's salary when he puts it in the bank; that is within our power to do in the District of Columbia. I do not think anyone ever thought of the question that we were prevented by the Constitution from imposing that tax upon the ground that it diminished his salary.
Mr. WALSH. Would the gentleman go further and contend that Congress would have the power to impose a tax upon a bank balance in the State of Illinois?
Mr. STEWERT of Illinois. If that is where the officerholder made his tax returns to the State.
Mr. WALSH. I mean as personal property—a bank balance as personal property.
Mr. STEWERT of Illinois. Certainly not. The Federal Government could not do that, or never has attempted to do it.
Mr. WALSH. Mr. Chairman, will the gentleman permit a suggestion?
Mr. WALSH. Yes.
Mr. GARRETT of Tennessee. It is perhaps not quite so fundamental as some of the questions the gentleman is discussing, and yet it is extremely important, it seems to me, and that is that the imposition of this tax upon the Federal Judges certainly places them in a very peculiar situation, they being the people who have the power to construe the constitutionality of the act, and every Federal Judge in the United States is substantially disqualified by reason of his personal interest.
Mr. WALSH. I think that is very true with reference to the judges, but I do not know that I have not heard it stated the amount of money it is estimated will be received from this sort of taxation.
Mr. CRISP. Mr. Chairman, if the gentleman will permit, I can answer the gentleman. According to the Treasury estimates, it will bring in between four and a half and five million dollars.
Mr. WALSH. Then, if that be true, I do not believe that for that comparatively insignificant amount of money we ought to undertake this class of taxation, but we should see to it that some of the other schedules are revised and increased or new schedules added.
Mr. CRISP. I do not want to have any question as to what I mean by that statement. It is estimated by the Treasury officials that from the taxing of the salaries of the Federal and State officials between four and a half and five million dollars will be collected in revenue. That does not include anything that might come in from taxation of municipal and State bonds.
Mr. WALSH. That is another question; but my amendment goes to stripping out the clause within the parentheses, which affects the compensations or salaries of the President of the United States and Federal Judges and State and municipal officials.
Mr. CRISP. The Treasury experts estimate that that will yield between four and a half and five million dollars.
Mr. WALSH. Mr. Chairman, the suggestion that we should put this up to some official to contest it before the courts, I think, will not keep it out of the courts, and it ought not to.
Mr. MOORE of Pennsylvania. Mr. Chairman, it seems to me that this paragraph ought to remain intact. I do not see why the clause should not be made. It is the same language that a Federal officerholder receiving $7,500 a year shall be taxed upon that, and a State and county or municipal officerholder, living across the street and receiving as high as $17,500 a year, shall not be taxed. A tax on property of principle in time of war it does not seem cowardly, as the gentleman from Massachusetts suggests, to undertake to reach that $17,500 man when the $7,500 man has to pay. What is there in the proposition as presented by Mr. Longworth from Pennsylvania, in effect, to relieve from taxation those who are already fortunate enough to hold jobs in the county, State, or municipal service? The gentleman from Virginia [Mr. Montague], who is an estate lawyer, suggests, to undertake to reach that point.
Mr. MONTAGUE. Mr. Chairman, will the gentleman yield?
Mr. MOORE of Pennsylvania. Yes.

Mr. MONTAGUE. I do not wish the gentleman to forget that I desire to relieve anybody from taxation. My purpose is only that the United States shall be confined within its constitutional limits. I do not wish the people to demand for money to prosecute this war, and the tax collector goes up to the governor of a great State, highly honored by the people, and says, "We would like a contribution for this war," he, too, has the Constitutional power to levy taxes upon income from that wherever source derived.

Mr. MONTAGUE. Does not the gentleman recall that in the case of Collector against Day, where the United States undertook to tax the salary of a State official, the court held it unconstitutional?

Mr. MOORE of Pennsylvania. I am not familiar with that particular case. I am not a lawyer.

CHIEF JUDGE HENRY T. RAINEY. Mr. Chairman, the gentleman from Virginia [Mr. MONTAGUE] and those who view this matter as he does present with great force the constitutional objections to this tax. Not long ago we passed the selective-draft bill, and out in various sections of the United States legal minds presented with great force their objection to the selective-draft bill upon the theory that it imposed an involuntary servitude upon some unwilling citizens of the United States. They carried the question through to the Supreme Court of the United States, and the court decided that question as it ought to have been decided and as we all know it ought to have been decided. The real fight for the Constitution of the United States is being fought to-day along the border between the States and Canada and France. The real fight for the Constitution of the United States, the fight that means something, is being made by our brave boys there as they face to-day the great guns firing at them from the fields of Meuse. The real fight in the United States is being made, and the real fight for the States and their rights is being made there, and the real fight of those citizens who draw salaries from the States is being made there. We are in this battle here in this city. I have little sympathy with these hair-splitting discussions as to questions of constitutionality on this floor when the Nation's life is in peril. There will be enough objections to these taxes throughout the country. The fight that means something is being started that will go higher and higher if you exempt citizens of the United States from this tax.

It is a serious matter for a citizen of the United States to stand upon his constitutional rights and say, "I am mayor of a city. I draw a salary of $15,000 a year," or, "I am the treasurer of a State and my salary and my commissions amount, perhaps, to $5,000 a year." I understand there are even officials of some of our great cities who draw much higher salaries than this, and are they to say, "You cannot destroy my city by taxing its officers. You have no right to destroy my city by taxing its officers." Great God, who is trying to destroy my city by these taxes? We propose to expend every two weeks during the next 12 months the sum of a billion dollars in money, and we have got to tax the people of the United States to get it, and we want to tax them in a way that we can see the official of a State or a city, who will have the courage to stand up and in effect say to his neighbors, "You are being taxed; a large portion of your income is being taken from you; you have elected me to this office, or the official you elected has appointed me, and therefore my salary cannot be touched; no matter what happens to me." I propose to go to the Supreme Court of the United States and have them say that my salary shall remain intact. We have got to look in all the tax bills until the present time, and every man in this House, every Member on the floor, knows the result.

People who are being taxed are protesting from one end of the United States to the other as to the unfairness of the citizens, who hold these lucrative positions, from taxes. They ought to be taxed; the ordinary rules which apply to the construction of statutes of this character in times of peace apply to this case, and I have sympathy with the Court of the United States. It is our duty, as I see it, to leave this section as it is and to see that in this broad land no man can stand back of the Constitution and be a shirker and avoid paying taxes.

Mr. GRAHAM of Pennsylvania. Mr. Chairman, we travel far afield in our discussions of questions in committee, and it may be well to invite the attention of the committee back to what is perhaps the most involved law of taxation involving sections from Virginia [Mr. MONTAGUE]. We have ranged into a discussion as to whether the President should be taxed and whether the judges should be taxed and whether military officers should be taxed, but all of these subjects are covered by other portions of this measure. The only point raised by the gentleman from
Virginia is by a motion to strike out the words "of any State," which limits this debate to the question, Ought Congress to tax the employees of a State or any subdivisions thereof under the form of raising revenue?

Mr. CHAFFEE. If the gentleman will permit, I suppose he wants to be accurate. The gentleman from Massachusetts [Mr. WALSEY] has offered an amendment to strike out the whole proposition.

Mr. GRAHAM of Pennsylvania. The gentleman from Virginia is quite right, and I thank him for the correction. My mind was absorbed in following the motion of the gentleman from Virginia [Mr. MONTGOMERY]. I rise with reference to it. It is not that the words "of any State" ought to be stricken out of this bill. It is not good argument to talk about who is fighting the fight of the Republic in answering a legal proposition like this. It is not good argument to say its time may be, and that the words of precedent in the Constitution do not apply to a situation.

This body is a court in the sense that it must pass upon the Constitution for itself. We are sworn to obey the Constitution. We have no right to shift the exercise of the first judgment away from ourselves. This body is a court in the sense that it must for itself pass upon every question of constitutionality, and we should never do what the Constitution does not. The time must not in a cowardly fashion shrink from that duty. It may be more popular to say that we are going to tax the salaries of the President and the judges, but we should not say that this body is popularly said to be in a court passing upon the Constitution.

Mr. CRISP. I think the gentleman from Virginia is quite right, and it was quite by accident that I used the word "State." It was not intended to be a point in favor of the amendment.

Mr. CANNON. The gentleman from Virginia is quite right.

Mr. GRAHAM of Pennsylvania. Three minutes.

Mr. CANNON. Mr. Chairman, I ask unanimous consent that the time be extended to us. We are not discussing the question of the Constitution, but the question of an amendment. It is the question of ethical right for us to put these people, who must sit in judgment upon this bill, who are judges, in a position where they will no longer be disinterested actors upon it. That is the question that appeals to me.

Now, one more word with reference to the States. The question regarding the striking out of the words "any State" is fundamental in the legislation that is proposed. We are innovating in legislation in a most dangerous fashion to depart from that basis, and it does put upon the ofﬁcer who my friend from Massachusetts calls a cowardly condition. You are going to put the President and the judges of the Supreme Court, for the last time, to go into a court of justice and claim his legal rights when the danger of the mad cry that goes up everywhere prevents the operation of fair play and the statement would be made that they were put down and the answering of a question by the President of the United States and the judges from passing upon it, for they are interested parties; nor is it aimed at the President of the United States and the judges from passing upon it, for they are interested parties; nor is it aimed at the President of the United States and the judges from the laying or the levy of an income tax upon their salaries.

Mr. GRISHAM. Is there objection? [After a pause.] The Chair hears none.

Mr. GRAHAM of Pennsylvania. The real question with reference, therefore, to the salaries of these high ofﬁcials is not, in my judgment, so much the constitutional question as it is a question of ethical right for us to put these people, who must sit in judgment upon this bill, who are judges, in a position where they will no longer be disinterested actors upon it. That is the question that appeals to me.

Mr. CANNON. I do not think that the gentleman from Virginia is quite right.

Mr. GRAHAM of Pennsylvania. Much more time would the gentleman like?

Mr. CANNON. Much more time would the gentleman like?
question. He begs that of the fact that the income-tax amendment. There was original constitution forbidding the legislature from reducing the salaries of public officials during their term of office. In 1908 an amendment to the State constitution was adopted which authorized the levy of income taxes in the following language:

"Taxes may also be imposed upon incomes, privileges, and occupations, which taxes may be graduated and progressive, and reasonable exemptions may be provided."

The State supreme court, in a decision rendered by Mr. Justice Barnes, an eminent jurist, who has since resigned from the State supreme court to take the position of general counsel of the Northwestern Mutual Life Insurance Co., held that the question of taxing the salary of any public officer was one of construction, and that the State supreme court had the right of the State to hold the right of the State to levy the income tax upon the salaries of those officials. Mr. Justice Barnes, at page 402, says:

"We construe the amendment as authorizing the legislature to tax the salaries of public officials in any case, where the power rests in the State to impose such a tax. It would not be contended that the Constitution might not be amended so as to abrogate section 20 of Article IV entirely. Neither would it be contended, if the amendment of 1908 had in express terms stated that salaries of public officers should be subject to an income tax, that section 20 as prohibited by the amendment of 1908 would not be abrogated, assuming that it did prohibit the imposition of income tax on the salaries of public officials. The question was largely one of construction, involving the comprehensiveness of the 1908 amendment. The question of taxing the salaries of public officials in any case where the power rests in the State to impose such a tax is not now in issue. It is the case cited by the distinguished gentleman from Virginia [Mr. Morris] in the case of Peck against Lowe, decided May 20 last, does not stand on all fours in prohibiting this Congress from levying an income tax on the salaries of public officials, because it is the case of the National Government, because the decision of the Supreme Court said that the sixteenth amendment, although referred to in argument, has no real bearing and may be put out of mind, showing conclusively that the Supreme Court did not intend to pass upon the question as to the relative construction of the proposal of taxing salaries of judges or public officials in construing the income-tax provision of the sixteenth amendment with that provision of the original Constitution which forbade the taxing of the salary of a justice of the courts of the United States or the salary of the President during his term of office. This question has not been put up to the Supreme Court for decision. Since war was declared as to the war powers of Congress. We know that the Constitution has been stretched almost to the breaking point to justify some of the legislation that has been passed by Congress, and we expect that the Supreme Court will uphold the constitutionality of that kind, because we are at war and because it was construed as being part of the war powers of Congress. Now, in view of this decision, where the Supreme Court of Congress passed upon almost this identical question, can we not say that there is warrant for legislative action in believing this authority constitutional, and in submitting this question to the Supreme Court to determine whether we have authority under the sixteenth amendment to levy a tax on the incomes of Federal and State officials, as we are levying taxes indiscriminately upon all officials, whether private or public?"

Mr. BORLAND. Mr. Chairman, the gentleman from Massachusetts [Mr. Walsh] ought to be debated. In my judgment, the committee have taken the only wise course that could be taken, in view of the doubt which must exist as to the power of Congress upon this subject.

The amendment embraces three propositions, with three different cases of constitutional capitalism in place. It proposes the salary of the President of the United States and the salaries of the Federal Judicaries. The Federal Constitution covers those cases by providing that the salary of the
President shall neither be increased nor diminished during his term of office, and that the salaries of the Federal judiciary shall not be diminished during their term of office.

 Apparently the first time that it was attempted to tax the salaries of officials, this was chosen to be done in the War of 1812. No decision was rendered upon that act; but that act, as I understand, provided for no exception in favor of the Federal judiciary.

 Black on Income Taxes, section 205, says:

 The income-tax laws enacted by Congress during the period of the Civil War contain no such exception, but the justices of the Supreme Court, then in the Senate, saw fit to add to the provisions that incomes may be present in the case of the gentleman from the State of Tennessee, declaring that the objection to the tax was made by the Treasury Department, to which the communication had been referred, gave an elaborate opinion, advising the Secretary of the Treasury that the income tax could not lawfully be assessed collected from the salaries of those judicial officers of the United States who were in office at the time of the enactment of the act imposing the tax.

 So that it was the opinion of the Attorney General, through the Secretary of the Treasury, that the actual omission was made, and apparently no decision has been rendered by any court upon the subject, whether a tax upon the salary of the Federal judiciary reduces or diminishes that salary within the meaning of the Federal Constitution.

 Now, I am inclined to agree with the interpretation of the gentleman from Kentucky [Mr. Montague] that the amendment of this provision in the case of the President of the United States and of the Federal judiciary was to prevent Congress from either rewarding or punishing the President, or punishing the Federal judiciary by the enactment of special laws directed against them to reduce their salaries during their continuance in office. That was a very familiar practice of parlament, and was undoubtedly in the minds of the framers of our Constitution when the time that the amendment was framed. So far as we are able to ascertain it was not designed to exempt those officials from the ordinary burdens that they would bear as citizens of the Republic. I am inclined to think that the Federal judiciary will hold eventually that any burden which is common to the citizens of the Republic in a like situation must be borne by the Federal judiciary and by the President of the United States, notwithstanding these protecting clauses of the Federal Constitution. The only thing that Congress is forbidden to do is to single out the President for reward or punishment during his continuance in office, or to single out the Federal judges for punishment during their continuance in office.

 Now, that presents so doubtful a question that in my mind it ought to defeat the amendment of the gentleman from Massachusetts. As to the question of power to tax the State, a stronger constitutional doubt exists. That is the amendment of the gentleman from Virginia [Mr. Montague]. My recollection is—I have not the case before me—that the case of McCulloch against Maryland, in which Chief Justice Marshall delivered the opinion, was a case where the city of Baltimore sought to levy a tax against the United States bank. It was held that notwithstanding the failure of the Constitution to expressly confer the instrumentalities of the States on the Federal government that neither the States nor the Federal government could tax the instrumentalities of the other; that it was interwoven with the whole scheme of political control in this country that the two sovereigns were of equal power, each within its sphere, and neither one could invade the sphere of the other, and neither one could lay the hand of taxation on the activities of the other.

 The CHAIRMAN. The time of the gentleman from Missouri has expired.

 Mr. BORLAND. Mr. Chairman, I ask for five minutes more.

 The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

 There was no objection.

 Mr. BORLAND. That broad principle that neither under the guise of taxation nor under the guise of regulation can either one of the sovereigns invade the field of activity or instrumentalities of the other, if that be confirmed again it will do all that the amendment of the gentleman from Virginia seeks.

 But the interesting fact now is that the sixteenth amendment provides that there may be taxation of Federal Government from whatever source derived. Those words "from whatever source derived" introduce a legal element which was not present at the time this long line of decisions was made, not when the amendment was passed, nor when the amendment was voted upon, from whatever source derived. Those words "from whatever source derived" introduce a legal element which was not present at the time this long line of decisions was made, not when the amendment was passed, nor when the amendment was voted upon, and there may be taxation of Federal Government from whatever source derived. Those words "from whatever source derived" introduce a legal element which was not present at the time this long line of decisions was made, nor when the amendment was passed, nor when the amendment was voted upon, and there may be taxation of Federal Government from whatever source derived. Those words "from whatever source derived" introduce a legal element which was not present at the time this long line of decisions was made, nor when the amendment was passed, nor when the amendment was voted upon, and there may be taxation of Federal Government from whatever source derived.

 Therefore a new legal element has come into existence which ought to be affirmatively and authoritatively decided by the court.

 As to the third proposition embraced in the gentleman's amendment, to exempt officials of the territory of the United States, he has absolutely no justification. His amendment on two grounds at least is unsound. On the whole proposition the gentleman contends that the amendment is an element in the only wise and proper course, and that is to tax all that we reasonably have the right to tax, and if there be exemptions in the Constitution of the United States let an authoritative decision be rendered on those exemptions.

 Mr. WALSH. Will the gentleman yield?

 Mr. BORLAND. I will.

 Mr. WALSH. In reference to the gentleman's concluding statement there is nothing that is exempted by the Constitution. I want to ask the gentleman a question. As I understand, the Supreme Court in 1862 or 1863 directed a fact to the effect that the revenue law at that time could not tax their salaries, and it was subsequently to that in a communique the Attorney General advised the Treasury Department that they were not subject to taxation.

 Mr. BORLAND. The gentleman is correct.

 Mr. WALSH. Can the gentleman imagine how the Supreme Court would have decided that question if it had been presented to it squarely?

 Mr. BORLAND. I can. The membership of that court, I believe, would have decided that they were not subject to taxation.

 Mr. WALSH. Does the gentleman contend that if we decrease the salary of the President and do not do it to punish him that we can do it legally?

 Mr. BORLAND. I am inclined to think that any law Congress passes which places an income tax on any other form of tax applying universally to all citizens of the United States is constitutional, and that in order to come within the constitutional prohibition it must be a tax levied on the President of the United States, singing him out.

 Mr. WALSH. And this does.

 Mr. BORLAND. No; it applies to incomes, and it says including the income of these officials. It applies to all the citizens of the United States.

 Mr. WALSH. But he is the only President.

 Mr. BORLAND. It applies to every citizen of the United States; it is neither a revenue amendment. Suppose we pass a law saying that the President of the United States shall pay an income tax of $24,700. Then, after he was out of office and a new President came in, we passed another law repealing that tax. Have we increased the exemptions of the President of the United States by the sum of $24,700? No; it is neither an increase nor a diminution in the terms of the Constitution.

 Mr. DENISON. Will the gentleman yield?

 Mr. BORLAND. Yes.

 Mr. DENISON. The gentleman does not consider an income tax in so far as it allows the general taxation of incomes affects the provision of the Constitution about reducing salaries.

 Mr. BORLAND. I do not; I think the prior opinion was not well considered.

 Mr. DENISON. I am not talking about the prior opinion, but the prior provision of the Constitution.

 Mr. BORLAND. The opinion of Chief Justice Taney was not a judicial opinion, and it might have been otherwise if it was. I think, however, there is grave doubt about the power to tax the instrumentalities of a State.

 Mr. CANNON. Mr. Chairman, I will agree with the gentleman from Virginia [Mr. Montague] in what he said and all that he said touching the constitutional power to enact this legislation in this provision of the bill. I agree substantially and heartily with what the gentleman from Missouri [Mr. Graham] said. In the short time I have to speak about this amendment and the provisions of the bill, I shall talk, perhaps, more about the policy than I shall about the power. I believe that we are without power under the Constitution to decrease or increase the salary of the President of the United States during his term; and while it may be that he would sign the bill with that in it, and while it might be possible that he could sign more severe amendments to the bill, if we did not subject him to the tax—and no doubt he does have many donations to make—yet what is the sense of reducing the salary of the Commander in Chief of the Army and Navy when he is compelled more severely to render a service except in time of war. It is just penurious politics, in my judgment, and flying in the face of the express provision in the Constitution that the salary of the President and the Federal judges shall not be decreased during their term of office.
you can tax to take one dollar you can tax to take every cent. If you can decrease the President's salary in substance by applying the same amount of taxation, then you get the all. Gentlemen will recall that at the time of the whisky rebellion, when Washington had to intervene and put it down and enforce the law, there were propositions made to impeach the President for deciding the case, and to take their salary, and all that kind of thing. That is a coordinate branch of the Government and this is a coordinate branch of the Government, and one or the other or the two together coordinate branches have not the power, in my view, to be legislated, and if they had it would not be decent, from my standpoint, to exercise it to destroy the other coordinate branch of the Government, the courts. So much for that.

It is said that nobody is as correctly as one Member of Congress except two Members of Congress. To a certain degree that is true, and I include myself, so that I am not criticizing any Representative on the floor of this House without taking my due share of criticism. We are very tough from the popular standpoint. Gentlemen will recall, when we were considering the draft bill a short time ago, that in Committee of the Whole we adopted an amendment to subject Members of Congress to the draft. It went through. We adjourned and got our heads a little clear overnight, and we concluded that perhaps we could survive the attacks that the demagogues might make on us, as the election was approaching, upon the ground that we had submitted ourselves from the draft; and when we came to consider that vote in the House we did not agree with the Committee of the Whole House, though I believe there was no yea-and-nay vote.

However, the amendment, or the proposition that went through in Committee of the Whole House. Finally we are relieved from the attacks of demagogues by the Provost Marshal General issuing an order, or a letter, for the information of all the world that the order was made by a Member of Congress and that himself to the draft is by resigning. I expect he is right, because if all of us were to resign the result would be that a coordinate branch of the Government would be destroyed, at least temporarily, by the resignation of Members. It suggests that we tax ourselves on the $7,500 that we receive. Perhaps there is nothing in the Constitution to keep us from raising or lowering our salaries during our term of office. There is nothing there to prevent this, quite possibly, so far as compensation is concerned, we might reduce our own salaries or increase them, and I suppose we could tax them. I am not objecting to the tax, so far as that is concerned; but that is no argument why, in the face of the Constitution, as made by one or more Members on this floor, we should rush in and tax the salary of some one else.

Because we tax our own salaries is no reason why we should violate the Constitution in reducing the salary of the President and the judges, something expressly forbidden. Gentlemen say that they are anxious to get this question decided. This bill is to raise $8,000,000,000, and if we pass this provision here, and fold about $4,000,000,000 more, be brought into the Treasury, and we are awfully anxious to put it up to the judges to pass upon the question, so that we can settle it! There is time enough to settle it. If you want to, by additional amendments to the Constitution, provided they can be ratified; and we can do that in the piping times of peace without raising this question, not, in my judgment, to get relief for the Treasury, but to place coordinate branches of the Government in an embarrassing position, so that we might go to the country and say, Oh, we did this and that and the other.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. CANNON. Mr. Chairman, I ask unanimous consent to proceed for two minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. CANNON. Nobody can talk about this subject in 5 or 10 minutes, and I am not the most competent man to talk about it anyway. I do not know that I could advise others how to vote. I have constantly found difficulty in counseling myself on how I ought to vote. I ought to do what is right and I should take more time than I shall take about this matter if I were counseling others. I shall vote for the amendment offered by Mr. Montague, from Pennsylvania, and I shall not be a substitute. If that is adopted, I shall then vote for the amendment. If it is voted down, I shall vote for the amendment of the gentleman from Virginia [Mr. MONTAGUE].

Mr. WOOD. Mr. Chairman, the gentleman from Virginia [Mr. MONTAGUE] is right. I do not believe that he was opposed practically to coercing the President to be responsible upon the salary of the President of the United States and the salaries of the justices of the United States is a diminution of their salaries. If that were to be so it would be incumbent upon the Congress of the United States to provide a substitute whereby the purchasing power of a dollar would remain the same throughout their terms of office. No one will say that the salary of the President of the United States to-day is as great in purchasing power as it was before the Civil War. No one will contend for a minute that the purchasing power of the salaries of the justices of the United States is as great to-day by half as it was at the time of the commencement of this war. If the Constitution had said that the President of the United States should not be taxed it would have said so. [Applause.] If the Constitution had intended that the salaries of the Judges of the Supreme Court of the United States should not be taxed, it would have so provided.

Mr. KITCHIN. Mr. Chairman, I ask unanimous consent that all debate upon this amendment and all amendments thereto close in 20 minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. WOOD. Mr. Chairman, and gentlemen, the gentleman from Illinois [Mr. CANNON] who has just addressed us referred to the whisky rebellion. That rebellion was waged in the State of Pennsylvania and was caused by reason of a tax placed on whisky by the first revenue bill passed by Congress. It was waged because the people at that time honestly believed that a tax on whisky was unconstitutional. They believed that whisky was a necessity of life, and a prime necessity. They believed that their rights and objections were more valid from the opinion existing at that time to the opinion existing now with reference to the right to tax whisky. So, too, it may be said that many things which were believed honestly by men to be unconstitutional at the time of the whisky rebellion are no longer believed to be unconstitutional but that they are now quite constitutional. I wish to ask the suggestion made by the gentleman from Virginia [Mr. MONTAGUE] with reference to the assumption of measures passed by the Congress being constitutional. It does not follow because there may be some question concerning the constitutionality of a measure that we should refuse to pass it, for if such a rule of importance would ever pass either body of this Congress.

Mr. MONTAGUE. Will the gentleman yield for a question?

Mr. WOOD of Indiana. Yes.

Mr. MONTAGUE. Is it not the assumption also that every gentleman who votes for that law believes that it is constitutional?

Mr. WOOD of Indiana. Absolutely; he does not have to believe it to the nicety of a certainty. If that were so, we would not have progressed one inch from the attitude occupied 140 years ago at the beginning of this Government of the United States; and where would this Government of ours have been now if we would not have had our war, would not have had Alaska, or all of that section. We would not have had Alaska. The acquirement of these were unconstitutional in the minds of many statesmen when their acquirement was being discussed by this body that in these progressive times that when there may be a doubt with regard to the constitutionality of a question, unless that doubt is so strong in our minds we would not feel free to act upon it in a matter of our deepest concern, we should act.

I agree we should be very careful in passing on questions of this character, but I do not believe that every time there is a doubt expressed whether or not a measure is constitutional that we should hesitate to act unless that doubt resolves itself into such strong conviction that we are convinced to a certainty of the unconstitutionality of the measure proposed. Now, I have no doubt in my mind with regard to the constitutionality of this provision, and I do not believe that it is extending the power of taxation. If it is not extending the power of taxation, then the argument of the gentleman from Virginia falls. I do not believe that the one here will be a measure, but that this tax levied upon the salary of the President of the United States and the salaries of the justices of the United States is a diminution of their salaries. If that were to be so it would be incumbent upon the Congress of the United States to provide a substitute whereby the purchasing power of a dollar would remain the same throughout their terms of office. No one will say that the salary of the President of the United States to-day is as great in purchasing power as it was before the Civil War. No one will contend for a minute that the purchasing power of the salaries of the justices of the United States is as great to-day by half as it was at the time of the commencement of this war. If the Constitution had said that the President of the United States should not be taxed it would have said so. [Applause.] If the Constitution had intended that the salaries of the Judges of the Supreme Court of the United States should not be taxed, it would have so provided.
States should not be taxed it would have said so. Taxation is simply a burden of citizenship that should fall upon all alike. Is the President of the United States because he is President, relieved of the burdens of citizenship? If it affected the President it affected other men. It is the President's salary that is involved. We have United States courts, because they are selected as judges, relieved of the burdens of citizenship? I do not believe that anybody will seriously contend that there can be a question as to the legality of the acts of the President or any other Federal official, or the judges of the Supreme Court, on the ground that they must act upon it by way of veto or by way of passing on the constitutionality of the legislation, then we abandon our constitutional right and we shrink our constitutional duties to pass any legislation affecting those officers or the offices which they occupy. So we can not say that because it will embarrass them to pass upon the questions which we think ought to be incorporated into the law we ought not to incorporate them.

Mr. STEVENSON. Mr. Chairman, I am in entire accord with the position taken by Mr. Cannon as to the effect of the taxation of the salaries of State officers. The salaries of State officers are fixed by jurisdiction entirely beyond our control. If we tax their salaries to such an extent as to impair their efficiency, we have no power to make that up. Now, when it comes to taxing the salaries of United States officials and United States judges, if Congress by taxation finds it has impaired the efficiency of its own agencies it can repair that, but when it comes to dealing with the salaries of State officials it can not do so, and I will give an instance of it. In the Supreme Court of South Carolina justices are elected once every two years for 30 years. Say a justice has been just elected, and the provision of the constitution is that his salary can not be increased during his term. We pass a salary-increase law next winter, and he gets $8,000—we pass a law to increase his salary next winter, and it can not affect him unless he has served at least three years and then is re-elected, and so you see you begin to get into a realm beyond our control.

You will do a great injustice to the State in doing so, but that does not apply, of course, to the tax of Federal officials. I am inclined to think the difficulty of the question is this—I am in favor of the provision for taxing the incomes of Federal officials, including incomes from salaries. Now, the decision cited by the gentleman from Virginia, while good, is not exactly in point on this question. It is a decided up in cases which he has cited. It is an obiter dictum so far as that is concerned, because they say that the sixteenth amendment to-day referred to in argument has no real bearing, but it refers to the case of Brush v. United States, 1, and that case, it seems to me, together with the case cited by the gentleman from Virginia, shows that on this question there has been no receding from the position that was taken by the court years ago up to this time in the matter of the taxing of State instrumentalities. It can scarcely be controverted that the sixteenth amendment has not undertaken to deal with that at all. The question there is dealt with on the proposition that the right to tax everything already existed and, therefore, that the sixteenth amendment had nothing to do with it. The following is the language:

"The various propositions are so intermingled as to cause it to be difficult to determine which of them is good. We are of opinion, however, that the fusion is not inherent, but rather arises from the conclusion that the sixteenth amendment is an amendment of the power to tax that of the Constitution; that is, a power to levy an income tax which although direct should not be subject to the regulation of apportionment applicable to all other direct taxes.

And then they go on and say that the sixteenth amendment has added nothing to the power to lay and collect income taxes. If it has not, then the decision which was made long before this amendment was adopted settles the fact that you can not tax State instrumentalities and you can not, therefore, invade the domain of State legislation. And it seems, therefore, conclusive that it has been decided that the sixteenth amendment, in nowise abrogates the fact that you can not tax the salaries of State officials or the bonds of a State or State subdivisions or interest arising from them as part of the income. That being decided, it is of no importance whether there is a relation to the position of the gentleman from Virginia that the words "or of any State" should be stricken out.

Mr. STERLING of Illinois. Mr. Chairman, I just desire to say one word in reference to the amendment of the gentleman from Massachusetts [Mr. WALSH].

I do not think this legislation is unconstitutional with reference to taxing the salary of the President and the salaries of the judges on the ground that it is a diminution of their salaries during term of office, which is a question, and I think it has always been so understood and construed to mean, that Congress could not by direct legislation increase or reduce the salaries of the Federal officials during their term.

Now, the ethical question raised by the gentleman from Pennsylvania [Mr. GRAHAM] does not appeal to me. To say that we ought not to pass this legislation because it would put the President and the judges of the Supreme Court in an embarrassing position is certainly not an argument against this legislation. Why, if we are going to decline to pass legislation because it affects the President or the judges, then we must get out of the United States courts, because they are selected as judges, relieved of the burdens of citizenship? I do not believe that anybody will seriously contend that there can be a question as to the legality of the acts of the President or any other Federal official, or the judges of the Supreme Court, on the ground that they must act upon it by way of veto or by way of passing on the constitutionality of the legislation, then we abandon our constitutional right and we shrink our constitutional duties to pass any legislation affecting those officers or the offices which they occupy. So we can not say that because it will embarrass them to pass upon the questions which we think ought to be incorporated into the law we ought not to incorporate them.

Mr. STEVENSON. Mr. Chairman, I am in entire accord with the position taken by Mr. Cannon as to the effect of the taxation of the salaries of State officers. The salaries of State officers are fixed by jurisdiction entirely beyond our control. If we tax their salaries to such an extent as to impair their efficiency, we have no power to make that up. Now, when it comes to taxing the salaries of United States officials and United States judges, if Congress by taxation finds it has impaired the efficiency of its own agencies it can repair that, but when it comes to dealing with the salaries of State officials it can not do so, and I will give an instance of it. In the Supreme Court of South Carolina justices are elected once every two years for 30 years. Say a justice has been just elected, and the provision of the constitution is that his salary can not be increased during his term. We pass a salary-increase law next winter, and he gets $8,000—we pass a law to increase his salary next winter, and it can not affect him unless he has served at least three years and then is re-elected, and so you see you begin to get into a realm beyond our control.

You will do a great injustice to the State in doing so, but that does not apply, of course, to the tax of Federal officials. I am inclined to think the difficulty of the question is this—I am in favor of the provision for taxing the incomes of Federal officials, including incomes from salaries. Now, the decision cited by the gentleman from Virginia, while good, is not exactly in point on this question. It is a decided up in cases which he has cited. It is an obiter dictum so far as that is concerned, because they say that the sixteenth amendment to-day referred to in argument has no real bearing, but it refers to the case of Brush v. United States, 1, and that case, it seems to me, together with the case cited by the gentleman from Virginia, shows that on this question there has been no receding from the position that was taken by the court years ago up to this time in the matter of the taxing of State instrumentalities. It can scarcely be controverted that the sixteenth amendment has not undertaken to deal with that at all. The question there is dealt with on the proposition that the right to tax everything already existed and, therefore, that the sixteenth amendment had nothing to do with it. The following is the language:

"The various propositions are so intermingled as to cause it to be difficult to determine which of them is good. We are of opinion, however, that the fusion is not inherent, but rather arises from the conclusion that the sixteenth amendment is an amendment of the power to tax that of the Constitution; that is, a power to levy an income tax which although direct should not be subject to the regulation of apportionment applicable to all other direct taxes.

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Mr. STERLING of Illinois. Mr. Chairman, I just desire to say one word in reference to the amendment of the gentleman from Massachusetts [Mr. WALSH].

I do not think this legislation is unconstitutional with reference to taxing the salary of the President and the salaries of the judges on the ground that it is a diminution of their salaries during term of office, which is a question, and I think it has always been so understood and construed to mean, that Congress could not by direct legislation increase or reduce the salaries of the Federal officials during their term.

Now, the ethical question raised by the gentleman from Pennsylvania [Mr. GRAHAM] does not appeal to me. To say that we ought not to pass this legislation because it would put the
The CHAIRMAN. The Clerk will read the modification of the original substitute.

The Clerk read as follows:

Mr. GRAHAM of Pennsylvania: Page 8, line 18, after the word "service," and before the word "including," insert the word "not," and, in line 21, strike out the word "other," and also, in the words "Alaska, Hawaii;" and, in line 25, strike out the word "or.

Mr. KITCHIN. I wish to object to the amendment submitted by the gentleman from Pennsylvania. I wish I were the Pied Piper of Hamelin. If I were, I would pipe and take the committee with me. [Laughter.]

Mr. KITCHIN. At that time the committee was wrong and the gentleman was right. We are right now and he is wrong. Mr. GRAHAM of Pennsylvania. I am still right, but the committee have changed their minds.

Mr. KITCHIN. I think really every man who has a doubt about this can very well vote for it and take the advice of the gentleman from Pennsylvania. I have heard them sound and I am now sound, that this question ought to be laid before Congress, the only power that can raise it, in order that it may be tested in the Supreme Court, the only power that can decide it. The CHAIRMAN. The time of the gentleman has expired.

Mr. CRISP. Is not the amendment divisible, containing two substantive propositions, one exempting from the purview of the law State officials and the other part exempting Federal officials? The CHAIRMAN. The CHAIRMAN. The time of the gentleman has expired.

Mr. CRISP. Does it not contain two substantive propositions? The CHAIRMAN. Apparently it does.

Mr. GARRETT of Tennessee. Will the gentleman yield to me to make a parliamentary inquiry? I want to inquire if the gentleman from Pennsylvania [Mr. WALTZ] obtained the unanimous consent that I understood him to request; that is, to withdraw his original proposition and offer this other as a substitute.

The CHAIRMAN. The Chair will state to the gentleman that has been done.

Mr. CRISP. I have not the precedent at hand, but I recall distinctly that the Speaker held that an amendment even containing for six distinct matters divisible, and that a vote could be had upon each substantive proposition. Without detainning the House or burdening the Chair, it seems to me that certainly this amendment contains two distinct propositions—one whether State officials shall be subject to this income tax and the other whether Federal officials shall be subject to it. I rose to ask that the amendment be divided, and that the vote be taken separately upon each one of those substantive propositions.

The CHAIRMAN. The gentleman from Massachusetts desire to be heard?

Mr. WALSH. Mr. Chairman, I simply wanted to ask the attention of the Chair to Rule XVI, clause 6:

On the demand of any Member, before the question is put, the question shall be divided if it includes propositions so distinct in substance that one being taken away a substantive proposition shall remain.

Mr. CRISP. After conference I withdraw my request.

The CHAIRMAN. The Chair will state that he is familiar with the rule to which the gentleman from Massachusetts refers, and further that there would appear to be two substantive propositions and possibly more, in his substitute; but the precedents of the House are that a substitute in the nature of an amendment to an amendment, is not made divisible. The CHAIRMAN will use the reasons underlying these precedents, but will simply refer to the ruling found in section 1027, Volume V of Hinds’ Precedents to the following effect:

Subsequent resolutions or amendments are not divisible.

This would seem to be decisive of the request for a division of the substitute. The question is on the substitute in the nature of an amendment offered by the gentleman from Massachusetts [Mr. WALTZ].
The question was taken; and on a division (demanded by Mr. WALTER) there were—ayes 17, noes 77.

Accordingly, the amendment in the nature of a substitute was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. MONTAGUE].

The question being taken, on a division (demanded by Mr. MONTAGUE) there were—ayes 32, noes 72.

Accordingly, the amendment was rejected.

The Clerk read as follows:

(b) Does not include the following items, which shall be exempt from taxation under this title:

(1) The proceeds of life insurance paid upon the death of the insured to the policy, estate, or corporation to which the policy shall be payable in case the insured dies before the annuity is begun.

Mr. MOORES of Indiana. I offer the following amendment.

The CHAIRMAN. The gentleman from Indiana offers an amendment, which the Clerk will report.

The Clerk reads:

Mr. MOORES of Indiana offers the following amendment: Page 9, line 15, after the word "to," strike out the word "individual."

Mr. MOORES of Indiana. Mr. Chairman, the reason I offer this amendment is that the act as drafted and amended provides for the taxation of life insurance carried on the persons of corporations, and it is felt that this amendment would be objectionable. You will pardon me if I explain the nature of that insurance.

The larger corporations, the great corporations, do not carry this kind of life insurance. Ninety-nine out of 100 corporations, both in the foreign and domestic field, are called family corporations, where, for instance, one man who knows the business of manufacturing or of mining or of trading in which the corporation is engaged, can possibly make adequate capital, gets another man who will finance it, usually a wealthy man, the angel who finances the concern, dies and the corporation is carried for this reason.

The mercantile agencies, Dun's and Bradstreet, the Federal reserve banks, and all other institutions of that kind require reports from partnerships, individuals, and all corporations as to insurance carried. Insurance is carried and almost compelled to be carried for this reason. If the wealthy man, the angel who finances the concern, dies it could not be financed. This insurance could not be carried by the corporation, or by the individual who conducts the business should die the wealthy man who has furnished the capital must find some other man to run the business. This insurance is only carried by small corporations, family corporations, or to the estate of the insured.

Mr. Chairman, I wish to say that the word "individual" is subject to the words "corporation" and the individual beneficiary. I think the word "individual" is subject to the words "corporation" and the individual beneficiary.

I ask for a two minutes more. The CHAIRMAN. Is there objection?

There was no objection.

Mr. STERLING of Illinois. Will the gentleman yield for a question?

Mr. MOORES of Indiana. I will.

Mr. STERLING of Illinois. Mr. Chairman, I wish to say that the word "individual" is subject to the words "corporation" and the individual beneficiary, why don't you strike out the word "individual," substitute the word "individual corporation" and ask for a six months' grace to give the corporations time to transfer insurance to the corporation? The CHAIRMAN. Is there no objection?

Mr. MOORES of Indiana. Not by any means; it is always small and it is for the small corporations. I want to conclude by saying that I think this provision will produce very little revenue if my amendment is not adopted. It will cause great hardship to families and among the smaller class of business concerns who have to pay these taxes. Further, it will be a great burden on the small business. It will result in destroying little corporations, but really it is the great business that is to come hereafter. I think it is unfair, unjust, and unrighteous, and the amendment ought to be adopted.

Mr. HULL of Tennessee. Mr. Chairman, I wish to say a word with respect to this amendment. The income-tax law now gives very considerable latitude to different phases of the insurance business. There are constantly occurring in the course of the administration of the law loopholes in which individuals through corporations escape taxation. We found a number of large corporations, at the instance of big stockholders, had dropped into the habit of taking out policies for such individuals and paying the premiums in a way that would enable the individual to escape his property taxability and probably later on to escape his estate-tax liability.

This evil cropped out last year, and the Senate added an amendment, which is to be found on page 17, section 215, paragraph (f), which prohibits corporations that take out these policies from deducting the amounts which they pay as premiums upon them. That is in line with this provision, which is intended to stop the loophole that was being gradually opened up in those corporations through which individuals receiving large incomes had their corporations handle their insurance and so escape the tax. I can appreciate certain cases of smaller concerns to which the gentleman from Indiana [Mr. MONTAGUE] refers. In such cases, it is only relative to little corporations—the individual beneficiary, whether a member of the family or not, is amply taken care of, both in the income-tax law and in the estate-tax law, to the exclusion of the insurance companies, which he had written he was carrying as insurance for the benefit of the corporation.

Mr. DENISON. Mr. Chairman, I think that the amendment offered by the gentleman from Indiana [Mr. MOORES] ought to be adopted. I happen to know of certain business concerns whose success depends upon the individuals managing them, and I think that the corporation is carrying insurance upon those managers should die, and I think the fact that a large part of it will be carried on the lives of nearly all the shares and his wife and his son directors. The wife knew nothing about the business; the boy was learning something about it. The father carried insurance in favor of the corporation, and died April 26. The insurance is carried on the lives of the individual beneficiaries.

I ask for a six minutes more. The CHAIRMAN. Is there objection?

There was no objection.

Mr. STERLING of Illinois. Will the gentleman yield for a question?

Mr. MOORES of Indiana. I will.

Mr. STERLING of Illinois. Mr. Chairman, I wish to say that the word "individual" is subject to the words "corporation" and the individual beneficiary. I think the word "individual" is subject to the words "corporation" and the individual beneficiary.

I ask for a two minutes more. The CHAIRMAN. Is there objection?

There was no objection.

Mr. STERLING of Illinois. Will the gentleman yield for a question?

Mr. MOORES of Indiana. I will.

Mr. STERLING of Illinois. Mr. Chairman, I wish to say that the word "individual" is subject to the words "corporation" and the individual beneficiary. I think the word "individual" is subject to the words "corporation" and the individual beneficiary.
The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana.

The amendment, obtained on a division (demanded by Mr. DIXON) there were—aye 19, noes 41.

So the amendment was rejected.

The Clerk read as follows:

Amendment offered by MONTAGUE: Page 10, line 2, after the word "thereof," strike out all of the remainder of the paragraph down to and including line 2 on page 11.

Mr. LONGWORTH. Will the gentleman yield for a question?

Mr. MONTAGUE. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Amended amendment: Page 10, line 2, after the word "thereof," strike out all of the remainder of the paragraph down to and including line 2 on page 11.

Mr. LONGWORTH. Will the gentleman yield for a question?

Mr. MONTAGUE. Yes.

Mr. LONGWORTH. Is it the gentleman's intention to incorporate the bonds already issued by States?

Mr. MONTAGUE. Yes, my intention is to relieve the income on State bonds, and not to interfere with the United States bonds and municipal bonds from taxation.

Mr. LONGWORTH. Whether now issued and outstanding or not?

Mr. MONTAGUE. Whether now issued or hereafter to be issued.

Mr. HULL of Tennessee. Ought not the gentleman to stop with a clause? [Mr. GREEN of Iowa.]

Mr. MONTAGUE. I beg the gentleman's pardon.

Mr. HULL of Tennessee. After the semicolon in line 18, page 10.

Mr. MONTAGUE. The gentleman means I will accomplish the purpose desired by stopping there? Mr. Chairman, I ask unanimous consent to modify the amendment by striking out after the word "thereof," in line 2, page 19, down to and including line 18.

The CHAIRMAN. The gentleman from Virginia asks unanimous consent to modify his amendment as indicated in his explanation of his motion. Is there objection? (After a pause) The Chair hears none. The Clerk will report the amendment as modified.

The Clerk read as follows:

Amended amendment: Page 10, line 2, after the word "thereof," strike out all of the remainder of the paragraph down to and including line 18 on page 10.

Mr. MONTAGUE. Mr. Chairman, I regret to inflict myself again upon the committee. The argument I submitted a few minutes since is applicable to the pending amendment which I have just proposed.

Unless the bill is amended, the clause in question vitally affects the States and the municipalities of the States. The power to tax is a power to impair and to destroy. This is not open to argument. The fundamental principle which I beg the committee to keep in mind is that the Nation has no more power to tax the securities of a State than the State has the power to tax the securities of the Nation. The exercise of such a power is destructive of American sovereignty. Let me add, as an unanswerable proposition. War should not change the constitutional forms of our Republic.

Mr. LONGWORTH. Will the gentleman yield?

Mr. MONTAGUE. Mr. Chairman, I regret to inflict myself upon the committee, for the argument I submitted a few minutes since is applicable to the pending amendment which I have just proposed.

UNLESS the bill is amended, the clause in question vitally affects the States and the municipalities of the States. The power to tax is a power to impair and to destroy. This is not open to argument. The fundamental principle which I beg the committee to keep in mind is that the Nation has no more power to tax the securities of a State than the State has the power to tax the securities of the Nation. The exercise of such a power is destructive of American sovereignty. This is not open to argument. The fundamental principle which I beg the committee to keep in mind is that the Nation has no more power to tax the securities of a State than the State has the power to tax the securities of the Nation. The exercise of such a power is destructive of American sovereignty. This is not open to argument.

Mr. LONGWORTH. I do not apprehend the distinction. If I understand this bill, it grants the broad power to the United States to tax the securities of the States or the municipalities of the States. That power has been plainly denied by the Supreme Court of the United States. It does not arise here. So that which is a power to tax the securities of a State than the State has the power to tax the securities of the Nation. The exercise of such a power is destructive of American sovereignty. This is not open to argument.

Mr. LONGWORTH. I am speaking of the constitutional side.

Mr. MONTAGUE. I do not apprehend the distinction. If I understand this bill, it grants the broad power to the United States to tax the securities of the States or the municipalities of the States. That power has been plainly denied by the Supreme Court of the United States. It does not arise here. So that which is a power to tax the securities of a State than the State has the power to tax the securities of the Nation. The exercise of such a power is destructive of American sovereignty. This is not open to argument.

Mr. LONGWORTH. That is my purpose. With the consent of the committee I will strike out the word "Territory." I thought my amendment excused.

The CHAIRMAN. The gentleman from Virginia [Mr. MONTAGUE] asks unanimous consent that he may modify his amendment as indicated. Is there objection? (After a pause) The Chair hears none.
Mr. MONTAGUE. I wish to restate the simple proposition that the Congress has no constitutional power to tax the securities of the States or the municipalities of States. First, to tax such securities would make high that uniform system of taxation, by which we mean a uniform and wise legislation; and, second, such taxation radically disturbs the relation between the States and the General Government, and violates the Constitution in so doing.

I know, Sir, that it is an arduous task to discuss constitutional questions in this House. The Constitution when in the House of Representatives is not in the house of its friends. If power or want of power is submitted to the House the answer is generally given by the members of the majority. They have just had an example in the eloquent argument of the able gentleman from Illinois [Mr. Henry T. Rainey]. The gentleman from North Carolina [Mr. Kitts] has said that he doubts the constitutionality of the taxing section which I am now questioning. I maintain that if a Member doubts the constitutionality of a bill he has no official authority to vote for it.

Mr. COOPER of Wisconsin. Will the gentleman yield?

Mr. MONTAGUE. I will.

Mr. COOPER of Wisconsin. I will say in connection with what the gentleman from Virginia has said that Mr. Justice Cooley in his book on Constitutional Limitations lays down the exact doctrine which the gentleman from Virginia has just enunciated, that no Member of Congress who has any doubt as to the constitutionality of a provision can under his oath rightfully turn that question over to a court to decide. I maintain that the gentleman for his suggestion, I had stated that to be the undoubted rule to gentlemen sitting near me.

Mr. Chairman, the destruction of our system of government will not be accomplished by one blow. It will be accomplished by slow and disintegrating influences of accumulated legislative action. The imposition of this tax may not destroy, but it does impair, and as a precedent it will have imparted its virus into the system of our Federal body politic. The States have an indivisible right to live and move and have their being as has the Nation. The two governments are inseparable, and, as Webster has said, "They constitute an indissoluble union of Indestructible States." [Applause.]

We cannot justify the destruction of our Government at home by keeping our eyes wholly upon our armies abroad. When our soldiers return, we should consider them as the same American Republic in its dignity and majesty and form that they left. [Applause.] I wish the soldiers to understand that when they fight for the sanctity of "scraps of paper" in Europe that their Congressmen in the Halls of the Capitol will not destroy that American scrap of paper which is the chart of the free institutions of this hemisphere. [Applause.] And I wish the country to realize that the safety and integrity of the Republic lies in its adherence to the Constitution of the United States, not except constitutional liberty. And I submit, in conclusion, that the Constitution in spirit and purpose, and as construed by the courts and jurists of our country, repels the adoption of this section. I hope the amendment offered by the gentleman from Virginia will prevail, whereby the harmony and vigor of our institutions may be the better preserved. [Applause.]

Mr. LONGWORTH. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Virginia [Mr. Montague]. It seems to me there is quite a distinct difference, a very sharp difference, between our right to tax the income of municipal bonds already outstanding, and our right to tax those which shall be issued in the future. I myself have very little doubt that we have the power to put a tax on the income of bonds hereafter to be issued.

There is a very broad question of policy involved, I think, at this hour of the day. It seems to me our highest duty is to see to it that the market for the coming issues of liberty bonds shall be made as favorable as possible. There is no question about that to-day many of these municipal bonds are a more attractive investment, particularly to the average man of wealth, than the liberty bonds will be under the proposed system of high surtaxes. There are at least $8,000,000,000 of non-taxable securities now outstanding in the country, and it is my belief it is good public policy not to add to that great reservoir into which this money may flow if the taxes are found to be too high. These new surtaxes, gentlemen, are higher than those ever imposed in any country in the world, and after all we must rely largely upon the rich men in this country, they will now be called upon to pay the surtaxes, to invest in these coming issues of liberty bonds; and if we tax them so high that they will be forestalled by others, here are $8,000,000,000 to-day to which they can go and pay no taxes at all to the Government. We not only destroy our revenue, but destroy the ability of people to buy these new liberty bonds. From that point of view, even though I should admit—which I do not—that this proposition is of doubtful constitutionality, it seems to me that at this time we must see to it that these municipal bonds shall not be made highly preferable to the new liberty bonds as an investment. It is largely for that reason that I support the position of the committee and oppose the amendment offered by the gentleman from Virginia.

Mr. GORDON. Will the gentleman yield for a question?

Mr. LONGWORTH. With pleasure.

Mr. GORDON. Of course if Congress has the power to tax these bonds at all, it has the power to tax them 100 per cent. I yield to the gentleman from Illinois [Mr. Longworth].

Mr. LONGWORTH. I have no doubt that the Congress could. Mr. GORDON. Thereby destroying the instrumentalities of credit of the States.

Mr. LONGWORTH. That is not contemplated here.

Mr. GORDON. I understand that, but you could do it.

Mr. LONGWORTH. I think it is our duty to see to it that municipal bonds are not made a higher grade of investment securities than our forthcoming issues of liberty bonds.

Mr. BLACK. The gentleman says he wants to place these municipal bonds on an exact equality with the United States Government bonds. They are not on an equality as to the taxing of the State liberty bonds. [Applause.] Mr. LONGWORTH. They are on an exact equality as far as this bill is concerned. All this proposition does is simply to say that our municipal bonds hereafter issued shall be on the same basis as United States liberty bonds, no better and no worse. Mr. BLACK. As a reciprocal right, will the State have any right whatever to place any taxes on a United States Government bond? Mr. LONGWORTH. Oh, well, that is a different proposition not involved in this discussion.

The CHAIRMAN. The time of the gentleman has expired.

Mr. LONGWORTH. I ask unanimous consent for two minutes.

The CHAIRMAN. The gentleman from Ohio asks unanimous consent that his time be extended two minutes. Is there objection?

There was no objection.

Mr. MOORE of Pennsylvania. Will the gentleman yield?

Mr. LONGWORTH. I yield to the gentleman from Pennsylvania.

Mr. MOORE of Pennsylvania. Is it not true that the Secretary of the Treasury strongly advocated the taxing of municipal bonds in order that the liberty-bond market might not be endangered?

Mr. LONGWORTH. Absolutely, and it stands to reason, gentlemen. There can not be any other argument about it. In the next five or six months we will ask the public to absorb $16,000,000,000 worth of bonds. If the public will absorb $8,000,000,000 worth of municipal bonds, why should we subject the public to decide how $8,000,000,000 worth of municipal bonds subject to no surtaxes whatever, and to that extent at least a preferable investment to the liberty bonds. Is there any sound public policy that any bonds in this country ought to be made at this time a better investment than liberty bonds with which we have to finance this war?

Mr. HUMPHREYS. Will the gentleman yield?

Mr. LONGWORTH. I yield to the gentleman from Mississippi.

Mr. HUMPHREYS. Of the $8,000,000,000 in bonds, is the gentleman able to state how many are of issues of less than $100,000?

Mr. LONGWORTH. No; I could not possibly state that to the gentleman.

Mr. HUMPHREYS. The Capital Issues Committee has authority now under the law, as I understand it, to supervise the issuance of bonds in the future in issues of over $100,000. Mr. LONGWORTH. It has not the liberty of its own legal authority, but it has advisory authority, which is equivalent.

Mr. HUMPHREYS. It might throw some light on this if we knew just about how many bonds would be issued hereafter subject to the approval, at any rate, of the Capital Issues Committee. If he knows what proportion of bonds hereafter outstanding were less than one hundred thousand authorized issues.

Mr. LONGWORTH. I can not inform the gentleman; I do not think that is essential to the discussion. The sole question is, Is it good public policy during the war to make municipal bonds equal to or better than liberty bonds?
Mr. HUMPHREYS. If the gentleman asks me, I do not think it is good policy and is contrary to the Constitution.

Mr. LONGWORTH. Up to the time that the Supreme Court decided the question it was against mine, and I acknowledge that his is high authority.

Mr. STERLING of Illinois. Mr. Chairman, the argument of the gentlemen who favor this amendment to take away from the Federal Government the right to tax the income of the bonds of the States is based upon the principle that the power to tax is the power to destroy. There is a counter principle that is just as vital, and infinitely more vital now in a time of war. That principle is that the power to destroy the State would be the power to destroy the State. If this Government cannot tax to raise the needed revenue to carry on this war, then it lacks the power to survive. I do not think there is any very great possibility of the situation going that far. Neither do these gentlemen who urge that the taxes of the States would be a means of destroying the States, and there will be no power to go with it, that the States would be a means of destroying the Federal Government, it is the gentleman's opinion against mine, and I think it would increase the income to the Federal Government.

Mr. MONTAGUE. Mr. Chairman, will the gentleman yield?

Mr. GORDON. Yes.

Mr. MONTAGUE. Apropos of the gentleman's remark about the gentleman from Missouri, he must recognize that he must sustain the Constitution of the United States save only so far as he desires to leave questions to the Supreme Court?

Mr. GORDON. Certainly not. There is no exception at all. The Supreme Court when it was fairly and squarely presented to it, that the Constitution of the United States was made for a time of war as well as a time of peace and gave the most excellent reasons for it and stated that any principle that would be against the war, it would be against the peace. It seems to me we ought not to retain such a provision in this bill.

Mr. HENRY T. RAINIEY. Mr. Chairman, I have no hesitancy in submitting this question to the Supreme Court of the United States. I have enough confidence in the Constitution of the United States and in the construction that the courts will place upon it to believe that this great Government has the right to defend itself in the hour of peril and to preserve its institutions. We are entering upon a miracle of finance. We propose to collect by this measure in a short period of time in three installments next year $5,000,000,000. In other words, we propose to collect by this bill $2,700,000,000 more dollars in the early summer of this year than are in the United States. We propose to expend next year on this war a minimum sum of $24,000,000,000. We know it can not be less than that, and I believe, so far as I am concerned, it will be more than that. Take all the individual net incomes in the States, including partnership incomes; take all the corporate net incomes in the United States, add them together, and take them all and distribute them among the States, and you will not have much more than half the money we propose to spend next year on this war. The only way we can carry on this war we know now is by borrowing money, and the only way in which this great Government can borrow money is to make these bonds attractive, as aspirate at least as the billions of municipal bonds in New York City and the other cities of the land—and most of these objections come from the cities of this land and from the coast States—and we know that these people will be scared to death in New York, in Boston, and in Philadelphia, where they are protesting now against taxing, they say, their securities. We are not taxing their securities by this measure in any way, but simply saying that those citizens who shall invest hereafter in municipal bonds shall account for the interest they receive on these bonds—or the future issues of these bonds—when they make up their income-tax returns. Is there anything wrong about that? Should the States of this Union, the cities of this Union, in their anxiety to extend their paving systems, to extend their sewerage systems, to improve and beautify their cities, should they be permitted to make bonds so attractive that this citizen can not sell his bonds to the market in order to carry on this war? We have been depending upon the patriotism of the people throughout the United States. We have been asking them to pay $100 a month for the soldier, to send their $96 and answer the very purposes for which it is advocated. The gentleman from Illinois [Mr. STERLING] has just stated that the States could avoid the burden of these taxes or, rather, the lessening of the value of their securities resulting therefrom by increasing the rate of interest. The gentleman from Ohio [Mr. LONGWORTH] made it very clear in his remarks that this provision was not intended to apply to any bonds that are now outstanding. Therefore, it seems to me that the provision, if left in the bill, will really accomplish nothing. It seems to me that Congress is going out of its way to find an excuse to violate the Constitution which we have all taken a solemn oath to support. That the doctrine on principle cited by Gov. Montague, defining our country as an indestructible Union of indestructible States should have survived the greatest civil war in the history of the world, and having been sealed and cemented by the best blood of the Nation, North and South, it seems to me, might be accepted at least by the Congress of the United States in legislating upon so delicate a question as invading and seeking to tax the income of the bonds of the States as of this Union. It seems to me that we are treading upon not only dangerous ground but we are attempting to do a thing which every respectable court in this land has held time after time we can not do. If this tax every-}

Mr. MONTAGUE. Mr. Chairman, will the gentleman yield?

Mr. GORDON. Yes.

Mr. MONTAGUE. Apropos of the gentleman's remark about the gentleman from Missouri, he must recognize that he must sustain the Constitution of the United States save only so far as he desires to leave questions to the Supreme Court?
Mr. LONDON. Mr. Chairman and gentlemen, I took the floor just to attract the attention of this Congress, of the country, and of the city of New York, to the fact that, in spite of the fact that this Congress has not yet discussed the proposition that a member of Congress from the State of New York to seriously contest this provision in the bill, that the only member of Congress representing the State of New York on the floor of this Congress, and of the bicameral legislature of the State, Mr. CANNON, Mr. Chairman, the reason why the mayor of New York no doubt asks for this is that the debt of New York City is $1,500,000,000. How marvelously she has grown, and how expensive it is to conduct the affairs of that great city; and that is measurably true of the other cities, to say nothing about the counties, and so forth.

Now, then, there is pending in the State of Illinois a proposition identified by the local authorities to legalize the borrowing of $900,000,000 for the construction of good roads. And, God knows, if there is any State that needs good roads it is Illinois. We vote on the question in November.

Now they are afraid that this may impair the pleading of other bonds. Possibly it may. Possibly Illinois may be wise enough when she enacts that legislation, if it is authorized, to defer the issue of any more bonds until it can not only charge such expenses but is able to pay them, and that is what is needed, and that is what we are trying to do.

In the opinion of the gentleman from Virginia on that proposition, that is, whether or not there may be an important and logical distinction between the constitutional power of the Federal Government to tax such securities themselves and the power to tax income arising from such securities in the hands of individuals.

Mr. HUDDLESTON. Will the gentleman yield?

Mr. DENISON. I will.

Mr. HUDDLESTON. I was just going to ask the gentleman whether he had in mind the fact that it was not a tax upon the bonds or upon the income from the bonds specifically, but merely a tax on the income arising from any source whatever, and therefore does not come within the objection?

Mr. DENISON. That is just what I was discussing. There may be a logical distinction there which the courts will recognize; and if it could be shown that the power to levy such taxes is made more reasonable, I would be glad to have the opinion of the gentleman from Virginia on that proposition; that is, whether or not there may be an important and logical distinction between the constitutional power of the Federal Government to tax such securities themselves and the power to tax income arising from such securities in the hands of individuals.

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ENROLLED BILL SIGNED.

Mr. LAZARO, from the Committee on Enrolled Bills, reported that Mr. Magee had found and truly enrolled bill of the following title, when the Speaker signed the same:

H. R. 12058. An act to protect the lives and health and morals of women and minor workers in the District of Columbia, and to establish a minimum-wage board and define its powers and duties, and to provide for the fixing of minimum wages for such workers, and for other purposes.

Mr. PADGETT introduced a bill (H. R. 12945) providing for the purchase of uniforms, accouterments, and equipment by officers of the Navy, Marine Corps, and Coast Guard, and midshipmen at the Naval Academy from the Government at cost, which was referred to the Committee on Naval Affairs.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. PURDY: A bill (H. R. 12947) granting an increase of pension to Agnes Geer; to the Committee on Invalid Pensions.

By Mr. LUEFKEN: A bill (H. R. 12948) granting an increase of pension to Emma A. Hobbs; to the Committee on Invalid Pensions.

By Mr. RODGERS: A bill (H. R. 12950) granting an increase of pension to Mary A. G. Holland; to the Committee on Invalid Pensions.

By Mr. McARTHUR: A bill (H. R. 12950) granting a pension to Elijah Clark Hall; to the Committee on Invalid Pensions.

By Mr. STANLEY: A bill (H. R. 12951) granting an increase of pension to James R. Bentley; to the Committee on Invalid Pensions.

By Mr. STANLEY: A bill (H. R. 12952) granting a pension to Franklin Tubbs; to the Committee on Invalid Pensions.

By Mr. STANLEY: A bill (H. R. 12953) granting an increase of pension to George W. Dean; to the Committee on Invalid Pensions.

By Mr. SANDERS of Indiana: A bill (H. R. 12955) granting a pension to Martin L. Stokesberry; to the Committee on Invalid Pensions.

Also, a bill (H. R. 12954) granting an increase of pension to Andrew A. C. King; to the Committee on Invalid Pensions.

Also, a bill (H. R. 12955) granting an increase of pension to Mary A. G. Holland; to the Committee on Invalid Pensions.

Also, a bill (H. R. 12956) granting an increase of pension to W. E. C. Clark; to the Committee on Invalid Pensions.

Also, a bill (H. R. 12957) granting a pension to Mary St. Clair; to the Committee on Invalid Pensions.

Also, a bill (H. R. 12953) granting a pension to Clem S. Kirkham; to the Committee on Invalid Pensions.

By Mr. SHOUSE: A bill (H. R. 12950) granting an increase of pension to Reason Walker; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ELSTON: Petition of the department of health and recreation, women's committee, Council of National and State Defense, of Oakland, Cal., favoring war-time prohibition; to the Committee on Military Affairs.

By Mr. FULLER of Massachusetts: Petition of Charles M. Blodgett, mayor of Malden, Mass., and 287 others, residents in said Malden and the city of Everett, Mass., for national legislation to commission pharmacists in the United States service, so that men in the service shall receive the same skilled pharmaceutical service that they receive in civil life; to the Committee on Military Affairs.

By Mr. LINN: Petitions of the Baltimore Bargain House, Armstrong, Cator & Co., and Johnson, Boyd & Co., all of Baltimore, Md., favoring some protective clause in the new tax bill relative to inventory of merchandise; to the Committee on Ways and Means.

By Mr. McARTHUR: Resolutions of the Association of Fathers of Soldiers and Sailors of the United States of America, of Portland, Oreg., urging the nationalization of the public school of the country so as to provide for the training of returned soldiers and sailors; to the Committee on Education.

SENATE.

TUESDAY, September 17, 1918.

The Chaplain, Rev. Forrest J. Prettyman, D. D., offered the following prayer:

Almighty God, we come before Thee with our cause, a cause that does not speak behind the closed doors of secret diplomacy but that has its voice in the indignation of millions against wrong and in a will to conquer in the name of humanity. We ask the divine guidance and blessing as we begin the tasks to which Thy providence has called us. For Christ's sake. Amen.

The Secretary proceeded to read the Journal of the proceedings of Friday, September 14, 1918, when, on request of Mr. Lodge and by unanimous consent, the further reading was dispensed with and the Journal was approved.

SENIOR FROM KENTUCKY.

Mr. BECKHAM. Mr. President, I have here the certificate of appointment of Hon. George B. Martin, of Kentucky, by the governor, as a Senator to fill the vacancy in the unexpired term of the late Senator James. The newly appointed Senator is on the floor and ready to take the oath.

The VICE PRESIDENT. The Secretary will read the credentials.

The Secretary read as follows:

To the President of the Senate of the United States:

This is to certify that, pursuant to the power vested in me by the Constitution of the United States and the laws of the State of Kentucky, by O. Stanley, the Assistant Secretary of State, do hereby appoint George B. Martin a Senator from said State to represent said State in the Senate of the United States to fill the vacancy thereto caused by the death of Ollie M. James, as provided by law.

Witness his excellency our governor, A. O. Stanley, and our seal hereunto affixed at Frankfort, Ky., this 7th day of September, A. D. 1918.

A. O. STANLEY.

Governor.

JAMES P. LEWIS,
Secretary of State.

By the governor:

[Seal.]

In the name and by the authority of the Commonwealth of Kentucky, A. O. Stanley, governor of said Commonwealth, to all whom these presents shall come, greeting:

Know ye, that George B. Martin, having been duly appointed United States Senator by the Governor of the State of Kentucky, hereby invest him with all power and authority to execute and discharge the duties of the said office according to law, and that he shall hold the same, with all the rights and emoluments thereunto legally appertaining for and during the term prescribed by law.

In testimony whereof I have caused these letters to be made patent and the seal of the Commonwealth to be hereunto affixed. Done at Frankfort, the 7th day of September, in the one thousand nine hundred and eighteen and in the one hundred and twenty-sixth year of the Commonwealth.

A. O. STANLEY.

By the governor:

[Seal.]

JAMES P. LEWIS,
Secretary of State.

By E. MARY KAHN,
Assistant Secretary of State.

The VICE PRESIDENT. If there be no objection, the newly appointed Senator will present himself at the desk for the purpose of taking the oath of office.

Mr. Martin was escorted to the Vice President's desk by Mr. Beckham; and the oath prescribed by law having been administered to him, he took his seat in the Senate.