581. By Mr. LUCE: Petition of the Massachusetts Federation of Churches, indorsing the antilynching bill (H. R. 3777); to the Committee on the Judiciary.

582. By Mr. THOMPSON: Petition of farmers of the fifth congressional district of Ohio, opposing proposed amendment No. 6741 to the immigration act of 1924, to reduce immigration from Mexico; to the Committee on Immigration and Naturalization.

583. By Mr. WYANT: Resolution of the board of directors of the United States Fisheries Association (Inc.), urging increased appropriation for the division of scientific inquiry of the Bureau of Fisheries; to the Committee on the Merchant Marine and Fisheries.

584. Also, resolution of the Chamber of Commerce of the City of Pittsburgh, Pa., against the Gooding bill (S. 575); to the Committee on Interstate and Foreign Commerce.

SENATE

FRIDAY, *February 5, 1926*

(Legislative day of Monday, February 1, 1926)

The Senate reassembled at 11 o'clock a. m., on the expiration of the recess.

Mr. SMOOT. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Ashurst	Ernst	La Follette	Sackett
Bayard	Fernald	McKellar	Sheppard
Bingham	Ferris	McKinley	Shipstead
Blease	Fess	McLean	Shortridge
Borah	Fletcher	McMaster	Simmons
Bratton	Frazier	McNary	Smith
Brookhart	George	Mayfield	Smoot
Broussard	Gerry	Metcalf	Stanfield
Bruce	Gillett	Moses	Stephens
Butler	Glass	Norbeck	Swanson
Cameron	Goff	Norris	Trammell
Capper	Gooding	Nye	Tyson
Caraway	Hale	Oddie	Wadsworth
Copeland	Harreld	Overman	Walsh
Couzens	Harris	Pepper	Warren
Cummins	Heflin	Phipps	Watson
Dale	Howell	Pine	Weller
Deneen	Jones, Wash.	Ransdell	Wheeler
Dill	Kendrick	Reed, Pa.	Williams
Edge	Keyes	Robinson, Ark.	Willis
Edwards	King	Robinson, Ind.	

Mr. JONES of Washington. I wish to announce that the senior Senator from Kansas [Mr. CURTIS] is necessarily absent on account of illness. I ask that this announcement may stand for the day.

The VICE PRESIDENT. Eighty-three Senators having answered to their names, a quorum is present.

PETITIONS AND MEMORIALS

Mr. WILLIS presented a memorial of sundry citizens of the State of Ohio, remonstrating against the acceptance by the United States of the proposed Italian debt-settlement agreement, which was ordered to lie on the table.

He also presented a petition of sundry citizens of Dayton and vicinity, in the State of Ohio, praying for the passage of Senate bill 98, granting increased pensions to veterans of the war with Spain, the Philippine insurrection, and the Chinese relief expedition, and their widows, etc., which was referred to the Committee on Pensions.

Mr. McKINLEY presented resolutions adopted by the Board of Supervisors of Du Page County, Ill., favoring the making of payment to owners for cattle destroyed in connection with the eradication of bovine tuberculosis, which were referred to the Committee on Agriculture and Forestry.

MISSOURI PRODUCTS WEEK

Mr. WILLIAMS. I ask unanimous consent to have inserted in the RECORD a proclamation issued by the Governor of Missouri on the 30th of January.

The VICE PRESIDENT. Without objection, it is so ordered.

The proclamation is as follows:

PROCLAMATION—MISSOURI PRODUCTS WEEK

(By Governor Sam A. Baker)

Whereas the economic position that Missouri must occupy among the States of the Nation is dependent upon the quantity and quality of the products of the mines, the factories, and the farms of Missouri; and

Whereas the future welfare of Missouri is dependent upon Missouri's industrial expansion, in the further development of Missouri's natural resources, in the enlargement of factories, and in the fostering of a more effective agricultural program to meet the demands of an increasing population; and

Whereas Missouri is situated at the very axis of the United States with a land area of 43,985,280 acres, bordered and intersected by more than 900 miles water front of navigable streams, girded and crossed by railroad lines that connect the East with the West and the North with the South, and with a system of highways under construction that will connect all the areas of production with the State and National marketing centers, leading as never-failing arteries from civic centers into the Ozark Highlands, a favorite playground of America; and

Whereas Missouri, with 260,085 farms, standing first among all the States of the Nation, is fifth in agriculture, of which corn and wheat are staple crops; fourth in gross value of farm products; first in strawberries; first in quality of seed rice; third in mules; third in egg production; third in hogs; eighth in creamery butter; fifteenth in fruit production; and

Whereas it is a matter of record that Missouri has a greater variety of commercial minerals, such as zinc, lead, coal, iron, cobalt, barytes, marble, building stone, granite, clay, sand, gravel, nickel, copper, tungsten, manganese, and tripoli, than any other State east of the Rocky Mountains, yet is listed as ninth in the value of its mineral productions; and

Whereas Missouri, the geographical and agricultural center of the United States, being neither north nor south, is suitable for growing with profit any of the crops produced in the North or the South; and

Whereas Missouri now holds an enviable position for the marketing of grain products, is second in livestock marketing facilities, and has unparalleled opportunities for the conservation of water power which could be diverted to use by textile mills in the handling of Missouri wool and Missouri cotton and by factories in turning out a variety of finished products taken from the Missouri mines and produced on Missouri farms; and

Whereas Missouri ranks eleventh in total factory production; and

Whereas it has been suggested that the people of Missouri enroll as students in a state-wide resource study during the week of February 28 to March 6 to the end that special emphasis may be laid on Missouri's development possibilities;

Now, therefore, I, Sam A. Baker, Governor of Missouri, recommend that the week beginning February 28 and ending March 6, 1926, to be known as "Missouri products week," be devoted in some special manner in the press, in the schools, the churches, commercial, civic, and labor organizations, and industrial plants of this State, to the earnest inculcation of the sound virtues of further production of the mines, the factories, and the farms, and the home consumption of our State's products for the benefit of both capital and labor.

Given under my hand and the great seal of State at the capitol in Jefferson City this 30th day of January, in the year of our Lord one thousand nine hundred and twenty-six.

SAM A. BAKER, *Governor.*

Attest:

CHARLES U. BECKER,
Secretary of State.

REPORTS OF COMMITTEES

Mr. PHIPPS, from the Committee on Irrigation and Reclamation, to which was referred the bill (S. 2825) to grant the consent and approval of Congress to the South Platte River compact, reported it without amendment and submitted a report (No. 140) thereon.

Mr. CAPPER, from the Committee on Claims, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

A bill (S. 549) for the relief of John H. Walker (Rept. No. 141);

A bill (S. 553) for the relief of Fred V. Plomteaux (Rept. No. 142); and

A bill (S. 554) for the relief of Frank Grygla (Rept. No. 143).

Mr. STEPHENS, from the Committee on Claims, to which was referred the bill (S. 37) for the relief of First Lieut. Harry L. Rogers, jr., reported it with an amendment and submitted a report (No. 144) thereon.

Mr. BAYARD, from the Committee on Claims, to which was referred the bill (S. 547) for the relief of James W. Laxson, reported it without amendment and submitted a report (No. 145) thereon.

BILLS AND JOINT RESOLUTIONS INTRODUCED

Bills and joint resolutions were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. WARREN:

A bill (S. 3009) for the adjustment of water-right charges on the Shoshone irrigation project, Wyoming, and for other purposes; to the Committee on Irrigation and Reclamation.

By Mr. KING:

A bill (S. 3010) to amend the act of February 26, 1925 (chap. 343 of the statutes of the 68th Cong.), authorizing the construction of a bridge across the Colorado River near Lee Ferry, Ariz.; to the Committee on Indian Affairs.

By Mr. HEFLIN:

A bill (S. 3011) to amend the United States cotton futures act, as amended; to the Committee on Agriculture and Forestry.

By Mr. RANSDELL:

A bill (S. 3012) to change the name of "The Trustees of St. Joseph's Male Orphan Asylum" and amend the act incorporating the same; to the Committee on the District of Columbia.

By Mr. COPELAND:

A bill (S. 3013) for the relief of D. A. Neumann; and

A bill (S. 3014) to correct the naval record of John Lewis Burns; to the Committee on Naval Affairs.

By Mr. WILLIS:

A bill (S. 3015) for the relief of William J. Murphy; to the Committee on Claims.

A bill (S. 3016) granting an increase of pension to Julia A. Galbreath (with accompanying papers); to the Committee on Pensions.

A bill (S. 3017) for the relief of Edwin R. Samsey; and

A bill (S. 3018) for the relief of Alling R. Maish; to the Committee on Military Affairs.

By Mr. HARRELD:

A bill (S. 3019) to reimburse certain fire-insurance companies the amounts paid by them for property destroyed by fire in suppressing bubonic plague in the Territory of Hawaii in the years 1899 and 1900; to the Committee on Claims.

By Mr. JOHNSON:

A bill (S. 3020) providing that funds appropriated for the care and relief of Indians of California under the direction of the Secretary of the Interior shall be expended through certain public agencies of the State of California; to the Committee on Indian Affairs.

By Mr. SHIPSTEAD:

A bill (S. 3021) to renew and extend certain letters patent; to the Committee on Patents.

By Mr. HEFLIN:

A joint resolution (S. J. Res. 49) to provide for a monument to Maj. Gen. William Crawford Gorgas, late Surgeon General of the United States Army; to the Committee on the Library.

By Mr. SHIPSTEAD:

A joint resolution (S. J. Res. 50) requesting the President of the United States to invite foreign governments to participate in the Seventh International Dental Congress, to be held at Philadelphia, Pa., August 23 to 28, 1926, in conjunction with the Sesquicentennial Celebration of American Independence; to the Committee on Foreign Relations.

AMENDMENTS TO TAX REDUCTION BILL

Mr. NORRIS, Mr. McKELLAR, and Mr. SMITH each submitted an amendment and Mr. HOWELL submitted two amendments intended to be proposed by them to House bill 1, the tax reduction bill, which were severally ordered to lie on the table and to be printed.

AMENDMENT TO URGENT DEFICIENCY APPROPRIATION BILL

Mr. HALE submitted an amendment intended to be proposed by him to House bill 8722, the urgent deficiency appropriation bill, 1926, which was referred to the Committee on Appropriations and ordered to be printed, as follows:

At the proper place insert the following:

"To enable the Secretary of War to fill in and raise to grade such portion of the United States military reservation, Fort De Russey, Honolulu, Hawaii, as is low, marshy, or insanitary, in accordance with the provisions of the act approved March 4, 1923 (42 Stat. L. 1445), entitled 'An act to provide for the reclamation of said reservation, $100,000.'"

AMENDMENT TO AGRICULTURAL APPROPRIATION BILL

Mr. McNARY submitted an amendment intended to be proposed by him to House bill 8264, the Agricultural Department appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed, as follows:

On page 39, line 11, strike out "$426,900" and insert in lieu thereof "$456,900," and in line 19 on the same page, after "forests," insert a colon and the following: "*Provided further*, That not to exceed $30,000 may be expended for digging wells and otherwise developing stock-watering places in the Modoc National Forest."

INVESTIGATION AS TO JUTE, HEMP, YARNS, AND CORDAGE

Mr. FRAZIER submitted the following resolution (S. Res. 139), which was referred to the Committee on Finance:

Resolved, That the United States Tariff Commission be, and it is hereby, directed to investigate the cost of production, capitalization, efficiency, business methods, and profits or losses of corporations manufacturing jute yarns or rovings, twist, twine and cordage, yarns made of flax, sisal, hemp, or ramie, or a mixture of any of them, provided for in paragraphs 1003 and 1004 of the tariff act of 1922, and to report its findings to the Senate not later than May 31, 1926.

ALICE B. WELCH

Mr. JONES of Washington submitted the following resolution (S. Res. 140), which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay out of the miscellaneous items of the contingent fund of the Senate, fiscal year 1925, to Alice B. Welch, widow of John W. Welch, late the chief clerk in the office of the Architect of the Capitol, one year's salary at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Farrell, its enrolling clerk, announced that the House had passed a bill (H. R. 2) to amend an act entitled "An act to provide for the consolidation of national banking associations," approved November 7, 1918; to amend section 5136 as amended, section 5137, section 5138 as amended, section 5142, section 5150, section 5155, section 5190, section 5200 as amended, section 5202 as amended, section 5208 as amended, section 5211 as amended, of the Revised Statutes of the United States; and to amend section 9, section 13, section 22, and section 24 of the Federal reserve act, and for other purposes, in which it requested the concurrence of the Senate.

THE COAL SITUATION

Mr. COPELAND. Mr. President, I send to the desk a series of resolutions passed by the Community League of Mapleton Park, N. Y., and I ask that they be printed in the RECORD.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

MAPLETON COMMUNITY LEAGUE (INC.),
Mapleton Park, Brooklyn, N. Y.

At a regular meeting of the Mapleton Community League (Inc.), held Monday, February 1, 1926, the following resolution was unanimously adopted:

"Whereas the present coal strike has created a deplorable condition in the Borough of Brooklyn, county of Kings, State of New York, which has already affected, and which may hereafter continue to seriously affect a vast number of families, the members of which are suffering intensely; and

"Whereas the Mapleton Community League (Inc.), is of the opinion that it is a civic duty to take a firm stand in order that such condition may be terminated: Now, for the purpose of effecting such result, be it

"*Resolved*, That this organization go on record as favoring some immediate action on the part of his Excellency the Hon. Calvin Coolidge, President of the United States, and on the part of the Hons. ROYAL S. COPELAND and JAMES W. WADSWORTH, Senators from the State of New York, in order that there be a peaceful settlement of the coal strike and the return to normal deliveries; be it further

"*Resolved*, That in the opinion of this organization a firm stand should be taken, and if necessary there should be a return to the 'big stick' policy; and be it further

"*Resolved*, That copies of this resolution be transmitted to the Hon. Calvin Coolidge, President of the United States, the Hons. ROYAL S. COPELAND and JAMES W. WADSWORTH, Senators from the State of New York, and to the press."

MELVIN D. PATRON, *President*.

HEARINGS BEFORE THE COMMITTEE ON THE DISTRICT OF COLUMBIA

Mr. FESS. From the Committee to Audit and Control the Contingent Expenses of the Senate I report back favorably two resolutions introduced by the Senator from Kansas [Mr. CAPPER], the one authorizing in a formal way the Committee on the District of Columbia to hold hearings, employ a stenographer, and so forth, and the other authorizing the same committee to investigate the coal situation in the District of Columbia. I ask for the immediate consideration of the resolutions.

Mr. SMOOT. Are the resolutions going to lead to any discussion? If they do, I hope the Senator will withdraw them.

Mr. FESS. I do not believe they will lead to any discussion. If so, I shall let them go over.

Mr. JONES of Washington. Neither of the resolutions provides for permanent extra clerks, I understand?

Mr. FESS. No.

The VICE PRESIDENT. Without objection the resolutions will be received.

The resolution (S. Res. 136) submitted by Mr. CAPPER on the 3d instant, was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That the Committee on the District of Columbia, or any subcommittee thereof, hereby is authorized during the Sixty-ninth Congress to send for persons, books, and papers, to administer oaths, and to employ a stenographer at a cost not to exceed 25 cents per hundred words, to report such hearings as may be had in connection with any subject which may be before said committee, the expenses thereof to be paid out of the contingent fund of the Senate, and that the committee, or any subcommittee thereof, may sit during the sessions or recesses of the Senate.

INVESTIGATION OF COAL SITUATION IN DISTRICT OF COLUMBIA

Mr. FESS. From the same committee I report back favorably with an amendment the resolution (S. Res. 137) submitted by Mr. CAPPER on the 3d instant, and I ask unanimous consent for its present consideration.

Mr. BORAH. Let the resolution be reported.

The VICE PRESIDENT. The Clerk will read the resolution.

The CHIEF CLERK. The resolution is reported with an amendment, on page 1, line 3, to strike out the word "all" before the word "conditions," so as to read:

Resolved, That the Committee on the District of Columbia, or any subcommittee thereof, hereby is authorized to investigate conditions and matters relating to the coal situation in said District, including the prices paid for coal and substitutes therefor by dealers in fuel in the District, cost of fuel at points of origin, transportation costs and rates, drayage and all other expenses of delivery to the ultimate consumer, and prices charged by said dealers for fuel in the District of Columbia. For these purposes said committee, or any subcommittee thereof, may in their discretion employ such accountants and auditors as shall be necessary for examining and auditing books, accounts, and records of such dealers aforesaid, all costs of such investigation to be paid out of the contingent fund of the Senate.

Mr. REED of Pennsylvania. Mr. President, does that include both bituminous and anthracite coal?

Mr. FESS. It does.

Mr. REED of Pennsylvania. I would only suggest that the same thing has been done with respect to anthracite by the coal commission at a very heavy expense.

Mr. FESS. The committee has been proceeding with the investigation and the usual formal resolution giving them authority to hold hearings had not yet been adopted. That has just been acted upon, and the resolution now under consideration simply gives the committee authority to investigate the coal situation in the District of Columbia. The Senator from Kansas will explain the purport of it. If it leads to any discussion, I will withdraw it.

Mr. REED of Pennsylvania. I do not want to have it withdrawn. I am very much in favor of it. I think it is an excellent thing to do. I was only going to suggest that the terms of the resolution are broad enough to include a reexamination of all that the coal commission went into. They had detailed reports from every separate coal company and published them, and we do not want to duplicate that work. If the resolution involves an investigation of the cost of bituminous coal at the mines or at the dealers' yards or anywhere else, then I think it is a fine thing, and I hope the Senate will agree to it.

Mr. WARREN. Mr. President, I want to ask the Senator from Kansas a question. I notice that this is rather a comprehensive resolution and provides for the employment of accountants, experts, and so forth, and to pay them from the contingent fund of the Senate. It seems to me the subject is comprehensive enough to justify a joint investigation in which both the House and the Senate should participate, and then the funds for the expenses would come from both sources, and a concurrent resolution for the payment of such expenses could pass in the regular way.

I make this suggestion because we have to appropriate sooner or later to make up the contingent fund of the Senate, and those appropriations are becoming very large. Some of the investigation committees of late have been provided with attorneys at $50 to $100 a day for months at a time, and accountants and experts at nearly the same figure. It occurs to me that resolutions which open up the way for such large expenses ought to be passed in a regular way through both Houses, by bill or joint or concurrent resolution, and not merely through one body by itself, where little attention is given by anyone except the mover of the resolution. I ask whether there are to be any extensive appropriations of that kind necessary?

Mr. OVERMAN. Mr. President, I think we ought to let the resolution go over. It is a resolution providing for the employment of counsel and experts of various kinds and ought to receive some consideration.

Mr. CAPPER. There will not be any considerable expenses in this matter. The fact is I have had a conference with the Comptroller General, Mr. McCarl.

Mr. OVERMAN. I withdraw my objection.

Mr. CAPPER. Mr. McCarl tells me that he will provide us with two or three auditors, who in less than a week will obtain all the information we desire.

Mr. WARREN. The Senator from Kansas will see that the expenses are kept at a minimum?

Mr. CAPPER. I do not think there will be any expense at all.

Mr. BORAH. Mr. President, may I ask what is the object and purpose of this investigation? What is it proposed to do after the committee shall have obtained the facts?

Mr. CAPPER. Mr. President, there has been widespread complaint in the city of Washington as to charges which have been made for coal. I have received more than a hundred letters from consumers of coal complaining that they are being charged excessive prices. The Committee on the District of Columbia has had several meetings. The coal dealers seem to welcome an examination of their books; in fact, they invite it.

Mr. BORAH. I should think they would, because probably no attention would be paid to the matter after the work had been done.

Mr. CAPPER. Just what action the Committee on the District of Columbia might suggest when they obtain the information I do not know, but all we want is the facts as to the cost of coal that is coming into the city of Washington and the prices that are being charged the consumers of coal in Washington. It is not a big matter at all; that is, so far as the cost and time are concerned.

Mr. BORAH. Mr. President, there is not any doubt in anybody's mind about the prices which are being paid for coal and about the profiteering which is going on by reason of the coal-strike situation; but, as has been suggested here by the Senator from Pennsylvania [Mr. REED], we had a very expensive investigation of the subject a year or two ago, and, of course, the testimony then obtained has been thrown into the archives, and there it is. Neither the consumers of coal nor anyone else got any benefit, and I suspect there will be no benefit whatever derived from this investigation. If, however, it is not going to cost much, we might as well be whiling away our time in that manner as in any other; but if it is going to be very costly, it will be just that much more money thrown away.

Mr. CAPPER. I do not believe there will be any cost at all in this hearing, and we are not going to duplicate the work which has heretofore been done by anyone else.

Mr. COPELAND. Mr. President, I hope this resolution will be agreed to. The committee has in mind the employment of a few men for merely a few days to bring out the facts. If I can not get relief for my city, I want to vote to give some relief to the people of Washington. The action proposed may result in some benefit to the people here, and I hope the resolution will be adopted.

Mr. HOWELL. Mr. President——

Mr. FESS. Mr. President, I promised to withdraw the resolution in case it led to any discussion, and, therefore, I think it had better go over.

Mr. HOWELL. Mr. President, I believe I have the floor.

I am in sympathy with an investigation into coal prices, because there can be no question that there has been profiteering as a result of the existing coal strike and that such profiteering is seriously affecting the price that is being paid for coal by the people in the District of Columbia. The purpose of the proposed resolution is to correct this situation, but unfortunately the investigation may take so long a period of time that before its conclusion the coal strike may be over and high prices may have been paid continuously, notwithstanding the proposed investigation.

There is a practical method of meeting this situation and meeting it at once. It is not an untried method. We have a Government fuel yard here in the District of Columbia. That Government fuel yard can be directed to supply coal to consumers within the District at the cost of the fuel, plus the cost of handling. It can be done at once, and almost instantly profiteering in coal will cease in the District of Columbia. It may not be necessary for the Government fuel yard to proceed, at least for any length of time, with the sale of coal. That has been often the experience wherever this plan has been adopted. It has been tried and has been effective in the

city of Omaha, Nebr., not only with respect to coal but with respect to ice. It has been tried also in the city of Lincoln, Nebr., and it has been tried elsewhere in this country. It is a method involving the proposition of public competition, an ultimate reserve power that can be invoked for the protection of the public. I am not in favor of the public operation of fuel yards as a matter of general policy, but I am in favor of public competition in emergencies, as a means to an end; and it is an effective means.

I have submitted to the Senate a resolution directing the Committee on the District of Columbia to prepare and report a bill providing for this procedure, and I am merely awaiting the opportunity of a morning hour to call up that resolution for consideration. In fact, I would call it up now were I not confident that a discussion of the resolution would be objected to at the present time. The method to which I refer, if adopted, will stop the profiteering promptly. Any other course will continue this profiteering until possibly the emergency shall have passed.

The VICE PRESIDENT. The question is on agreeing to the amendment reported by the committee striking out the word "all" before the word "conditions."

The amendment was agreed to.

The resolution as amended was agreed to.

THE COAL SITUATION

Mr. COPELAND. Mr. President, I am very glad to see the change of heart across the aisle. This strikes me as a favorable time to ask unanimous consent to bring up Senate Resolution No. 43, which is on the table.

Mr. SMOOT. Mr. President, the Senator from Pennsylvania [Mr. REED] is out of the Chamber, and I hope the Senator from New York will not make that request at this time.

Mr. COPELAND. Of course, Mr. President, I assumed some Senator across the aisle, some Republican, would object to the consideration of the resolution.

Mr. SMOOT. I would have to object to anything which might be called up which would lead to any debate while the tax reduction bill is pending, and I think that the resolution of the Senator from New York would lead to debate. I say that with all due deference to the feelings of the Senator from New York.

Mr. COPELAND. I am very much obliged to the Senator from Utah for his kind words. He need not worry any about the feelings of the Senator from New York. The Senator from New York is conscious that he is trying to do something for the suffering people in his State. I think this morning, Mr. President, the Senators from New England might join me in this matter. I notice the distinguished chairman of the Republican National Committee is in the Chamber. New England is snow-bound, as New York is snow-bound and New Jersey is snow-bound. There will be no coal moved anywhere in those sections of the country for several days; and this is the time when the Republicans from those sections, highly favored by the legislation passed by the Senate from time to time, might join in passing some legislation which has to do with the interests of humanity.

So, Mr. President, I hope that the Senator from Utah, who is noted for his kindness of heart, will withdraw his objection and let us have immediate consideration of this resolution asking the President to invite the operators and the miners to the White House in order that there may be a conference. I have no doubt that out of such conference would come a settlement of the strike, as happened when other distinguished men occupied the Presidency. I remember that when Mr. Roosevelt was President of the United States and Mr. Harding was President, each of those good men had but to invite the persons involved in coal strikes to the White House and in a day's time the strike was settled. I hope the Senator from Utah will withdraw his objection and let us have action, because I know the Senator from Massachusetts [Mr. BUTLER] is anxious this morning to cooperate in this movement.

Mr. SMOOT. I will say again, Mr. President, the Senator from Pennsylvania, who objected to the resolution on a previous occasion, is out of the Chamber on business of the committee, and I can not allow the resolution to be acted upon at this time in his absence. I ask the Senator from New York now to let us proceed with the consideration of the revenue bill.

Mr. COPELAND. Mr. President, the Senator from Pennsylvania certainly should be the first to desire this matter adjusted.

Mr. SMOOT. That may be; I am not going to discuss whether that is the case or not; but I want to proceed with the revenue bill and get it out of the way.

Mr. COPELAND. Mr. President, two years ago when I sought to have incorporated in the revenue bill an amendment seeking to grant an exemption for losses incurred by reason of illness I was told that my amendment was out of order. When I inquired why I was told, "because the purpose of government is to protect property." Mr. President, with all the strength of my body and soul I dispute that. The purpose of government is to serve humanity; it is the purpose of government to do for the citizen what he can not do for himself.

Mr. President, if the distinguished administration Senator from Utah feels that this property matter can not wait 10 minutes in order that the cause of humanity may be served I must submit, of couse, because under the rules I can get no further if he presses the objection. I think, however, I see in his face that he is yielding a little and that he does not intend to press the objection.

Mr. SMOOT. I intend to press it, Mr. President.

Mr. COPELAND. Then, Mr. President, there is nothing for me to do but to subside, knowing that the Republicans continue to be unwilling to do for those who are suffering from cold as the result of a strike which the President of the United States could settle in two hours if he would set himself to it.

Mr. EDWARDS. Mr. President, I have no intention to delay or try to delay the passage of the tax bill by the Senate, but I think the most important question before the United States to-day is the coal situation. I wish Members of this body could see the coal situation as it affects my State of New Jersey through the eyes of suffering residents of my State. I came from New York last night. It is snow-bound. There is a lack of fuel in many homes; the schools are closed on account of the inability to get coal. In many places coal can not be obtained at all; it can not be bought. On Long Island, within 10 miles of New York City, coal is bringing from $34 to $35 a ton and can hardly be obtained at that price.

Mr. WILLIAMS. Mr. President, may I interrupt the Senator?

The VICE PRESIDENT. Does the Senator from New Jersey yield to the Senator from Missouri?

Mr. EDWARDS. I yield.

Mr. WILLIAMS. Will the Senator please tell us what piece of legislation is pending here with relation to the coal strike?

Mr. EDWARDS. I do not know, but I know that something can be done and I know that it will not do any harm to adopt the resolution of the Senator from New York. President Roosevelt took action on the occasion of a previous strike; President Harding also acted, and President Coolidge can and must do it.

Mr. HEFLIN. Mr. President, I want to say to the Senator from New Jersey that during the Wilson administration when there was a terrible coal strike in the mines of West Virginia, and a good many people were killed, a committee of the Senate, headed by the Senator from Virginia [Mr. SWANSON] and of which, according to my recollection the Senator from Idaho [Mr. BORAH] was a member, went there and brought about a settlement. The differences were settled between the operators and the miners; work went on, and we have not heard any more from it since.

Mr. COPELAND. Mr. President, I move that the tax bill be set aside temporarily in order that we may give some thought to the coal situation.

Mr. SMOOT. Mr. President, I do not think the Senator wants to put his motion in that form.

The VICE PRESIDENT. The proper motion would be to move to take up whatever subject the Senator desires.

Mr. COPELAND. Very well, Mr. President. I move that the Senate proceed to the consideration of Senate Joint Resolution 43, requesting the President to take steps to bring about an immediate resumption of anthracite coal mining; and on that motion I ask for the yeas and nays.

The yeas and nays were ordered, and the Chief Clerk proceeded to call the roll.

Mr. FERNALD (when his name was called). I have a general pair with the senior Senator from New Mexico [Mr. JONES]. I shall have to observe that pair for the present.

Mr. FLETCHER (when his name was called). I have a general pair with the Senator from Delaware [Mr. DU PONT]. I understand that if present he would vote as I shall, and therefore I feel at liberty to vote. I vote "nay."

Mr. WADSWORTH (when his name was called). I have a pair with the senior Senator from West Virginia [Mr. NEELY]. I transfer that pair to the junior Senator from Colorado [Mr. MEANS] and will vote. I vote "nay."

The roll call was concluded.

Mr. REED of Pennsylvania (after having voted in the negative). I have a general pair with the senior Senator from Delaware [Mr. BAYARD], and I am not sure how he would vote. As I can not obtain a transfer, I withdraw my vote.

Mr. McKELLAR. I desire to announce that the senior Senator from West Virginia [Mr. NEELY] is unavoidably absent on business. If he were present, he would vote "yea."

Mr. JONES of Washington. I desire to announce that the Senator from Vermont [Mr. GREENE] and the Senator from South Dakota [Mr. McMASTER] are paired for the day and are necessarily absent.

The senior Senator from Kansas [Mr. CURTIS] is necessarily absent on account of illness. He has a general pair with the senior Senator from Missouri [Mr. REED], who is also necessarily absent.

The senior Senator from California [Mr. JOHNSON] is also necessarily absent.

Mr. McLEAN (after having voted in the negative). Has the junior Senator from Virginia [Mr. GLASS] voted?

The VICE PRESIDENT. He has not.

Mr. McLEAN. I have a general pair with that Senator. In his absence, I withdraw my vote.

Mr. FERNALD. As I stated, I have a general pair with the senior Senator from New Mexico [Mr. JONES]. I find that I can transfer that pair to the senior Senator from Oregon [Mr. McNARY]. I do so and vote "nay."

Mr. ASHURST. I have a general pair with the junior Senator from Minnesota [Mr. SCHALL]. Being unable to secure a transfer at this moment, and not knowing how that Senator would vote, I refrain from voting.

Mr. ROBINSON of Arkansas (after having voted in the negative). I have a pair with the Senator from California [Mr. JOHNSON]. I transfer that pair to the Senator from Alabama [Mr. UNDERWOOD] and will let my vote stand.

Mr. REED of Pennsylvania. I find that I am able to transfer my pair to the junior Senator from Delaware [Mr. DU PONT]. Therefore I will allow my vote in the negative to stand.

The result was announced—yeas 29, nays 47, as follows:

YEAS—29

Blease	Edwards	La Follette	Smith
Brookhart	Ferris	McKellar	Trammell
Broussard	Frazier	Mayfield	Tyson
Bruce	George	Norris	Walsh
Caraway	Harris	Nye	Wheeler
Copeland	Heflin	Overman	
Couzens	Howell	Sheppard	
Dill	Kendrick	Shipstead	

NAYS—47

Bingham	Fess	Moses	Simmons
Borah	Fletcher	Norbeck	Smoot
Bratton	Gillett	Oddie	Stanfield
Butler	Goff	Pepper	Stephens
Cameron	Gooding	Phipps	Swanson
Capper	Hale	Pine	Wadsworth
Cummins	Harreld	Ransdell	Warren
Dale	Jones, Wash.	Reed, Pa.	Watson
Deneen	Keyes	Robinson, Ark.	Weller
Edge	King	Robinson, Ind.	Williams
Ernst	McKinley	Sackett	Willis
Fernald	Metcalf	Shortridge	

NOT VOTING—20

Ashurst	Glass	Lenroot	Neely
Bayard	Greene	McLean	Pittman
Curtis	Harrison	McMaster	Reed, Mo.
du Pont	Johnson	McNary	Schall
Gerry	Jones, N. Mex.	Means	Underwood

So Mr. COPELAND'S motion was rejected.

Mr. COPELAND. Mr. President, I desire to say that I shall renew my effort at the earliest possible moment. I can not believe it possible that by so overwhelming a sentiment the Senate is opposed to a discussion of how relief may be afforded in this coal crisis.

I shall take it for granted that their anxiety to pass the tax bill has influenced some Members to vote against my motion who otherwise would be glad to do something in this particular matter. At least, however, the vote indicates to the country and to the suffering people in the northeast that up to this time there is no desire apparent in the action of the Senate to give relief to the suffering, which is going on at this moment in every part of that section of the country. I want the Senate to know that, so far as I am concerned, I am going to do everything I can each day to try to bring relief in this situation.

Mr. KENDRICK. Mr. President, will the Senator yield?

Mr. COPELAND. I yield.

Mr. KENDRICK. I desire to ask the Senator from New York if he believes that the discussion of his joint resolution would require more than perhaps a half-hour of time?

Mr. COPELAND. Mr. President, I know the heart of the Senator from Wyoming, and I know that he is genuinely interested in bringing about some relief. I want to state for myself that I do not want to take any action or attempt any movement here which will delay the passage of the tax bill. I am in favor of the tax bill, and I want it passed; but it would not hurt us a bit to turn aside for half an hour to give consideration to this other matter, which has to do with the lives of the people.

Mr. SIMMONS. Mr. President, may I ask the Senator from New York a question?

Mr. COPELAND. I yield to the Senator.

Mr. SIMMONS. Would the Senator be willing, in case the chairman of the committee would consent to it, to have the tax bill laid aside for 25 or 30 minutes, which I think the Senator indicated would be sufficient time within which to get action?

Mr. COPELAND. Of course, Mr. President.

Mr. SIMMONS. The Senator's motion was to displace the tax bill as the unfinished business of the Senate and substitute the joint resolution dealing with the coal situation.

Mr. COPELAND. Yes.

Mr. SIMMONS. If the Senator will pardon me, I do not think one Senator is any more concerned than another about the distressful conditions that the Senator from New York refers to, growing out of the coal strike; especially the situation in the eastern section of the country. We are all, I think, in sympathy with what the Senator from New York desires to do. I have my doubts about whether his resolution is going to accomplish very much in that direction; but, however that may be, we are all anxious that something should be done along this line. The trouble is that we are now considering a bill which the country regards as an emergency measure, and unless that bill is enacted into law within a certain limit of time, the probabilities are that it will not become law in time to give the taxpayers the benefit of it upon their incomes of 1925.

In that situation the Senator moves to displace that emergency measure, about which so much haste is necessary, with this other measure. I am anxious that the Senator's resolution shall have consideration. It will get consideration speedily, I take it, whether it gets it this morning or not. Therefore, I make the suggestion to the Senator that if he really believes he can get this matter acted upon within 25 or 30 minutes, if he would ask the chairman of the Committee on Finance to lay aside temporarily the tax bill and give the Senator from New York 30 minutes in which to get action upon his resolution, the Senator from Utah would probably agree. I have not talked with him, and I do not know what his disposition is, but I think he would agree.

Mr. SMOOT. Mr. President, I do not believe it can be done in 30 minutes. The quickest way to get action on the Senator's resolution is to pass the tax bill. I do not know how much longer that is going to take.

Mr. SIMMONS. Let me appeal to the Senator from Utah. Whether the Senator from New York can get his resolution acted on in that time or not, he thinks he can, and I think it is probable that he will be able to get action on it within that time. Under the circumstances, the Senator from Utah ought to give him that length of time.

Mr. BORAH and Mr. KING addressed the Chair.

The VICE PRESIDENT. Does the Senator from New York yield; and if so, to whom?

Mr. COPELAND. I yield to the Senator from Idaho.

Mr. BORAH. Mr. President, the Senator from New York is deeply interested in the subject concerning which his resolution has been introduced. I voted against taking up the resolution, not because I have any deep anxiety for the speedy passage of this tax bill, for unless some changes are made in it I shall find it difficult to vote for it. But I feel that we can not deal with the coal question so as to favor those whom the Senator from New York desires to favor, and benefit those who are entitled to be benefited, by the passing of this resolution. I am perfectly satisfied that it would have no effect whatever, and I feel that when we take up the question of dealing with the coal problem we must take it up in a different way, by passing a bill which will give some power, not only to the President, but perhaps to the Interstate Commerce Commission, or some other body, to deal with the subject matter.

We have been investigating the coal question, and passing resolutions with reference to the coal question, for 18 years, to my personal knowledge, but we have not controlled in the slightest the situation when an emergency like the present arises. Unless the Congress of the United States is willing to take up this subject and make the production and the distribution of coal a matter of public service, and impress it with public concern, and legislate as to it upon that basis, we are not going to help those whom the Senator from New York very

much desires to help. It was for that reason that I voted against his motion, and I see no possible chance to help in the situation by merely passing his resolution.

Mr. COPELAND. Mr. President, did I not move that Senate Resolution 43 be acted upon?

The VICE PRESIDENT. The motion was that the Senate proceed to the consideration of Senate Joint Resolution 43.

Mr. COPELAND. Then I say to the Senator from Idaho that Senate Joint Resolution 43, which we voted upon and which was voted down, is the emergency clause of the Oddie bill, which proposes to do exactly what the Senator from Idaho has in mind, namely, in an emergency to give full effect to the act of September 22, 1922, to provide for the appointment of a Federal fuel distributor and to require the Interstate Commerce Commission to go forward in the matter.

I believe, however, that the disposition of the Senate is such that it is useless to attempt to go into any extended debate on the subject at this time. In harmony with what the Senator from North Carolina has suggested, I move that the Senate proceed for 40 minutes to a consideration of what may be done in this emergency to bring relief to the country.

Mr. SMOOT. Mr. President, that could only be done by unanimous consent, and it would be a waste of time. I agree with the Senator from Idaho [Mr. BORAH], and I am perfectly willing, just as soon as the tax bill is out of the way, to take up legislation on this subject matter and handle it in the proper way. I must object.

Mr. SIMMONS. Let me suggest to the Senator from Utah that he will waste more time by objecting to the consideration of the coal situation than he will make by it.

Mr. SMOOT. That may be, but it was reported to me last night that the Senator from New York was going to filibuster on this every day.

Mr. COPELAND. Mr. President, I resent what the Senator from Utah says. I am not filibustering against the tax bill. The Senator from Utah knows that I am in favor of the tax bill. When a man rises in the Senate to seek to do something for people who are cold and shivering, who have wet feet and no place to dry them, I want the Senator from Utah to understand that that is not a filibuster, as I understand the word.

Mr. SMITH. Mr. President, would it be possible for us to get unanimous consent that we just vote on this proposition?

Mr. ASHURST. Without debate?

Mr. SMITH. Without debate, to vote on the proposition.

Mr. SMOOT. What resolution does the Senator now propose to bring before the Senate?

Mr. COPELAND. If we are going to do as the Senator from South Carolina suggests, let us take up the simple resolution which I introduced a day or two ago requesting the President to invite to the White House the committee of operators and miners with a view to impressing upon them the national necessity for settling the strike.

Mr. HEFLIN. Let us vote on it.

Mr. SMITH. Why could we not have unanimous consent that we just vote on the proposition? Each man could express his views in his vote.

Mr. BORAH. What resolution is it about which the Senator is now talking?

Mr. COPELAND. Mr. President, I ask unanimous consent that we set aside the tax bill long enough to vote upon Senate Resolution 134, which reads:

Resolved, That the President be requested to invite to the White House the committee of operators and miners in order that he may urge upon them the national importance of an immediate settlement of the anthracite coal strike.

Mr. REED of Pennsylvania. I object.

Mr. SHORTRIDGE. I object to that.

The VICE PRESIDENT. Objection is made. The Senate resumes the consideration of the tax reduction bill.

Mr. KENDRICK subsequently said: Mr. President, I wish to say just a word about the vote I cast this morning on the motion submitted by the Senator from New York [Mr. COPELAND]. In making this statement I desire to point out the fact that since the tax bill has been under consideration I have indicated not only a willingness but an anxiety to do everything I could to promote action on that bill. As I recall, I have answered every telephone call in order to keep a quorum, and I have gone further and voted for practically all, if not all, recommendations of the committee. I have not always agreed with the conclusions of the committee. As an illustration, I have been called upon to vote on every tax bill brought before the Senate since the beginning of the World War, and the records will show that I voted for every increase in surtaxes that has been proposed. In the consideration of the pending bill I voted for lower surtaxes than I believe are consistent and wise. I did so on the recommendation of the committee and on the assertion of the Treasury that the lower tax rates yield a larger return to the Government than the higher rates. My understanding is that this condition is not brought about by a violation of the law on the part of taxpayers, but that because of the high rates the taxpayers simply exercise their right to avoid the payment, under the law, by investing their funds in such enterprises as return a surer though smaller income. They make the sacrifice, in other words, before rather than after the return.

I make this statement in connection with the tax bill in order to refer to the vote on the coal-strike resolution. Many times in my experience I have listened to the criticisms of the Congress, and especially of the Senate, and at times have been led to wonder why the country has so often been prompted to criticize us. I believe that if one were looking for an answer to that question, the action of the Senate this morning on the motion made by the Senator from New York would present as striking a reason why the country criticizes Congress without reservation as can be found in all the records of the United States Senate.

Without any regard to what Senators may think about it, on this, the 5th day of February, 1926, the Senate of the United States has suggested by a yea-and-nay vote that it is more concerned in reducing the taxes on people who have incomes in excess of $3,500 than it is in relieving the real distress of a multitude of people who are practically without incomes and who are suffering and perhaps even freezing to death for the want of fuel. That is the record, and there is no getting away from it.

I for one consider it all the more unfortunate, because I do not believe that represents the sentiment of the men whom I know in the United States Senate.

I believe we all agree that the wording of the motion was unfortunate. I believe that Senators who voted on the motion were more or less misinformed. I believe also that if the Senator from New York had moved to temporarily lay aside the business before the Senate and proceed to the consideration of his resolution for not more than 40 minutes the Senate would have sustained him. I like to believe that it would have done so, because of the unfortunate effect of this particular action on the country.

Mr. President, I insist, after hearing nearly all of the debate on the proposed coal resolution, that it is something more than a gesture.

There is a real and tragic situation resulting directly from this unfortunate coal strike. I believe it is a fact that there is real distress and suffering on the part of a multitude of people who are unable to protect themselves against the situation. I do not believe this resolution is necessarily a political one. Certainly it is a well-known fact that it is in line with well-established precedents, and, what is more, the action establishing those precedents brought definite results in the settlement of controversies which made them necessary. I, for one, am impelled to believe that if the resolution were passed by the Senate and were sent to the President of the United States he would promptly take action on it, because of this unmistakable evidence that both the Congress and the country would sustain him in such action. And in spite of the apparently arbitrary attitude of the operators, I do not believe they could withstand an insistent demand from the President to lend themselves whole-heartedly toward settlement of the strike.

Believing that way, Mr. President, I hope that when the Senate convenes again to-morrow morning the Senator from New York will again offer his resolution in a modified form, and I hope the Senate will then entirely reverse its action of to-day.

Mr. BRUCE. Mr. President, I want to add my voice to the voice of the Senator from Wyoming [Mr. KENDRICK]. I am very much in the same situation as the Senator from Wyoming. If there has been in this body a more consistent supporter of the Mellon system of taxation, both at the last session of Congress and this session, than myself I do not know who it is. No Senator, not even the Senator from Utah [Mr. SMOOT], is more desirous than I am that the passage of the pending tax bill should be accelerated. But, now that the Senator from New York is prepared to give assurance that he will not ask more than half an hour of time of the Senate for the consideration of his resolution, I do think that the indulgence for which he asks might be accorded to him. Certainly the situation in Pennsylvania is acrid to the very last degree, and it bears, because of special circumstances, with peculiar hardship upon the people of the cities of New York and their business.

The only effective mediation in strikes in this country, after all, has been the mediation of the President of the United States, and it might well be that the President would accept the suggestion of the resolution and take some steps to bring the present anthracite strike to an end. I have seen more time wasted in this body in deprecating delay in regard to some pending measure than the time that would be actually consumed by the discussion of the measure itself. Under the circumstances, I trust that I may be permitted to say that I hope that the resolution will be taken up to-morrow by the Senate, with the understanding that no more than half an hour of discussion is to be given to it, and after that we could resume consideration of the tax bill. Then, so far as I know, there will be nothing to retard the continued consideration of the latter.

Mr. COPELAND. Mr. President, I am very much obliged to Senators. I fear that some Senators, perhaps, misunderstand my efforts. I noticed a dispatch from a staff correspondent of the New York Evening Post saying that "the efforts of New York Democrats to embarrass the President in the coal problem came to naught to-day."

I want to say that I have no desire to embarrass the President of the United States. No New York Democrats have this desire. We have only one desire and that is that coal may be supplied so that the poor of the country can have warmth.

In view of what the Senator from Wyoming [Mr. KENDRICK] and the Senator from Maryland [Mr. BRUCE] have said, I give notice that to-morrow morning, when the Senate convenes, I shall ask for half an hour in order that the Senate may consider the resolution which I have presented. I am not asking for half an hour to be consumed by myself. I am asking that half an hour of the time of the Senate may be given to the consideration of the resolution.

Mr. HEFLIN. And at the expiration of that time vote on it?

Mr. COPELAND. Yes; at the expiration of the time take a vote on the resolution.

TAX REDUCTION

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 1) to reduce and equalize taxation, to provide revenue, and for other purposes.

Mr. NORRIS. I send to the desk an amendment to the pending bill, which I ask may be printed and lie on the table.

The VICE PRESIDENT. That order will be made.

Mr. McKELLAR. I send to the desk an amendment, which I ask to have printed and lie on the table.

The VICE PRESIDENT. That order will be made.

The question is upon agreeing to the amendment proposed by the Senator from Nebraska [Mr. NORRIS].

Mr. KING. Let the amendment be reported.

The CHIEF CLERK. On page 113, line 1, strike out all after the word "records" down to and including the word "President" in line 5, and in lieu thereof insert: "and shall be open to examination and inspection as other public records under the same rules and regulations as may govern the examination of public documents generally," so as to read:

> Returns upon which the tax has been determined by the commissioner shall constitute public records, and shall be open to examination and inspection as other public records under the same rules and regulations as may govern the examination of public documents generally.

Mr. COUZENS. Mr. President, so that we may have some continuity in discussing this subject, the consideration of which was interrupted when a recess was taken last night, I desire to point out the specific difference between the bill as reported out by the Finance Committee of the Senate and the act that is now in force.

For the benefit of Senators, I may say that they will find on page 230 of the comparative print section (b), line 17, the act as it now is on the statute books, reading as follows:

> (b) The commissioner shall as soon as practicable in each year cause to be prepared and made available to public inspection in such manner as he may determine in the office of the collector in each internal-revenue district and in such other places as he may determine, lists containing the name and the post-office address of each person making an income-tax return in such district, together with the amount of the income tax paid by such person.

That provision of the statute has obviously been of no benefit, but rather has been a detriment, to the proper administration of the income tax law. The House proposed to repeal that provision of the law, and when they sent the bill to the Senate they had reinserted the provisions of law as they appeared prior to the enactment of the act of 1924.

The law prior to the act of 1924, which the amendment under discussion proposes to amend, provided, as will be found on page 112 of the committee print, as follows:

> Returns upon which the tax has been determined by the commissioner shall constitute public records; but, except as hereinafter provided in this section and section 1203, they shall be open to inspection only upon order of the President and under rules and regulations prescribed by the Secretary and approved by the President.

Subdivision (b), found on page 113, provides:

> (b) (1) The Secretary and any officer or employee of the Treasury Department, upon request from the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, or a select committee of the Senate or House specially authorized to investigate returns by a resolution of the Senate or House, or a joint committee so authorized by concurrent resolution, shall furnish such committee sitting in executive session with any data of any character contained in or shown by any return.

Subsection 2 of subdivision (b) provides:

> (2) Any such committee shall have the right, acting directly as a committee or by or through such examiners or agents as it may designate or appoint, to inspect any or all of the returns at such times and in such manner as it may determine.

Subsection 3 provides:

> (3) Any relevant or useful information thus obtained may be submitted by the committee obtaining it to the Senate or the House, or to both the Senate and the House, as the case may be.

Subdivision (c) provides:

> (c) The proper officers of any State may, upon the request of the governor thereof, have access to the returns of any corporation, or to an abstract thereof showing the name and income of the corporation, at such times and in such manner as the Secretary may prescribe.

Subdivision (d) provides:

> (d) All bona fide shareholders of record owning 1 per cent or more of the outstanding stock of any corporation shall, upon making request of the commissioner, be allowed to examine the annual income returns of such corporation and of its subsidiaries. Any shareholder who pursuant to the provisions of this section is allowed to examine the return of any corporation, and who makes known in any manner whatever not provided by law the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any such return, shall be guilty of a misdemeanor and be punished by a fine not exceeding $1,000 or by imprisonment not exceeding one year, or both.

Subdivision (e) of section 257 provides:

> (e) The commissioner shall as soon as practicable in each year cause to be prepared and made available to public inspection in such manner as he may determine, in the office of the collector in each internal-revenue district and in such other places as he may determine, lists containing the name and the post-office address of each person making an income-tax return in such district.

The amendment which is under discussion proposes, on page 113, line 1, to strike out all after the word "records" down to and including the word "President," in line 5 on said page, and in lieu thereof insert the following:

> and shall be open to examination and inspection as other public records, under the same rules and regulations that may govern the examination of public documents generally.

It will be seen that the proposed amendment provides substantially to cut out subsections (c), (d), and (e) thereof. The proposed amendment would repeal all of that section and all of those requirements dealing with the accessibility of records by the Ways and Means Committee of the House and the Finance Committee of the Senate. There would be no necessity for any such provision in the law.

Mr. SHORTRIDGE. Mr. President, may I ask the Senator a question?

The PRESIDING OFFICER (Mr. BRATTON in the chair). Does the Senator from Michigan yield to the Senator from California?

Mr. COUZENS. Certainly.

Mr. SHORTRIDGE. Does not the Senator think that those provisions in respect to the Ways and Means Committee of the House and the Finance Committee of the Senate are very important and would be helpful to the several committees and to the two Houses?

Mr. COUZENS. They certainly would if the bill is passed in the form in which it came from the Finance Committee, but it is absolutely unnecessary if the amendment under discussion is adopted, because the committee can get the information

without a statute. It is absolutely unnecessary to have the provision because we can obtain the information without any provision of law. It would also obviate the necessity of providing for the governors of the States having access to the records or getting an abstract thereof.

Mr. SHORTRIDGE. Can they get it without authority?

Mr. COUZENS. If the amendment is adopted, they may.

Mr. SHORTRIDGE. If the Senator's amendment is adopted?

Mr. COUZENS. If the amendment under discussion is adopted they may. It would also obviate the necessity of a shareholder holding 1 per cent having to be under the penalty of a $1,000 fine or imprisonment for one year, or both, in case he wanted to see the return of a corporation in which he was a stockholder.

Paragraph (e) of subsection 3 is of no great importance, because it only requires the commissioner to publish the list of taxpayers and their addresses. I see no necessity for that. It serves no good purpose and might as well be repealed.

At the risk of being charged with repetition of some of the things I said last night, and for the benefit perhaps of some who were not here at that time, I desire to point out that ever since the enactment of the income tax law in 1913 no outside examination has been made of the Internal Revenue Bureau, no outside examination has been made by either House of Congress, and no public information has been obtainable as to how and in what manner the 65,000,000 returns have been handled within the bureau. It is the most colossal bureau in the Government. It has more direct connection with more individual citizens than any other bureau in the Government. We discuss for hours and we study for hours the question of rates that we apply to incomes. We enact statutes in an effort to be fair with the taxpayers. We enact statutes in an effort to create justice between taxpayers and insure equity to the taxpayers and the Government.

For the benefit of those who were not Members of the Senate when the investigation started, I want to refer to the fact that in February, 1924, I introduced a resolution which brought about the investigation of the Bureau of Internal Revenue. The resolution when introduced provided as follows:

Whereas the Bureau of Internal Revenue of the Treasury Department has not, according to reports, completed settlement of all tax cases for the year 1917, which cases should have been settled long ago—

And I might say that nearly two years have elapsed since the resolution was introduced and those conditions are as bad if not worse than they were in February, 1924.

Whereas this delay is an indication of improper organization or gross inefficiency, or the bureau is handicapped by conditions of which the Senate is not aware; and

Whereas as the result of this system and this delay the Government has, it is claimed, lost millions of dollars, taxpayers have been oppressed and still are oppressed, and corruption or the opportunity for corruption exists; and

Whereas rates for income taxation are governed entirely by the administration or lack of it; and

Whereas there can be no helpful, honest, sincere, intelligent action on the rates of taxes until this system is corrected: Therefore be it

Resolved, etc.

The resolution then provided for the appointment of a committee by the President of the Senate, three members of the committee to be from the majority party and two from the minority.

After some rocky experience in getting through the Senate, Senate Resolution 168, after having been referred to the Committee on Finance and to the Committee to Audit and Control the Contingent Expenses of the Senate, came out somewhat in this form:

Resolved, That the President of the Senate pro tempore or Acting President of the Senate pro tempore is authorized to appoint a special committee of five Members thereof, three of whom shall be of the majority party, and two of the minority party, which shall investigate the Bureau of Internal Revenue and report its findings, together with recommendations for corrective legislation.

The committee is authorized to hold hearings, to sit during the sessions and recesses of the Sixty-eighth Congress, and to employ a stenographer at a cost not to exceed 25 cents per hundred words. The committee is further authorized to send for persons and papers; to require by subpœna the attendance of witnesses, the production of books, papers, and documents; to administer oaths; and to take testimony. The expenses of the committee shall be paid from the contingent fund of the Senate.

It will be observed from a reading of the resolution that there was no authority to employ anyone but a stenographer. No member of the committee knew anything about the processes of the income-tax returns through the bureau. No one knew the system in the bureau. No one knew how much the work was decentralized as between the home office and the collectors' offices. No one knew where to start. No auditors were provided, no engineers were provided, and it was obvious to everyone as the committee got started that we were hopelessly unable to accomplish anything under the terms of the resolution.

During the discussion on the floor before the resolution was finally agreed to, and I believe before it went to the Finance Committee the second time, there was certain discussion that took place between the Senator from New York [Mr. WADSWORTH] and myself. The Senator from New York asked the chairman of the Finance Committee or the Senator in charge of the resolution as to what necessity existed for an investigation by a select committee of the Senate. The RECORD then discloses the following:

Mr. COUZENS. For the past two or three months great numbers of complaints have been coming to me because of my discussion with the Secretary of the Treasury about the surtax. Recently all of the developments indicate the desirability of improving the administrative features of the revenue law. I want to quote from a report issued by the National Industrial Conference Board of New York, made up of the American Cotton Manufacturers' Association, the American Electric Railway Association, the American Hardware Manufacturers' Association, and some 30 other manufacturers and industrial institutions. I am not going to take up the time of the Senate in going through this entire report, but I want to read the salient points that seem to indicate that it is desirable to go into the administrative feaures of the revenue law:

"Consideration by Congress of the plan submitted by Secretary Mellon has served to concentrate attention on rates of taxation and on elimination of specific rates. The present report is limited to giving emphasis to the importance of and the imperative need for modifying and simplifying the administrative machinery and procedure.

"In taxation, it has often been stated, administration counts for nine-tenths and law for only one-tenth. While this statement may be an exaggeration it can nevertheless be rightly asserted that a good law is weakened by inefficient or cumbersome administration, while sound and simple administration goes far to make even a poorer law endurable. It should be the aim of sound administration not only to procure the tax which the law has authorized but also to accomplish this end with a minimum of irritation to the taxpayer and with a minimum of inequity as between taxpayers. In the words of the Royal Commission on Income Tax, of Great Britain, a country whose administration of the income tax has met with phenomenal success:

"'Even good administration can not prevent taxation from being to some extent unpopular with those who contribute to it, because taxation deprives the citizen of a portion of his means and devotes it to objects with which he may have little acquaintance and less sympathy, but an administration that is sympathetic and scrupulously fair, while adopting proper guards against evasion, can do much to reconcile the taxpayer to his lot and convince him that within the limits of the statute the tax has been laid upon him with due care and justice.'"

Continuing to quote from this report:

Dissatisfaction with our present administration of the income tax is heard on all sides, and complaints are not without justification. Cases of arbitrary and unreasonable assessments are by no means rare—a situation often due to immature judgment or lack of adequate knowledge on the part of the Government official or agent. Business firms are sometimes confronted with assessments that are many times the tax as finally determined; but the final determination of the tax often takes years, and in the meantime the threatened tax makes impossible business extensions and improvements which are necessary or desirable.

This report was published over two years ago, and I intend to prove before I get through that the conditions are just the same to-day as they were in 1924 and are just as bad as they have been at almost any time during the administration of the income tax laws of the country.

Mr. SHORTRIDGE. Mr. President, may I interrupt the Senator from Michigan?

Mr. COUZENS. Certainly.

Mr. SHORTRIDGE. I do not question the motives that prompted the Senator to introduce the resolution, nor do I question the motives which have prompted the carrying on of the investigation. I cheerfully admit or state that I think his motives were altogether proper. I am concerned, however, with knowing what has been the result of the investigation; whether improper methods were discovered, and if so, what recommendations the committee has to make.

The investigation manifestly has cost the Government much money and has to some extent necessarily interfered with the administration of the department; but even so, if evil has been discovered, if improper methods have been uncovered, what is the remedy? What is the recommendation of the committee? With great deference, I do not think we are advancing very far toward relief by recurring to all of the events which led up to the adoption of the resolution. What is the net result? What recommendation has the committee, through its chairman, to make to the Senate, all to the end that we may improve the administration of that department of our Government?

If the Senator from Michigan will permit another word, I do not at this moment know whether the committee has submitted definite recommendations. If so, they are, of course, to be considered, and I certainly will give them respectful consideration. May I ask the Senator, then, in a word, whether the committee, as the result of its investigation, its acquired knowledge, has definite recommendations to submit or whether the committee has submitted them?

Mr. COUZENS. With due deference to the genial Senator from California, I desire to point out that during the last year or more we have submitted some 19 volumes of testimony to the Senate to show the unsystematic methods of the bureau and the evil—and I emphasize that, the word "evil"—of the fact that these returns are not accessible to inspection by interested parties.

I also desire to draw the Senator's attention to the fact that on the calendar day of January 12 the committee submitted a partial report covering most of the results of our investigation and containing most of the recommendations.

Mr. NORRIS. Mr. President, may I interrupt the Senator from Michigan at that point?

The PRESIDING OFFICER. Does the Senator from Michigan yield to the Senator from Nebraska?

Mr. COUZENS. Yes.

Mr. NORRIS. As I understand the Senator, in answer to the inquiry of the Senator from California [Mr. SHORTRIDGE], to say that one of the evils discovered was the inaccessibility of the income-tax returns?

Mr. COUZENS. That is true.

Mr. NORRIS. And that evil will be completely remedied by the adoption of the pending amendment, as I understand?

Mr. COUZENS. That is correct.

Mr. SHORTRIDGE. Will the Senator permit me to interrupt him?

Mr. COUZENS. Yes.

Mr. SHORTRIDGE. Wherein does that constitute an evil? If beneath it all is well and all is right, wherein is there an evil in the mere fact if it be so——

Mr. NORRIS. I presume the Senator from Michigan is about to tell us of a good many of those evils, and what they are, if we will let him proceed.

Mr. SHORTRIDGE. Let us hope that he will tell us.

Mr. COUZENS. In view of the questions of Senators that will arise during this discussion, I may, perhaps, have now to state some of the things that I intended to say later.

Mr. SHORTRIDGE. I request that the Senator do not do so because of my inquiry.

Mr. COUZENS. I wish to draw the Senator's attention particularly to page 8 of the partial report which was filed on January 12, to which I have referred, in which, under the heading of "Publicity of records," it is stated:

> The unsatisfactory conditions developed by this investigation are the inevitable result of the delegation of almost unlimited discretion to be secretly exercised. It is believed that but few of the unsound settlements to which attention has been called would have been made if it were not for the belief that they would never become public.

Mr. NORRIS. Mr. President, on what page is that?

Mr. COUZENS. On page 8 of the report.

Mr. SHORTRIDGE. Mr. President, will the Senator suffer just another interruption?

Mr. COUZENS. Certainly.

Mr. SHORTRIDGE. That observation proceeds upon the assumption that there was some corruption. I do not convict men upon assumptions or presumptions. What was the fact? What was the truth? It can not be said that because before the inquiry of the Senator's committee the information was not public, therefore there was some fraud committed. When the committee did get access to the facts, was there corruption, was there wrong or fraud committed by the taxpayer or criminal conduct on the part of a Government official? In a word, was there crime committed, wrong committed, fraud perpetrated? It is very easy to indulge in generalities; it is very easy to impute evil; it is very easy to suspect and to throw mud at a white marble statue; but what is the truth developed as a result of the inquiries of the very vigilant and very earnest and I am sure very honest labors of the Senator's committee in and about this matter?

Mr. COUZENS. Mr. President, I can see from the Senator's inquiry we are going to have to read to him the testimony which we took in the committee, so that the Senator will be able to reach the conclusions at which we have arrived and reach them without entertaining any idea that we are imputing anyone's motives or that we are throwing mud at white marble statues.

Mr. SHORTRIDGE. I heard the Senator before our committee, and I thought the upshot of the whole matter was that whereas there had been differences of opinion, whereas there had been different estimates, whereas there was much obscurity as to the law, whereas there were differences as to decisions rendered by the different branches of the department, and whereas there was much confusion, if I may say so, in and about the administration of these laws, yet there was no specific charge or no specific finding as to any criminal conduct on the part of either taxpayers or any official of the Government. I may have been wrong in reaching that conclusion from the statements made before the Finance Committee.

Mr. COUZENS. I think the Senator, so far as he has gone, is substantially correct; but the hearings which were held before the Finance Committee are of record; they were taken stenographically, and I think if the Senator will refer to them he will discover that the only word that was discussed was "fraud." I do not know whether there was fraud or not, because different individuals put a different interpretation on the word "fraud." I absolutely believe, and I think I shall be able to prove before this discussion shall be concluded, that there was collusion, that there was dishonesty, that there was favoritism. If they constitute fraud, then there was fraud.

Mr. LA FOLLETTE. Mr. President, I think the matter under discussion is so important that I feel impelled to suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum being suggested, the Secretary will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Bayard	Fess	Lenroot	Sackett
Bingham	Frazier	McKellar	Sheppard
Blease	Gerry	McKinley	Shipstead
Borah	Glass	McLean	Shortridge
Bratton	Goff	McNary	Simmons
Broussard	Gooding	Mayfield	Smith
Bruce	Hale	Metcalf	Smoot
Butler	Harreld	Moses	Stanfield
Cameron	Harris	Norbeck	Stephens
Capper	Harrison	Norris	Swanson
Caraway	Heflin	Oddie	Trammell
Copeland	Howell	Overman	Underwood
Couzens	Johnson	Pepper	Walsh
Dale	Jones, Wash.	Phipps	Warren
Deneen	Kendrick	Pine	Watson
Edge	Keyes	Ransdell	Weller
Edwards	King	Reed, Pa.	Wheeler
Ferris	La Follette	Robinson, Ind.	Willis

Mr. JONES of Washington. I have been requested to announce that the Senator from New York [Mr. WADSWORTH], the Senator from Arkansas [Mr. ROBINSON], the Senator from Iowa [Mr. BROOKHART], the Senator from Florida [Mr. FLETCHER], the Senator from Georgia [Mr. GEORGE], and the Senator from Tennessee [Mr. TYSON] are attending a meeting of the Committee on Military Affairs.

The PRESIDING OFFICER. Seventy-two Senators having answered to their names, a quorum is present.

Mr. COUZENS. Mr. President, in view of the inquiry of the Senator from California [Mr. SHORTRIDGE], I desire to draw to his attention a particular case coming from his own State. This appears in part 15 of the published hearings of the committee, under date of May 11, 1925. Mr. Manson, by the way, was the counsel for the committee. I quote from the testimony:

> Mr. MANSON. I desire to call the committee's attention this morning to the matter of the Standard Oil Co. of California.
>
> This is still an open case, but it presents several rather remarkable situations, and, therefore, in my opinion, merits the committee's attention.
>
> This case really involves an overassessment or refund for the year 1918 of $3,378,000. If the case is settled in accordance with the principles which have been applied by Mr. Greenidge, the head of the engineering division, and by the head of the oil section, the case will result in a refund of that amount of money. It will establish a precedent which will result in the loss of about $25,000,000 in taxes, but really the most important point in connection with this case is whether or not the Commissioner of Internal Revenue really runs the Income Tax Unit, whether or not his orders must be obeyed, and whether or not the opinions of the Solicitor of the Bureau of In-

ternal Revenue, as legal advisor of the bureau, are binding upon the bureau on matters of law.

The question involved is this: From the time of its organization up to and including——

Senator ERNST. Are you going into the case of the Standard Oil Co. of California now?

Mr. MANSON. Yes. From the time of its organization up to and including the year 1921, it was the practice of the Standard Oil Co. of California to capitalize the development costs.

Article 223 of Regulations 45 provides:

"Such incidental expenses as are paid for wages, fuel, repairs, hauling, etc., in connection with the exploration of the property, drilling wells, building of pipe lines, and development of the property may at the option of the taxpayer be deducted as an operating expense or charged to the capital account returnable through depletion. If in exercising this option the taxpayer charges these incidental expenses to capital account, in so far as such expense is represented by physical property, it may be taken into account in determining a reasonable allowance for depreciation. The cost of drilling nonproductive wells may at the option of the operator be deducted from gross income as an operating expense or charged to capital account returnable through depletion and depreciation as in the case of productive wells. An election once made under this option will control the taxpayer's returns for all subsequent years."

Mr. SHORTRIDGE. Mr. President, was that the interpretation of the statute by Mr. Manson?

Mr. COUZENS. That was article 223 of Regulations 45. It was not an interpretation; it was a regulation.

Mr. SHORTRIDGE. I beg pardon; I did not understand that.

Mr. COUZENS. Quoting further from the testimony:

Prior to the time that any action was taken on this case that regulation had been passed on by several rulings made by the bureau. It had been construed to mean this, that where a taxpayer charged his development cost to expenses upon his books, such action constituted an election upon his part to carry those as expenses, and that such action was binding upon the bureau, whereas on the other hand, where he capitalized these development costs such action constitutes election.

In each of these cases in which rulings are made the question arose the same as it did in this case. The taxpayer, after having elected how he would carry these charges on his books, found that it would affect his taxes by changing the method, and in every case the bureau ruled that having elected he could not change under this regulation, and that the action of the taxpayer in making his charges upon his books is what constituted the election.

In this case, as I have stated, the Standard Oil Co. of California had from the time of its organization followed a uniform practice of capitalizing its development costs. In the determination of its depletion a question was raised as to whether it was entitled to certain items that had nothing to do with the matter at issue here.

It is claimed that an oral agreement was made—

I want to emphasize that—

It is claimed that an oral agreement was made between the oil engineers of the bureau and the taxpayer. Under this oral agreement the taxpayer agreed to accept the depletion as determined by the bureau and agreed not to press these other claims.

That is what we have emphasized throughout the report—that these cases are settled by bargaining with taxpayers instead of under the law or under rules and regulations promulgated by the bureau.

Senator WATSON. When was that oral agreement entered into, Mr. Manson?

Mr. MANSON. That was made in May, 1922.

It was claimed that as a consideration for that agreement the taxpayer was to be permitted to file amended returns, in which he charged to expense the development costs which appeared upon his books and upon his original returns as capital items.

As in other cases where these oral agreements had been set up, there is nothing in the file which shows what this other claim was that the taxpayer might have asserted. There are no data from which it can be determined whether this other claim that was waived was a valid claim or not. There is not even a sufficient description of it any place in the files to ascertain what it was about.

Senator ERNST. Is this an oral agreement or a written agreement?

Mr. MANSON. The oral agreement, I am talking about.

The agreement under which the taxpayer sought to file amended returns was never reduced to writing. There was a conference, and the conference report shows that the depletion was agreed to. The collateral oral agreement that the taxpayer was to be permitted to file amended returns changing the basis for setting up development costs is not referred to at all.

The CHAIRMAN. Where does it first appear in the records about this oral agreement?

Mr. MANSON. There is a letter from Deputy Commissioner Chatterton in September. The conference at which this agreement purports to have been made was in May. In September there is a letter stating that the taxpayer shall be permitted to file these amended returns.

The CHAIRMAN. By whom is that letter signed, Mr. Manson?

Mr. MANSON. Deputy Commissioner Chatterton.

Mr. NASH. May I ask the date of the letter, please?

Mr. Nash, by the way, is Deputy Commissioner of Internal Revenue.

Mr. MANSON. September 1, 1922.

Mr. NASH. Mr. Chatterton was not a deputy commissioner in September, 1922.

Mr. MANSON. Well, it is signed by Mr. Chatterton.

The CHAIRMAN. Can you refer to it there?

Mr. NASH. He might have been acting on that date, but Mr. Chatterton was made a deputy commissioner, I think, in January, 1923.

Mr. MANSON. Well, this was the 1st of September, 1922. The amended returns were filed. They were not signed——

The CHAIRMAN. Not signed by the Standard Oil Co. of California?

Mr. MANSON. Not signed by the Standard Oil Co. of California.

The depletion was determined by the oil and gas section on the basis of the amended returns. Mr. Greenidge sought an opinion from the rules and regulations committee as to whether these amended returns could be received. The rules and regulations committee determined that they could not be received.

The matter then went to the solicitor for an opinion, and the solicitor, in an opinion, the whole of which I will file, but only a part of which I have here, ruled that the amended returns could not be received.

I quote from the solicitor's opinion:

"It is the opinion of this office that article 223 of regulations 45 merely recognizes the accounting practice in the oil industry—"

That is the article that I have just mentioned—

"And is not intended as granting a special privilege to the industry, for which there is no warrant of law. What effect the exercise of the option by the taxpayer may have on the amount of tax he has to pay is immaterial, and the question is to be decided irrespective of whether the election exercised by the taxpayer serves either to lower or increase his tax liability to the Government. Viewed in this light, it is the opinion of this office that the option recognized by article 223 is exercised by the taxpayer, if not concurrently with the transaction, at least not later than the time when his original returns are filed. It follows that the amended returns of the Standard Oil Co. whereby they seek to now change intangible development costs to expense must be rejected.

"It is not the function of this office to decide questions of policy, and, therefore, in reaching the conclusion herein no consideration has been given to the fact, if it be a fact, as stated by the taxpayer, that it was induced to agree to the bureau's valuation in consideration of being granted the right to file amended returns on the basis herein discussed."

"It is well to state, however, that there is no provision of law which makes such an agreement binding on the commissioner, and it may well be that a dangerous precedent would be set if an agreement made by subordinates in the bureau is to be considered as binding when that agreement grants to a taxpayer a privilege that has no warrant in the law. In this connection it should be borne in mind that a number of other big oil companies have indicated their intention of filing amended returns so as to charge to expense items heretofore capitalized, though in the cases of the other companies, so far as this office is aware, there was no agreement entered into granting them the right to file amended returns in consideration of their acceptance of the bureau's valuation of their properties. It would be difficult, however, to deny to them a right to file amended returns in consideration of their acceptance of the bureau's valuation of their properties; it would be difficult, however, to deny to them a right to file amended returns if that privilege is granted to the taxpayer herein, for it can not be presumed that the bureau may even by way of compromise grant to a taxpayer a privilege which has no legal warrant.

"If the valuation as set by the bureau were accepted by the Standard Co., with the understanding that amended returns could be filed, it would seem that the company should have a further opportunity of presenting additional evidence as to values if it desires to do so.

"The papers are herewith returned with the suggestion that the tax liability of this company be adjusted on the basis herein set forth."

That is signed by Nelson T. Hartson, Solicitor of Internal Revenue.

After that receipt of that opinion the taxpayer was notified of the import of the opinion——

Senator WATSON. Do you agree with that opinion, Mr. Manson?

Mr. MANSON. I do. The taxpayer was notified of the purport of that opinion, and that the amended returns changing this accounting basis could not be received. A protest was made——

Senator WATSON. What was the date of that opinion that you have just read?

Mr. MANSON. It is dated July 9, 1923.

A protest was made by the taxpayer, and several conferences were had.

The CHAIRMAN. What was the basis of the protest? Was that oral agreement part of the basis of the protest?

Mr. MANSON. The protest was based on the oral agreement.

The CHAIRMAN. And it was so stated in the protest?

Mr. MANSON. It was so stated in the protest.

Several conferences were had, and on September 10, 1923, there appears the following memorandum in the files, signed by Mr. W. N. Thayer, chief of the oil and gas section. This memorandum is addressed to Mr. Greenridge:

"The taxpayer filed original returns and Form O schedules in which development costs for all years were capitalized.

"This office made some changes and eliminated the capitalized development, and in a letter of September 1, 1922, wrote the taxpayer, as follows:

"'The understanding of this office by verbal statement from your Mr. Tuttle is that amended returns for 1918 and subsequent years are to be filed, in which returns the intangible cost of development is to be charged off as an expense.

"'In accordance with this understanding depletion schedules for the years 1913 to 1920, inclusive, as compiled by this office, do not include in the capital sum returnable through depletion any additions to capital on account of development costs after the year 1917.'

"As a result, the taxpayer filed unsigned amended returns on May 7, 1923, in which development costs formerly capitalized were charged to expense. The matter was referred to the solicitor and as a result of his ruling of July 9, 1923, this office wrote the taxpayer on July 25, 1923, declining to accept the amended returns, and insisting that the development costs after 1917 should be capitalized.

"Regardless of the solicitor's opinion as to the legality of the action taken by this office in the letter of September 1, 1922, it appears to be a matter of good principle to adhere to an agreement that was made in good faith by both parties. The Government would not permit the taxpayer to break such an agreement, and by the same token the Government should not seek to break the agreement."

Mr. SHORTRIDGE. Mr. President, right at this point, it appears that there was considerable division of opinion as to the law.

Mr. COUZENS. Oh, no; no difference of opinion.

Mr. SHORTRIDGE. I say so.

Mr. COUZENS. It was not so.

Mr. SHORTRIDGE. I say so.

Mr. COUZENS. It was not so.

Mr. SHORTRIDGE. Mr. Hartson was a fairly good lawyer.

Mr. COUZENS. And he said it was the law.

Mr. SHORTRIDGE. I grant you he did, but his word is not final.

Mr. COUZENS. But I have read of no disagreement as to the question of law. No one has said the law laid down by Mr. Hartson was not correct. It is time enough to discuss a difference of viewpoint as to the law when there is a disagreement appearing in the RECORD.

Mr. SHORTRIDGE. I say there was disagreement as to the law——

Mr. COUZENS. No; there was not.

Mr. SHORTRIDGE. Pardon me. Moreover, is it not a sound principle just there expressed, that where the citizen, the taxpayer, in good faith enters into an agreement with the Government the Government should be equally bound as the citizen is? I have contended, if the Senator will pardon me further, that where the citizen in good faith enters into an agreement with his Government, and there is no fraud committed, everything is open and aboveboard, the honest citizen and the honest Government agreeing, that agreement becomes an account stated, so to speak; that the Government, as well as the citizen, should be bound by that agreement; and that unless there is fraud charged, specific fraud, or excusable mistake, which would open an account stated for the purpose of surcharging it and correcting it, both parties should be bound. I believe that is sound in principle, in morals, and in good policy of government. That is my position. If in this case there was this agreement——

Mr. COUZENS. An oral agreement?

Mr. SHORTRIDGE. Yes; an oral agreement.

Mr. COUZENS. Between a clerk and a taxpayer?

Mr. SHORTRIDGE. I am not saying that a subordinate officer had the authority to agree on behalf of the Government——

Mr. COUZENS. He was a subordinate officer. Why discuss a case that is not before us? Why discuss a hypothetical case when we have a concrete case, the discussion of which I would like to complete before I am interrupted by the Senator?

Mr. SHORTRIDGE. Just a final word, if the Senator will pardon me. This is what I am saying, in brief; of course, where a Government officer——

Mr. COUZENS. This was not a Government officer.

Mr. SHORTRIDGE. Was he not an employee of the Government?

Mr. COUZENS. Yes; but he was a clerk. He had no authority under the law.

Mr. SHORTRIDGE. That may be true. The Government should not be bound where a man who assumes to represent it has no authority whatever.

Mr. COUZENS. That is the point I am coming to, and if the Senator will permit me to finish there will be no discussion upon that point, because I shall prove that the man who made the agreement had no authority under the law to make such an agreement, oral or otherwise.

Mr. SHORTRIDGE. The power was delegated to him to do that particular work.

Mr. COUZENS. No; there was no power delegated to him at all.

Mr. SHORTRIDGE. If the Senator will permit me an additional sentence, I will not interrupt further. It is not in any contentious spirit, but I have heard so much along this line that I beg leave to state that I think where the citizen, the taxpayer, the honest man, or the honest woman enters into an agreement with his or her Government, and acts upon that agreement, the Government, as well as the citizen, should be bound by the agreement. I apply the same principle of law to the Government and to such a case that I apply as between two citizens who in good faith enter into an agreement and act upon that agreement. It is a well-known, universal, immemorial principle of equity that where an agreement has thus been entered into it may not be set aside unless there is charge of fraud or excusable mistake; but the Government has not acted on that theory in many, many instances.

Mr. COUZENS. And should not. I continue the reading:

The practical result of permitting the taxpayer to charge to expense items previously capitalized will mean in 1918 a deduction from gross income of approximately $3,000,000.

That is signed by W. N. Thayer, chief of section. At this point——

Senator WATSON. Was an appeal ever taken?

Senator ERNST. It has not yet been determined.

Senator WATSON. I know; but has an appeal been taken?

Mr. MANSON. In order that you may have the high spots before you I will briefly state them before I go into any further detail.

After the solicitor ruled that these amended returns could not be received, for the reason that the taxpayer had elected to carry his development costs as capitalized items, there are memoranda by the oil and gas section and by Mr. Greenidge urging upon the deputy commissioner, Mr. Bright, the advisability of adhering to the action in accepting the returns and ignoring the solicitor's ruling. Finally Mr. Bright issued an order that the case be audited on the amended returns, in violation of the solicitor's ruling. The case is so audited, resulting in a refund or credit of subsequent taxes of $3,378,000.

Senator ERNST. Who passed on that?

Mr. MANSON. Mr. Bright.

Senator WATSON. Simply because the development costs were not capitalized?

Mr. MANSON. If they are capitalized, they get back a portion of them each year.

Senator WATSON. Yes.

Mr. MANSON. Through depletion.

Senator WATSON. Certainly.

Mr. MANSON. If they are charged to expense, they get back the whole of it during the year in which they occur.

Senator WATSON. Certainly.

Mr. MANSON. That made a difference of $3,378,000 in taxes in this case.

Senator WATSON. In other words, Mr. Bright did not agree in the conclusions reached by the solicitor?

Mr. MANSON. By the solicitor. All certificates of overassessment are required to go to the solicitor; so that after this case had been audited on the amended returns the certificate of overassessment went to the solicitor, who refused to approve the certificate, on the grounds stated in his former opinion. Mr. Bright then called upon Mr. Greenidge to prepare a memorandum showing why the commissioner should overrule the solicitor. This was done, and the commissioner, after a thorough consideration of the matter——

Senator WATSON. That is, Commissioner Blair?

Mr. MANSON. Commissioner Blair, after having Mr. Greenidge's memorandum, declined to overrule the solicitor. The commissioner

set aside, by an order as positive and direct and clear as the English language could make it, this whole transaction, this whole oral agreement. He pointed out that no oral agreements and, in fact, no written agreements with a taxpayer not approved by him would be considered as binding upon the Government.

I hope that satisfies the Senator from California.

Mr. SHORTRIDGE. It shows that Mr. Blair was a most active, earnest, honest official.

Mr. COUZENS. I do not admit that.

Mr. SHORTRIDGE. The Senator has admitted here in the RECORD that there was no proof of fraud at all as the result of all his investigation.

Mr. COUZENS. I wish the Senator would not quote me. I will quote myself. When I say that I mean to say that the Senator did not tell the whole story. He told a half truth, because I have repeatedly said, not only before the Finance Committee, but elsewhere, that we made no attempt to follow out any fraud; that we never attempted to subpœna anybody to find out if there was fraud.

Mr. SHORTRIDGE. What were the Senator and his committee doing for a year and a half?

Mr. COUZENS. I will determine that if the Senator will wait until I get through.

Mr. SHORTRIDGE. The Senator conducted an investigation costing the Government over $124,000.

Mr. COUZENS. Yes; and we saved the people over $124,000,000, and we may uncover a little more before we are through.

Mr. MOSES. Mr. President, the Senator said that he does not agree that Commissioner Blair is honest and effective. Does he charge the commissioner with dishonesty?

Mr. COUZENS. I have not said anything about that. The Senator is interjecting before I get through with all my testimony. I have not said that I agree or disagree.

Mr. MOSES. I understood just now, when the Senator from California remarked that what the Senator had read showed that Commissioner Blair was a diligent, effective, and honest official, that the Senator from Michigan said he dissented from that. What I am trying to get at is whether the Senator from Michigan charges the commissioner with dishonesty.

Mr. COUZENS. The Senator does not wait until I get through with my case. The trouble is the Senator is trying to generalize on one case.

Mr. MOSES. In this particular case does the Senator charge the commissioner with dishonesty?

Mr. COUZENS. Absolutely not. I think he was absolutely correct. But I desire at this stage to point out that if it had not been for the diligence of some employee the case never would have reached the commissioner. It only came to the commissioner's attention when there was a disagreement between the solicitor and some of the subordinates.

Mr. MOSES. What I am trying to get at, if the Senator will pardon me, is to find out what the Senator from Michigan is saying about a man who is a friend of mine and whom I have known for a long time and whom I regard, as the Senator from California described him, as a diligent, efficient, and honest officer. I understood the Senator from Michigan to dissent from that conclusion regarding Commissioner Blair.

Mr. COUZENS. This particular case was the only case that came to him. To the Senator from New Hampshire I wish to say that I have found no evidence of dishonesty on the part of Commissioner Blair, but I dissent from the statement that he was diligent or effective or efficient.

Mr. MOSES. The dissent was from the other adjectives, not "honest"?

Mr. COUZENS. Yes; that is correct.

Continuing, Mr. Manson said:

He pointed out that no oral agreements and, in fact, no written agreements with a taxpayer not approved by him would be considered as binding upon the Government.

Senator WATSON. And he upheld his solicitor?

Mr. MANSON. He upheld the solicitor. That set the case back to be reconsidered on the basis of the original returns. The depletion having been determined upon the basis of the amended returns, it was necessary to redetermine depletion.

The case hung on in the engineering division for a while. Mr. Greenidge refused to accept either the solicitor's opinion or the commissioner's order as decisive in the matter. Finally Mr. Bright issued an order, a copy of which he sent to the consolidated audit section for a further audit of the case upon the basis of the original returns. The case was taken up in the consolidated audit section. It was found that an engineer's report determining depletion upon the basis of capitalizing these development costs was necessary, and the case went back to the engineering section, where it is resting.

We called upon the engineering division for a report as to what they intended to do in the case, and they informed us that they intend to stand pat and to stand on this oral agreement which had been set aside by the commissioner, and that they do not regard the solicitor's opinion as binding upon them.

Here was a subordinate engineer who evidently was so fond of the Standard Oil Co. of California, or so friendly to them, or in collusion, or getting a rake-off—I know not what—that he took that stand. That is the reason why I can not answer questions that are propounded here as to whether there was fraud or not. I can not tell whether there was any fraud in this case or not. I have a suspicion that there was a fraud. I submit that we did not subpœna the Standard Oil Co. or Mr. Greenidge or the clerk to find out whether there was fraud. We would have devoted all of our time, which was limited to June 1, 1925, to following up individual cases, but we would not have gotten anywhere constructively had we attempted to follow up individual cases.

I submit to the Senator or to any person within the sound of my voice if that case is not an indication of absolute fraud, and yet I would not say that there was fraud. The indication and inference is that there was fraud. They told our men they were going to stand pat and ignore the decision of the commissioner and ignore the decision of the solicitor. They said they were going to stand pat, and they continued to stand pat, and they are still standing pat so far as I know, and refusing to obey the order, and nobody can stop them, because there is no system and no data or check up in the bureau.

Mr. WATSON. Mr. President, will my friend yield?

Mr. COUZENS. I yield.

Mr. WATSON. Does Mr. Greenidge still occupy the same position in the bureau?

Mr. COUZENS. I think he has been removed.

Mr. WATSON. That is the first point. Second, I heard most of the testimony in this case, but I have no recollection that there was any suspicion of fraud. We thought that Greenidge had made up his mind on the proposition. He was often talked about by other persons in the department and the bureau, but we came to the conclusion that he was a very perverse, obdurate, and bull-headed fellow and intended to stand by his opinion as it had been formed.

Mr. COUZENS. Whom does the Senator mean by "we"?

Mr. WATSON. I thought all of us did at that time.

Mr. COUZENS. The Senator can not include me.

Mr. WATSON. There was never any suggestion or anything else that I heard in the committee as indicated by any consultation or any remark on the part of anybody. I assumed we all had practically the same opinion about Greenidge.

Mr. COUZENS. I submit there was no discussion about this individual man in the committee. We simply took the testimony, and, so far as I remember now, no Senator commented upon the case in committee, at least not of record.

I continue reading:

We called upon the engineering division for a report as to what they intended to do in the case, and they informed us that they intend to stand pat and to stand on this oral agreement, which had been set aside by the commissioner, and that they do not regard the solicitor's opinion as binding upon them.

Senator WATSON. Or the order of the commissioner?

Mr. MANSON. Well, they do not say that. They do not say that they do not regard the order of the commissioner as binding upon them; but the fact that they do not intend to so amend their report as to permit the auditing of the case in accordance with the commissioner's order is a tacit refusal to abide by the order of the commissioner.

That, in brief outline, constitutes the material facts here.

Senator WATSON. Has that case been closed?

Mr. MANSON. It has not; but, as I say, one of the principal things that your counsel has seen fit to criticize in connection with the engineering division has been the tendency to make an oral agreement waiving a mythical claim and allowing a claim which was concededly illegal.

Senator ERNST. Has that been a common practice?

Mr. MANSON. I think it has been a common practice; yes. I have called attention to it here in many instances. The real issue that seems to be raised in this case is as to whether or not they intend to pursue that practice here, notwithstanding the fact that the commissioner himself has set this whole procedure aside.

I would call especial attention to the commissioner's order——

The CHAIRMAN. Just at that point, Mr. Manson, I would like to know if there is any way that these engineers' views could be carried out. As I understand it, no matter if the engineers did insist upon their interpretation and upon recognizing the oral agreement, there is no way of getting it by either the commissioner or the solicitor; is there?

Mr. MANSON. Another reason why I presented this case is brought out by the chairman's question. There is no branch of the work which is so far behind as the oil and gas section, and I claim that this case is a clear illustration of why there are no terminal facilities in the oil and gas section. In other words, if the head of the engineering division and the chief of the oil and gas section want to get a taxpayer to get something, there appears to be no way to wind up that case and get it to a conclusion until the taxpayer gets what he wants, regardless of whether the solicitor thinks he is entitled to it or whether the commissioner thinks he should get it.

Just here I want to remind the Senate of a little discussion on the floor some days ago by the junior Senator from Pennsylvania [Mr. REED] concerning the publishing of the rules and regulations of the bureau. It has been clearly pointed out in these reports and in the testimony that only 15.5 per cent of the rulings and the decisions regulating tax settlements have been published; that 84.5 per cent are buried, 84.5 per cent are known only to the individual taxpayer who gets the benefit or to an employee in the bureau. When the suggestion was made by me that these rules and regulations ought to be published the response was that the Board of Tax Appeals was setting up a code of decisions which in time would determine all of the rules and regulations so as to educate those who file their returns and enable them to finally fix the taxes. But I submit that the only cases that go to the Board of Tax Appeals are the cases in which there is a disagreement. Thousands and hundreds of thousands of cases were settled improperly and incorrectly because they met the views of the taxpayer.

No one complains. The Government does not appeal against its own decisions. When the Government agrees with the taxpayer that ends the case. There will be nothing to this Standard Oil case if it is finally settled in accordance with the views of the Standard Oil Co., and it is a very easy matter for any clerk or any assistant down there to settle any case in accordance with the views of the taxpayer and have it eternally submerged so that nobody will ever find it. That is because of the secrecy provision of the statute. No employee and no officer would dare do the things that have been done if he had the slightest suspicion that some day somebody was coming in there to look over the cases. I submit that for over 10 years no one has ever gone in there, no outside party has ever inspected any of those returns who was not interested in the bureau itself. I submit that it is a deplorable condition and should not be permitted to exist. I believe that any Senator who will defend that sort of thing is not entitled to a seat in this body.

Continuing the reading:

Senator ERNST. Is there not some way of discharging those men and putting somebody in their places who will do what they are told?

Of course there is a way of discharging them, but they are not found out. This case was not found out until the committee sent its staff of experts there to investigate.

At this time it seems to me opportune to point out that the rules and regulations of the bureau provide that where a refund is made in excess of $50,000, the refund and the circumstances in connection with it must go to the solicitor's office for approval; but where an abatement is made and where a credit is allowed to apply on taxes accumulating in the future, the case does not go to the solicitor's office.

In this case if it shall go through in the shape in which the Standard Oil Co. desire and they are allowed to take credit for each succeeding year's taxes it will never get beyond the engineer who passes upon it or the auditor who audits the account.

In response to the suggestion of the Senator from Kentucky [Mr. ERNST] that these men may be discharged, Mr. Manson states:

Mr. MANSON. I believe an examination of the record in this case will show that is the thing that should be done, and you are never going to get action through the engineering division until the present head of the engineering division is removed.

In response to the suggestion of the Senator from Indiana [Mr. WATSON], he stated:

He has been removed, but not discharged. He has been sent, if I remember correctly, to some other collection district.

I quote further from the testimony:

Senator JONES of New Mexico. Who is the head of the engineering division?

Mr. MANSON. Mr. S. M. Greenidge.

I call attention to the clear and specific language of the commissioner's order in this matter, dated February 20, 1924:

"Memorandum for Mr. Bright:

"My attention has been called to your letter of September 29, 1923, in regard to the Standard Oil Co. of California, wherein you advise the company that its amended returns for 1918 and subsequent years in which intangible development items previously capitalized or charged off to expenses will be accepted, and notifying them that their case will be audited on that basis.

"I think your letter is in error. It appears that you based your letter on some verbal understanding had between the conferees of the natural resources division and the representatives of the company. Any verbal understanding of an important matter like this is most unfortunate, and I do not feel that the bureau can be bound by it. In the first place, a matter of so much importance should be reduced to writing; in the second place, while great weight is given to agreements on the part of conferees, their agreements are not binding, and no agreement can be binding unless it is approved by the commissioner.

"This matter was called to my attention some months ago, and the facts as presented indicated that perhaps the understanding between the taxpayer and the conferees should be carried out, but a thorough investigation of the file convinces me that this would establish a dangerous precedent and should not be done. You will, therefore, please notify the taxpayer."

Mr. SHORTRIDGE. Was that a memorandum by Mr. Blair?

Mr. COUZENS. This is Mr. Blair's memorandum to Mr. Bright.

At this point I wish to say that after all the iniquitous deeds committed by Mr. Bright—and the record is full of them—he left the bureau under all of this cloud and engaged in the practice of dealing with taxpayers. He sent out a card assumedly to business industries and law firms throughout the country relating his experience and connection with the bureau and soliciting business.

Mr. SHORTRIDGE. Is not that contrary to the statute?

Mr. COUZENS. I think it is contrary to the statute.

Mr. FESS. But he is not connected with the Government now.

Mr. COUZENS. But there is a statute prohibiting that sort of thing. Here, however, is where the "catch" is, as I see it.

We sent one of these cards of Mr. Blair to the bureau and asked if under the law he was permitted to do this thing. They replied that he was, and I think he was. The law only prohibits a former employee of the Government from practicing before the bureau in cases with which he had formerly had a connection when he was an employee of the bureau. But, regardless of that, he still advertises the fact of his connections with the bureau, and every intelligent taxpayer everywhere knows the advantage of having such a man represent him. Every taxpayer who has a disputed claim, every taxpayer who has a controverted claim, every taxpayer who thinks he is perhaps not going to get a fair decision, can go to Mr. Bright and find out, because 85 per cent of the rules have never been published. Out of that 85 per cent of those rules, however, almost any many with any intelligence at all can find a rule under which he may have his taxes adjusted. Mr. Bright did not have to violate the law. He could have gone to the talented Senator from California [Mr. SHORTRIDGE] and said, "You have a client in the person of Senator FESS, and Senator FESS has a claim of $100,000 for refund. You will never get it because you do not know how. I will tell you how. Look up rule 15679, an unpublished rule. Go to the bureau and point that out to them and they will have to give the rebate because you will have the goods on them." In doing that Mr. Bright would violate no law. He does not practice before the bureau. He simply tells the Senator from California how to get the rebate, and the Senator from California perhaps would split his fee, if he splits fees—I do not know as to that—but that is the way it is done.

Mr. SHORTRIDGE. I have two reasons for not practicing law: First, I have no clients; and the other is that I am not in practice.

Mr. COUZENS. I understand the Senator from California is a good lawyer, so he perhaps would understand how this is done, whether he practices law or not.

Mr. SHORTRIDGE. I have a sort of speaking acquaintance with the law, a sort of bowing acquaintance with it.

Mr. SMOOT. Mr. President, I think at this time, perhaps, it would be well to go back to the CONGRESSIONAL RECORD, volume 50, page 505, of April 26, 1913, when the first income-tax law was under consideration, and see what Hon. CORDELL HULL said in explanation of it in the House of Representatives. Mr. HULL then stated:

I desire now to give a brief outline of the pending measure. Instead of comprising 100 or more pages, containing in detail all the methods of administration, such as European and other laws present, this

measure briefly but succinctly prescribes each essential rule and method with respect to the levy, assessment, and collection of the tax and leaves to be embraced in the regulations to be prepared by the Secretary of the Treasury the manner and details of carrying out the provisions of the law. These regulations will make clear to the taxpayer the scope and application of each feature of the law with respect to every class of taxpayers and business.

So it appears that the policy was established when the first bill imposing income taxes was pending before Congress. I simply want this statement to go into the RECORD to show that the policy which has been followed was established in 1913 when the first income-tax measure was passed.

Mr. COUZENS. I should like to ask the Senator at that point, Does he agree that that is the proper policy?

Mr. SMOOT. Of course, Mr. President, I myself think that every decision of the department which involves the least change in a former decision or brings another question in the settlement of a case in any way, shape, or form ought to be made public.

Mr. COUZENS. Does the Senator believe that the Congress has been diligent since 1913, now going on 13 years, in allowing the bureau to run in this manner without knowing how they were applying these rules and how they were interpreting the statutes, and whether or not the rules and regulations referred to by Representative CORDELL HULL were carried out?

Mr. SMOOT. Mr. President, I am in favor of the joint board proposed to be created. That board will have a responsibility put upon them, and it will not be left to each Member of the House or each Member of the Senate to look up and investigate the questions which may be involved. It seems to me these matters ought to have been handled in some such way before this.

Mr. COUZENS. I am glad the Senator says that they ought to have been handled in a different manner before this.

Mr. NYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum being suggested, the Secretary will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Ashurst	Ernst	La Follette	Sackett
Bayard	Ferris	Lenroot	Sheppard
Bingham	Fess	McKellar	Shipstead
Blease	Fletcher	McKinley	Shortridge
Borah	Frazier	McLean	Simmons
Bratton	George	McMaster	Smith
Brookhart	Gillett	McNary	Smoot
Broussard	Goff	Mayfield	Stanfield
Bruce	Gooding	Means	Trammell
Butler	Hale	Metcalf	Tyson
Cameron	Harreld	Moses	Underwood
Capper	Harris	Norris	Wadsworth
Caraway	Harrison	Nye	Walsh
Copeland	Heflin	Oddie	Warren
Couzens	Howell	Overman	Watson
Dale	Johnson	Pepper	Weller
Deneen	Jones, Wash.	Pine	Wheeler
Dill	Kendrick	Ransdell	Willis
Edge	Keyes	Reed, Pa.	
Edwards	King	Robinson, Ind.	

The PRESIDING OFFICER. Seventy-eight Senators having answered to their names, a quorum is present.

Mr. COUZENS. Mr. President, for the purpose of following up some of the cases which possibly suggest fraud or collusion—a point which was raised by the Senator from California [Mr. SHORTRIDGE], who gathered the impression that there was no fraud, and nothing wrong except possibly an error in judgment—I desire to read from part 18 of the committee's hearings, page 3937. This is a statement made by Mr. Manson before the committee:

There has been considerable discussion before the committee upon the question of the adequacy and efficiency of the organization to review audit determinations—that is, determinations made by auditors.

It appears that in each of the large auditing sections there is a review section, which consists of the higher class or better men in the division, and after a case has been audited it then goes to the review section, where the review auditors check it over, at least as to the principles involved.

I emphasize that because many times I have been asked if there is not some system by which these incorrect or dishonest decisions may be caught.

Attention has been called to the fact that the review sections are all under the same heads as the audit sections, whose work is subject to their review—

In other words, they review their own work—

and the suggestion has been made that because of the fact that the review sections are under the same head as the audit sections the review is not a check against the head of the division, who may desire to put a case through the division improperly.

We have to present this morning a case which, I believe, illustrates that objection.

This is the case of the Robert Dollar Co.

I think that is another California case. I am sorry the Senator from California has gone.

No extended investigation of the merits of the claim has been made. Our attention has been devoted primarily to the procedure followed in this case, having in mind the matter of organization; but in order that the committee may have some appreciation of the question I might state briefly what was involved.

It appears that a syndicate made a contract with the Russian Government to furnish them shells at something like $15 apiece. This syndicate turned the contract over to a Canadian manufacturer, with the provision that the Canadian manufacturer should pay the syndicate 70 cents apiece for the shells that were paid for by the Russian Government.

The syndicate then made a contract with the Robert Dollar Co. under which the Robert Dollar Co. was to act as the agent of the syndicate and was to receive a percentage of the amount collected by the syndicate from the Canadian shell manufacturer.

The shells were manufactured and paid for by the Russian Government in 1916.

The manufacturer refused to pay the commission, until finally a suit was brought and a settlement of that suit was made in 1918. In other words, the syndicate did not collect their commission from the manufacturer until 1918. The Robert Dollar Co., under their contract, had no right to collect their commission from the syndicate until the syndicate collected their commission from the manufacturer, which was in 1918.

The Robert Dollar Co. made no return of the amount, involving something over $100,000, in its 1918 returns, but did return it in 1920.

The CHAIRMAN. When did they actually get the commission?

Mr. MANSON. They got the commissions in 1918. Under their contract they were not entitled to them until 1918.

The CHAIRMAN. Is there anything to show why they did not return them until 1920?

Mr. MANSON. No; that does not appear; but when they found that they could not get these commissions allowed as earned in 1920 they then set up the claim that they kept their books upon an accrual basis, and that the commissions were earned in 1916.

The point I want to emphasize here is that the rates imposed in the act of 1916 were materially lower than those in the act of 1918, and there was an obvious reason for having them allocated to 1916.

Senator WATSON. Upon what basis?

Mr. MANSON. Upon an accrual basis, and that the commissions were earned in 1916, and that therefore they should be considered as 1916 income, notwithstanding the fact that they were not entitled to the commission unless the syndicate collected the money from the Canadian manufacturer, and the collection was not made until 1918.

It also appears to be a fact that, while they claimed to have kept their books upon an accrual basis, they never entered these commissions on their books in 1916 as having accrued in that year.

I have stated the principal question that was involved here.

I will now come to the matter of procedure, which was really the purpose of our investigating and reporting on this case.

It appears that the 1918 and 1919 taxes of the Robert Dollar Co. were settled without review by the review section in the consolidated returns division, as is required under the regular procedure. This was done under the orders of Mr. Lohman, head of the consolidated returns division.

From verbal and written information, the following appears to be the pertinent facts in this case as regards the manner in which it was handled by the income-tax unit.

Mr. Bergeron, auditor of the consolidated returns division, originally audited the case, but it was taken away from him and given to another auditor of this division by the name of T. F. Callahan, following a conference held by the division with the Robert Dollar Co., represented by C. T. Haines. You will please note that Mr. B. V. Lobred signed this conference report, subject to exception to points 1 and 5 mentioned therein.

Point 1 is as I have just described it to the committee.

Subsequent to this conference, it appears that Mr. Lohman prepared a memorandum upholding the conference report, and directed just how the case was to be audited. Not only that, but he also instructed the auditor to return the case to him instead of letting it go to the review section in the ordinary manner.

Before I proceed further I wish to say that this memorandum of Mr. Lohman's, which is attached as an exhibit, sustains the taxpayer's contention that these commissions were 1916 income, even though they were not collectible under their contract until 1918, and even though they were not due until 1918, not earned until 1918, and even though they were not collected until then.

The following facts are brought out in a conference with Mr. Callahan, who made the audit:

There is attached here as an exhibit a stenographic report of the conference between Mr. Parker—

By the way, Mr. Parker is one of the engineers of the committee—

and various employees of the bureau who were connected with this case.

"First. The audit was made as per instructions in Mr. Lohman's written memorandum."

Mr. Moss—

This Mr. Moss, I think, was one of the Assistant Secretaries of the Treasury, who asked this question when he was at the hearing:

Mr. Moss. Is that memorandum there?

Mr. MANSON. Yes; we have it. It is attached here.

Mr. NASH. Would you mind reading it, Mr. Manson?

Mr. Moss. It would seem proper to have it right at this point in the record.

Mr. MANSON. This memorandum is dated August 18, 1924:

"I have carefully considered the conferee's findings and conclusions in the above-mentioned case, together with a memorandum written by the auditor on this case and the briefs and data filed by the taxpayer, and it is my conclusion that the decisions as reached by the conferee are correct and should be followed in the closing of this case.

"A careful study of all the facts with respect to the contract made with the Russian Government for goods clearly indicates that this should be claimed as income for the year 1916. Their books are kept on an accrual basis. This was income properly chargeable to the year 1916, and the taxpayer has agreed to file a waiver, allowing the assessment of such additional tax in that year. The second point raised is the question of the distribution of certain income derived through organizations in Tientsin, China, and Hankow, China. After careful study of the facts I have reached the conclusion that this association can not be termed a partnership, for general reasons as stated below."

I have taken no exception to the matter of the determination of a partnership, and the balance of the arrangement deals with the partnership arrangement.

The CHAIRMAN. I had the impression that Judge Moss was referring to the memorandum that Mr. Parker wrote.

Mr. Moss. No. I was referring to the memorandum which he has read.

Mr. MANSON. Mr. Lohman's memorandum?

Mr. Moss. Yes.

Mr. NASH. I understood Mr. Manson to say that Mr. Lohman's memorandum specifically directed how the case should be closed, and that is why I asked to have it read.

Mr. Moss. Yes.

The CHAIRMAN. I understood from the memorandum that he just read to instruct them to close it on the 1916 basis.

Mr. MANSON. Yes; it says:

"I have carefully considered the conferee's findings and conclusions in the above-mentioned case, together with the memorandum written by the auditor on this case and the briefs and data filed by the taxpayer, and it is my conclusion that the decisions as reached by the conferee are correct and should be followed in the closing of this case."

Senator ERNST. That is the part of it to which you had reference?

Mr. MANSON. Yes. Going back now:

"First. The audit was made as per instructions in Mr. Lohman's written memorandum.

"Second. It was taken to Mr. Lohman personally instead of being sent through to the review section in the ordinary manner.

"Third. The case would not have been audited in this way without instructions from Mr. Lohman.

"Fourth. The result of the audit was to wipe out one-half million dollars in tax and refund to the taxpayer for the year 1918 alone over $11,000.

"From the testimony of Neely, in the same exhibit, we see that the case went to the administrative section first, instead of going to the review section, and it was turned back to them because it was not signed by the review section. When it did get to the review section it came there with instructions to sign the certificates of overassessment without the usual review.

"A memorandum from Mr. Lohman directing how this case should be audited was missing from the files, as well as a memorandum from Mr. Lobred, which set up the objections of the audit unit to the consideration of this case on any such basis as was finally made.

"Fortunately, it later developed that Mr. Neely had kept copies of these two memoranda for the protection of himself and his section. Copies of these two memoranda are therefore appended under Exhibit D, which is Mr. Lohman's instructions to audit, and Exhibit E, which sets up the contentions of the auditors. We believe from examination of Mr. Lobred's memorandum and Mr. Lohman's memorandum that there is no doubt but what Mr. Lobred was right in the majority of his contentions. We will not, however, go into that phase of the case here because we do not wish to cloud the issue.

"The issue in this case is the establishment of the fact that no matter how perfect may seem the safeguards set up by the bureau for the review of cases, they are of absolutely no avail when the administrative officers of the bureau may cut out such procedure and safeguards at their own personal pleasure.

"We have information that Mr. C. T. Haines, representative of the taxpayer in this case, is a brother-in-law of Mr. Bright, and that Mr. Lohman has now left the department to go into business with Mr. Haines. This latter statement is simply on verbal information, and we have not had time to confirm it.

"It appears also from the papers in this case that it was closed under a final determination signed by the commissioner, at least for the year 1918, under section 1006. This means the case can not be opened up unless fraud is shown. A rapid survey of the case makes it appear that an item of about $1,200, deductible from the tax of 1918, was omitted from the audit for that year, and a certificate of overassessment and a final determination was signed without this being taken into account. We understand later that this amount of money was deducted from 1919 taxes of the taxpayer. This procedure is absolutely contrary to the statute.

"Conclusion: This case would have received a careful and thorough study if time had been available, but we believe that this brief statement will bring out the astounding condition which exists in the department. We contend that if one case is reviewed all cases should be reviewed, and that no administrative officers of the Government should be allowed to vary procedure at pleasure. It was quite evident from the conferences held by the writer that the individuals in the bureau do not dare protest such cases for fear of losing their positions. It should be stated also, in fairness to these men, that they volunteered no information but answered the questions in the only way which honest men could do."

This report is signed by Mr. Parker, one of the engineers of the bureau, and submitted to the committee by Mr. Manson.

It will be observed from that that he says that these men did not tell the committee or its staff voluntarily of these cases, because they feared they would be discharged by their superior officers for informing the committee staff, and it was necessary in every way to protect the employees from dismissal by not having it appear in these records that they informed us of anything.

There was one good soul brave enough to tell the committee some things openly, and he is now walking the streets. Of course, the bureau said he was removed to reduce the force, that they were cutting expenses. That is so simple that I do not take up the time of the Senate to discuss it. Anybody they want to remove can be removed "to reduce expenses."

Mr. MANSON. This report is signed by Mr. Parker.

Senator ERNST. Is that a single, isolated case, or do you think there are others like it?

Mr. MANSON. Well, I do not know about that.

Senator ERNST. Do you know of any others?

Mr. MANSON. I do not know of any others.

I should like to say this, that our work of endeavoring to get matters of procedure in the bureau was but recently started. I had but one man available to do that, Mr. Parker, who is our chief engineer, and it was not until his work in the engineering division had reached the point where he could be spared from it that he was available to investigate the general procedure of the bureau and, as is known, the investigation in the bureau is now cut short. I have no way of knowing whether this is an isolated case. I do not even know how Mr. Parker got onto the case.

At this point I want to say that it was most difficult to get on to any case. Sometimes some person, honest but timid, would drop a note on the desk of one of our employees and suggest that we examine a particular case. Another would whisper as he went by, "Look into this case, but do not say I said so." That sort of thing permeated the whole bureau. In making those statements I do not cast any reflection upon Mr. Nash or Mr. Blair. I know there was a general fear throughout the entire bureau to even being seen talking to or conversing with any of the committee's staff.

Mr. WATSON. Mr. President, will the Senator yield?

Mr. COUZENS. I yield.

Mr. WATSON. Does the Senator remember almost the last statement made by Mr. Manson to the committee before we adjourned—that in every instance where any help had been asked, or any information requested, or any document had been requested, response was freely made, and that there had been no difficulty about it?

Mr. COUZENS. I remember that; but that is not the point I am trying to make. The point is that we had no way of

knowing where to go. As the Senator says, if we knew what we wanted, and could specify, we could get it. I do not think we were blocked in our investigation. But out of 65,000,000 returns, we had no clue as to where to go to look, until somebody suggested to us the incorrect settlement of a specific case. It was only by those means that we obtained any lead at all as to how to proceed. I think the Senator knows that we floundered around for months, practically, without knowing where to begin or where to end. We purposely declined to employ discharged auditors, so as not to have it charged that we built up this case by employing disgruntled employees.

Mr. SHIPSTEAD. Mr. President——

The PRESIDING OFFICER. Does the Senator from Michigan yield to the Senator from Minnesota?

Mr. COUZENS. I yield.

Mr. SHIPSTEAD. Is the Senator aware that some of the men who testified before the Senator's committee, and who have been protesting against this method of doing business in the Treasury Department, were relieved of their positions afterwards?

Mr. COUZENS. I referred to one case, that of Mr. Briggs, who was dismissed afterwards. I do not recall that anybody testified before our committee who disclosed any irregularities except Mr. Briggs. We subpœnaed no one of the bureau employees—though I may be in error about this—unless it was Mr. Briggs. Every hearing was had in the presence of the bureau officials. They brought down all of the documents and all of their staff that they wanted. We kept nothing from them. I think that will be verified by my good friend, the Senator from Indiana.

Mr. WATSON. There is no question about that. It was done by previous agreement, and the bureau was represented at the hearings as it wanted to be represented. I think the Senator is in error in the sweeping statement that Briggs was the only discharged employee who appeared before the committee. I think there were a number of them the first two weeks, possibly.

Mr. COUZENS. The Senator misunderstood the question of the Senator from Minnesota. The Senator's question was whether or not, after these men had testified, they were discharged. In that connection I say I know of only one, and that was Briggs.

Mr. WATSON. I think the Senator is quite right.

Mr. SHIPSTEAD. I had in mind particularly Mr. Briggs, because he comes from my State. He is a man of the highest professional training, is a graduate of Yale, a graduate of the School of Mines in Minnesota, and a man, as I gathered from reading the testimony presented to the committee, who rendered very valuable service to the Government. I thought it was quite remarkable that he should be dispossessed of his position after appearing before the committee.

Mr. COUZENS. I think the Senator is quite correct. While I am on that point, I want to point our an error which appears in the report of the committee, which I think, perhaps, does injustice to Mr. Briggs. It is a typographical error, drawn to my attention by the Senator from Montana. On page 12 of the report, which we filed on January 12, it is said:

> Neither this committee nor its staff have found anything to criticize in the work done under Mr. Grimes, Mr. Davis, Mr. Tanner, or Mr. Griggs.

For "Mr. Griggs" it should read "Mr. Briggs." That should be corrected, because Mr. Briggs was the one with whom we found no fault, but we did find fault with Mr. Griggs. The report therefore is contradictory, because on the next page we at length criticize Mr. Griggs. The prior part of the report also mentions Mr. Briggs, the inference being, because we do not mention him in the last paragraph, that we had some fault to find with him; but we did not.

Continuing to read from the testimony, Mr. Moss, of the Treasury Department, made this comment:

> Mr. Moss. Mr. Manson mentioned some memoranda of Mr. Lobred and of somebody else, which had disappeared from the records, but copies of which had been kept by Lobred. Did you read those?
>
> Mr. MANSON. I read Mr. Lohman's memorandum. Mr. Lobred was the auditor who audited this case, and whose audit was overturned, and his memorandum sets forth the facts very clearly and precisely, which I attempted to summarize at the time I started to state this case, and unless the facts which he sets forth here are not true, there is no question in my mind but what the taxpayer was not entitled to have this income considered as of anything other than the income as of the year 1918.
>
> Senator WATSON. Would this case naturally, in due process, have come finally to Mr. Lohman?
>
> Mr. MANSON. Mr. Lohman was the chief of the consolidated returns division. Under Mr. Lohman was the section in which Lobred, the auditor, worked. Mr. Lobred audited this case. Mr. Lobred was one of the conferees, and his report is based upon the conference.
>
> Mr. Bergeron audited the case originally, and the case was then taken from him and given to Mr. T. F. Callahan. Mr. Callahan's statement is in the record here.
>
> He states, in substance, that he audited the case as he was directed to audit it by Mr. Lohman, and not as he would if he were exercising his own judgment.
>
> After Mr. Callahan had audited the case, Mr. Lohman instructed that the case be sent direct to the administrative division, instead of to the review section.
>
> I take it that the administrative division does not review audits, but merely looks the papers over to see that they are all there and in due form.
>
> The administrative division sends the case back to the audit section, for the reason that it had not been reviewed; in other words, it was not signed by a reviewer. Mr. Lohman then directed that the reviewer sign the case, but that no review be made, and the reviewer states that is what he did, that he signed the report in accordance with Mr. Lohman's direction, but that he did not make a review.

Again reverting to the fact of fraud and corruption, I do not know whether that is fraud or corruption. I do not know whether there is anything dishonest about it, but I will say that it looks pretty rotten to me. I do not know whether Mr. Lohman made anything out of it, but he could have got many thousands of dollars and we would not have found it out. I submit that any employee could do this in the bureau. I have not heard any member of the committee who denies that these things are possible if the men are dishonest, or that it might happen because of lack of organization or lack of system.

Continuing the reading:

> Mr. Moss. I would like to ask for a little information here. Was that under verbal instructions?
>
> Mr. MANSON. Under verbal instructions.
>
> Mr. Moss. To sign this, but not to review it?
>
> Mr. MANSON. To sign it, but not to review it.
>
> Mr. Moss. He makes that statement?
>
> Senator ERNST. Do you still want that report read?
>
> Mr. Moss. I think so. I do not know how the chairman feels about it.
>
> The CHAIRMAN. I would also like to hear it read.
>
> Mr. MANSON. The report of the auditor?
>
> The CHAIRMAN. The one which Judge Moss has asked for.

I do not think anybody denied it. Nobody assumed and I think no member of the committee assumed that that was any fraud on the part of the Commissioner of Internal Revenue to do that.

> Mr. NASH. May I make a statement first?
>
> I want to say that Mr. Lohman entirely exceeded his authority if he did what he is said to have done in this case. He had no right to direct that that case go through without a review, and he had no right to dictate the direction of the audit. I can not understand the workings of the mind of this auditor, if he would audit a case as he had been directed to audit it, if he thought that basis was wrong. He should have audited it to the best of his own honest judgment and closed it in that way. But no auditor need take directions from any superior as to how a case should be audited. It should be honestly audited on the basis of the facts before him and in no other way.
>
> The CHAIRMAN. I am sure that that is the intention of the organization, but, as has been pointed out in the previous hearings, these reviewers and these auditors are all subordinates——
>
> Mr. MANSON. Of the same man.
>
> The CHAIRMAN (continuing). Of the same man, of the chief of section, and it requires a man of perhaps more than ordinary nerve to fly in the face of his superior, especially when his livelihood is dependent on that particular job.
>
> Mr. NASH. If a man is honest, I do not see why he would hesitate to fly in the face of anybody, if they told him to do something wrong.

When a man is head of the section, if his auditors or even his reviewers do not do what they are told to do, they are liable to be discharged. If they do what they are told to do and do it dishonestly, they will be promoted, and there is evidence of that not only in the testimony which we have, but more specifically in an affidavit which, as I understand it, has been filed with every Senator from a lawyer by the name of Hickey, a former employee of the Bureau of Internal Revenue. He was employed there for a number of years.

Mr. WATSON. Mr. President, will the Senator yield?

Mr. COUZENS. Certainly.

Mr. WATSON. I think perhaps the Senator made that statement a little stronger than he intended to make it.

Mr. COUZENS. What statement?

Mr. WATSON. That if a man did something and did it dishonestly he thereby earned promotion.

Mr. COUZENS. I said that the evidence discloses that, and I still have the evidence.

Mr. WATSON. That the evidence discloses that any time a man made a statement or a return or a report that he was asked to make by somebody or by the head of some department, which was a dishonest transaction—that thereby he earned and got a promotion?

Mr. COUZENS. I think that was true and is true, and before I get through I will show the Senator where it is true.

Mr. WATSON. I shall be very glad if the Senator will do so.

Mr. COUZENS. I do not charge it in every case, but I say they did do a dishonest thing where they signed a review without reviewing, which is dishonest in itself, where they proceeded to audit a case against their better judgment, which was dishonest, and I will point out before I get through that some of those men got promotions.

Mr. WATSON. I would like very much if the Senator would do so.

Mr. COUZENS. I shall do so.

The secretary of the committee points out to me, though I perhaps will have to look this up to find out where it is in the record, that the man who followed out the instructions of Mr. Lohman has since been promoted.

Mr. WATSON. But that proceeds upon the theory that what he did was a dishonest thing and that because of dishonesty he was promoted, and for no other reason.

Mr. COUZENS. I did not intend to convey that idea. If I carried any such conviction by my statement, I was in error.

Mr. WATSON. That was the idea I got, and that is the reason why I said the Senator's statement was a little too sweeping. Perhaps upon reflection he will modify it.

Mr. COUZENS. I do not contend that every dishonest man got a promotion. I say the more venal some of them were the faster they got promoted, and that I shall attempt to prove before we get through with the discussion.

Mr. WATSON. I would like to call the Senator's attention to the fact—and I know that he will agree with me in the statement—that over and over again it was asserted by Mr. Manson and by others—and I am not certain but by the chairman himself—that no fraud had been discovered, that no dishonesty was charged, that no corruption was imputed to anybody; that the whole examination and investigation proceeded upon the theory that we were to be constructive and not destructive or not critical, and that the whole question of fraud or dishonor was wiped out. I ask the Senator if that was not stated over and over again by Mr. Manson and others in the investigation. Now my friend the Senator from Michigan stands upon the floor of the Senate and says that there were many instances of dishonesty, perhaps of venality, perhaps of corruption. The Senator does not charge that, does he?

Mr. COUZENS. Oh, yes. I charge evidences of it. Probably the Senator from Indiana has not been here all the time since I started the discussion. I had a discussion this morning with the Senator from California [Mr. SHORTRIDGE], in which he referred to the statement that both Mr. Manson and I made before the Finance Committee to the effect that we found no fraud. I have stated it on the floor and I state it again now. But there is a great deal of difference between saying that we found no fraud and saying that we found no evidence of it. I have repeatedly said, but it seems difficult to get it understood, that we employed no detectives, we employed no one to follow up these evidences of suspicion or evidences of corruption or evidences of fraud. But I will say that there were plenty of evidences of fraud, evidences of collusion, evidences of corruption.

As the Senator said, we distinctly proceeded on the theory that we could not follow up all the leads indicating fraud or suggestions of collusion; that we were there to try to get at the system, to find out what was wrong with the system, what was wrong with the interpretations of law, what was wrong with the rules and regulations, and to suggest ways and means of correcting them. The Senator and I are in entire agreement on that proposition, but I am bringing out what occurred at our hearings to disclose how easy corruption and fraud and collusion were, and to indicate to the Senate where the instances occurred not for the purpose of making a case against anybody but for the purpose of showing the necessity of removing all of such conduct from secrecy.

The Senator perhaps has forgotten that we are debating the question of whether we should remove the secrecy provision from the law and have the records made public. I do not contend that the adoption of the amendment under discussion will correct all of the evils. I say that for nearly 13 years every employee in the bureau has been protected in almost any crime he might have wanted to commit, because he could have audited a case and filed it away and nobody would ever have seen it again; nobody was ever supposed to see it again. I submit that the cases to which I am calling attention never would have come to the light of day had our committee not been authorized to investigate the system and the method used by the bureau in auditing the millions of returns that are made.

I submit that if Senators want to continue the system of secrecy where cases involving millions of dollars may be audited and then filed away in a cabinet under the rule of secrecy, of course, it is within their power to do it. I for one am opposed to any such conduct of government. I oppose any principle or policy which permits an engineer or an auditor to go into private conference with a taxpayer and agree with him in secrecy upon a settlement of his case, and then put it through in accordance with the agreement made, and nobody ever know anything about it and the case be closed.

In this connection I want to direct attention to a specific case along these lines, so we may have some continuity of discussion.

In volume 4 of our hearings, at page 2134, occurs the following:

Mr. MANSON. This is the case of the individual tax of William Boyce Thompson for 1918.

The CHAIRMAN. Where does Mr. Thompson live?

Mr. MANSON. In New York.

The CHAIRMAN. Do you know what his business is?

Mr. MANSON. Capitalist, I believe. I do not know of any other business.

The amount of tax involved is $573,001.72.

This case is an important case, not only from the standpoint of the amount of tax involved, but because it discloses a laxness which we believe to be symptomatic in checking losses claimed as deductions.

Our statistical investigation has disclosed the fact that losses on the sale of stocks and bonds claimed and allowed as deductions are the most important factor in determining the rise and fall of income in the high-tax brackets. They perhaps amount to more than all of the other factors which influence the rise and fall of incomes in the high-tax brackets. For that reason the system employed in the bureau in checking those losses is a very important consideration for this committee.

At this point I want to say that I think this testimony discloses that we were not on the trail of fraud. Every case to which I have referred had for its purpose the disclosing of the system, not to try to find some crooked or dishonest employee or some crooked or dishonest taxpayer. Every case I have read from the record emphasizes the fact that we were getting at the system.

Mr. WATSON. Mr. President, will the Senator pardon an interruption?

Mr. COUZENS. Certainly.

Mr. WATSON. This case has not as yet been settled, has it?

Mr. COUZENS. Yes; I think it has.

Mr. WATSON. I do not think so.

Mr. COUZENS. The record will show, and I will read it to the Senator.

Mr. WATSON. Very well.

Mr. COUZENS. I quote further, in continuation, as follows:

This case further discloses that in spite of all the checks and reviews which have been described to this committee as the means of protecting the Government's interests, it is possible for the heads of two divisions, by cooperation, to fix a tax, and in spite of the best efforts of conscientious employees working under them, to keep from the responsible officers, such as the solicitor and the commissioner himself, the information such as goes to the liability of the taxpayer to pay a tax; so that, for those reasons, this case involves a great deal more than the amount of tax involved.

This is one of the most specific cases which was brought to the attention of the committee, showing how possible it is for any influential man, anywhere, under any circumstances, to go down to the bureau and get anything he chooses, without the Secretary of the Treasury, the commissioner, or the deputy commissioner knowing anything about it.

In the original return in this case, filed in March, 1919, this taxpayer made deductions for losses on sale of stocks and bonds amounting to $597,479.66.

The 1918 form of return, in Schedule D, calls for the following information to be supplied by a taxpayer who reports a profit or loss on the sale of land, buildings, stocks, bonds, and other property——

The CHAIRMAN. Is that the form used by the taxpayer in this case?

Mr. MANSON. That is the form used by the taxpayer in this case, the form supplied by the bureau for reporting the 1918 taxes.

The CHAIRMAN. This was the taxpayer's return made for the year 1918, although filed in 1919, was it?

Mr. MANSON. Yes; that is it. In the first place, this form calls for the kind of property upon which the profit or loss is required to be stated, the year the property is acquired, the name and address of the purchaser or broker, the sale price, the original cost of value of March 1, 1913, the cost of subsequent improvements, if any, and the depreciation sustained.

The instructions printed on this form provide as follows:

"If the profits or losses on sales made through any one broker aggregated $1,000 or more, report the transactions on a separate line, with the name and address of the broker."

In this case, a copy of Schedule D of the taxpayer's return is our Exhibit A. There is no detail as to the kind of stock or the kind of bonds. The only date as to the year acquired is 1913 and since.

Under the name and address of purchaser or broker is the word "various." The total sale price of stocks and bonds is included in three totals, and the original cost or market value on March 1, 1913, is also included in three totals. The losses are carried out in one total of $597,479.66.

I offer that as our Exhibit A.

That is Exhibit A in the record.

When this return was audited, the auditor prepared a letter for the signature of the deputy commissioner, which is as follows:

SEPTEMBER 4, 1923.

Mr. WILLIAM BOYCE THOMPSON,
1½ Wall Street, New York, N. Y.

SIR: Reference is made to your income-tax return, Form 1040, for 1918.

It is noted in Schedule D that you reported a loss of $597,479.66 from the sale of stocks, notes, and bonds. With reference to each transaction you are requested to state:

(*a*) Kind of security.
(*b*) Date acquired.
(*c*) Original cost of each security.
(*d*) If acquired prior to March 1, 1913, the market value as of that date.
(*e*) Date of sale.
(*f*) Sale price of each security.
(*g*) Whether $4,437,590.64 represents the actual sale price or the inventory value furnished by your broker.

In Schedule A you deducted $26,066.02 as salaries and wages paid. You are requested to state whether this item includes any withdrawals or salaries paid to yourself or your wife. If so, state the amount or amounts.

Please give this matter your prompt attention and in your reply refer to IG PA 3 MP–302.

Respectfully,

J. C. BRIGHT,
Deputy Commissioner,
By ——— ———,
Acting Chief of Section.

That was the letter which went to the taxpayer after he had filed his return.

The CHAIRMAN. Who was the acting chief of section at that time?

Mr. MANSON. It does not state.

I offer that as Exhibit B.

On September 4 the taxpayer furnished a statement, of which Exhibit C is a copy. In this statement the various transactions are apparently separated, but with one or two exceptions there is no description of the kind of stock; there is no date as to sale, that being designated, as I say, with one or two exceptions, as October and November, 1918, and many of them just 1918. There is no name of the purchaser or of the broker to whom the sale was made.

Among other items claimed for here is "Foreign exchange." There was claimed on that a loss of $280,022.36. There is nothing to indicate whether an exchange was disposed of or what sort of "foreign exchange" it is. In fact, there is nothing upon this statement furnished by the taxpayer, in response to this letter, which would enable any auditor to make an intelligent or effective check upon these transactions.

It is submitted that if a taxpayer is required to state the kind of stock upon the sale of which he claimed a loss; is required to give the date of its purchase, so that the value of that stock as of that date can be verified; is required to give the date of the sale, so that the value of the stock as of that date can be verified; and is required to give the name of the purchaser or the broker through whom the sale is made, so that that fact can be verified, the mere fact that the taxpayer furnishes that information is almost as effective a check as though that information were afterwards verified, because a taxpayer who knows that he is supplying information which makes it possible for the bureau to check the transaction and find out whether the facts returned are true, is deterred from reporting a loss which does not, in fact, take place.

The CHAIRMAN. Did your investigation disclose any evidence that the taxpayer's books were audited by an auditor?

Mr. MANSON. They were not.

The CHAIRMAN. Do you know whether they have been audited up to date?

Mr. MANSON. I do not know whether they have been audited up to date, but no field examination of this claim was made.

The CHAIRMAN. You say you do not know whether the taxpayer's books at the office were audited up to date?

Mr. MANSON. I do not know whether they have been audited since. There is nothing in the files to indicate that they have been audited.

The CHAIRMAN. That is interesting, because the representatives of the bureau have been checking the chairman's income tax for three weeks, and have been going to great pains to find out whether I have done the Government out of anything or not.

Mr. MANSON. There is nothing in the files to indicate that any examination of this taxpayer's books has been made.

After the receipt of the statement to which I have just referred, an A–2 letter, notifying the taxpayer of an additional assessment of $482.16, was sent out on October 17, 1923. This A–2 letter, in effect, allows all of the deductions claimed for the loss on the sale of stocks and bonds claimed by the taxpayer, for the reason that it does not disallow any of them, and assess an extra tax.

The extra tax was $482.16, as stated in a previous clause.

Mr. WALSH. Mr. President——

The PRESIDING OFFICER (Mr. NCNARY in the chair). Does the Senator from Michigan yield to the Senator from Montana?

Mr. COUZENS. I yield.

Mr. WALSH. Will the Senator kindly tell us when that adjustment was made?

Mr. COUZENS. The first letter went out on September 4, 1923, and on October 17, 1923, the so-called A–2 letter went out with an additional assessment of $482.16.

Mr. WALSH. And the bureau allowed for alleged loss on the sale of stocks practically $600,000?

Mr. COUZENS. That is correct.

Mr. WALSH. What was the amount of the tax?

Mr. COUZENS. There is some collateral information that is interesting in this case, and I think I, perhaps, will come to that if the Senator will let me read on through.

Mr. WALSH. Can the Senator tell us whether the taxpayer in that case is the same William Boyce Thompson who was chairman of the finance committee of the Republican National Committee during the campaign of 1920?

Mr. COUZENS. There is nothing in the record to indicate that. All that the record shows is that he is a capitalist.

Mr. WATSON. He is the same man.

Mr. COUZENS. The Senator from Indiana says he is the same man.

I quote further from the testimony as follows:

The CHAIRMAN. You say "in effect." In actuality it does.

Mr. MANSON. Yes. The extra tax of $482.16, notification of which is carried by this letter, contains a statement which is as follows:

"In schedule G you failed to report $57.55, the amount of tax paid for you at the source, on tax-free covenant bonds. On page 1, line 16, you reported $4,003.75 as the value of stock dividends received. In the schedule submitted with your letter of September 21, 1923, you gave this value as $4,503.75, a difference of $500. Stock dividends do not constitute taxable income; however, the profits realized from the sale of such stock is taxable income in the year in which the sale is made.

"These adjustments increase your net income subject to tax at 1918 rates by $4,561.30. The surtax on $35,421.61, the corrected amount of net income in excess of the exemption of $5,000, is $3,490.11. Since $2,950.40 has been assessed and $57.55 was paid for you at the source on tax-free covenant bonds, there is due an additional tax of $482.16."

The CHAIRMAN. And the actual tax paid by the taxpayer in that year on the basis of approximately $35,000 net income?

Mr. MANSON. Yes. Well, $35,000. plus $5,000.

The auditor who handled this return, Miss Megarity, is no longer in the section. Mr. Box, our auditor, interviewed the chief of the subsection——

The CHAIRMAN. Do I understand that this lady to whom you have just referred is in the service but not in the section?

Mr. MANSON. We do not know whether she is in the service, but she is not in the section.

The CHAIRMAN. I see.

Mr. MANSON. Mr. Box interviewed the chief of the subsection where this case was handled, a Miss Powers, as to whether it was customary, where the schedule did not contain the information called for, and where the information supplied by the taxpayer was not sufficient

to make the basis of an effective audit, to allow the deductions under those conditions.

She stated to Mr. Box that they not only made no check except on the totals, but there was no information on file in that section from which a check could be made; that no attempt was made to determine whether or not the prices at which the stock is reported bought and the prices at which it is reported sold conform to the market price as of those dates, and that if an auditor attempted to make that sort of an audit of these returns the production record of that auditor would be so poor that he or she would probably be removed from his or her position.

The significance of that is that if an auditor is thorough the production record is low and the efficiency record is therefore low, because the number of audits turned out is lower than in the case of somebody who does the work in a sloppy manner.

The CHAIRMAN. It seems to me that counsel ought to have subpœnaed the person who made that statement.

Mr. MANSON. Well, I can do so, if the chairman desires it.

The CHAIRMAN. It might be desirable, although, of course, the witness is on notice now, and it might be somewhat embarrassing, and different had the witness been subpœnaed in the first instance.

Mr. MANSON. Notwithstanding the fact that the information called for by the schedule was not supplied and the information called for by the letter was not supplied in sufficient detail to form a proper audit of these deductions, I propose to show hereafter that it was held by Mr. Alexander, in a conference with the taxpayer, that the fact that this A–2 letter was sent out for $482.16 barred the Government from reopening and reauditing and redetermining the propriety of these allowances.

In the fall of 1923, Mr. Granville S. Borden and Mr. William H. Craigue, valuation engineers of the metals valuation section, discovered that a man by the name of McConnell had sold zinc lands and leases in 1918, upon which he made a profit of approximately $600,000. When McConnell was notified of a proposed tax upon that transaction, he protested that tax, and set up the fact that this taxpayer, William Boyce Thompson, had financed his deal, and that they were equal partners in the transaction. This property was sold in 1917; that is, an agreement to sell was entered into in 1917. In that way, the fact that Thompson had a half interest in this profit was brought to the attention of the metals valuation section.

In other words, Mr. Thompson never reported the transaction. It was discovered only by his partner reporting the transaction.

The metals valuation section then requisitioned the returns of Thompson and McConnell, and discovered that they had made no returns of any portion of the profit on the sale of these zinc lands.

An A–2 letter, which is our Exhibit E, dated February 12, 1924, was sent out, assessing a tax of $573,011.72, based upon the disallowance of the deductions for the losses on the sale of stocks and bonds, and upon Thompson's share of the profit on the sale of these zinc lands.

The CHAIRMAN. This A–2 letter, you say, was sent to Thompson?

Mr. MANSON. This A–2 letter was sent to Thompson on February 12, 1924. This is our Exhibit E.

On February 28, 1924, Mr. C. Kelsey and Mr. T. D. Thatcher, of the law firm of Simpson, Barlett & Thatcher, representing Mr. McConnell and Mr. A. G. Dodge, representing Mr. Thompson, had a conference with Mr. Alexander.

Here is the significant part of the testimony:

Notwithstanding the fact that the discovery of this transaction with reference to the sale of the mining lands had been made by the metals valuation section, that the metals valuation section had given a notice and had given these taxpayers a hearing, and had all the information with reference to this transaction; and notwithstanding the fact that under the organization of the income-tax unit the determination of the values of mining property is a matter exclusively within the control of the metals valuation section, neither a representative of the metals valuation section nor an auditor who knew anything about the deductions for losses on the sale of stock and bonds, was brought into this conference. This conference was held by Mr. Alexander alone.

The report of that conference is our Exhibit F.

That letter is signed by "S. A.," those being the initials of Mr. Alexander, "Head, Natural Resources Audit Division."

I would now call especial attention to the fact that this was a case in which it was known at the time it was held by Mr. Alexander that these stock losses would not be reopened for consideration. It was known that this taxpayer had failed to return a profit made on the lands in this mineral case, a fact sufficient to have put the bureau upon notice, even though it is not their practice in all cases to make an effective check of losses where they run, as they do in this case, to over a half million dollars.

The CHAIRMAN. In that connection, the taxpayer claims that there was no profit made; so how could a profit be returned?

Mr. MANSON. Well, I am coming to that.

There was at least a claim on the part of the metals valuation section that there had been a profit made.

The CHAIRMAN. Well, you would not criticize the taxpayer for not returning it if there was not any profit, would you?

Mr. MANSON. Taking all the facts in this case into consideration, I would criticize the taxpayer, for this reason: It is shown here that this land was purchased in December, 1912; that there was no activity in this field and nothing took place which would enhance the value of the property from December, 1912, to the 1st of March, 1913; that the land was purchased for approximately $10,000; that afterwards improvements were made on it which would run the cost of the land, with the developments, up to about $18,000; that nothing transpired after that until Germany seized the zinc fields in Belgium, and the price of zinc was immediately boosted in this country, in 1914; that great activity took place in this field in 1914 and 1915; that the price obtained for this property in 1917, that is, the price fixed in the contract of 1917, was entirely due to enhancement in the value of zinc, which began in 1914.

The CHAIRMAN. What was the property sold at?

Mr. MANSON. About $600,000.

The CHAIRMAN. In spite of the fact that it cost them about $10,000 and they sold it for $600,000, the taxpayer claimed no profit?

Mr. MANSON. They reported no profit at all. Even though there had been some enhancement in value, and in spite of the claim of the bureau that there was none in the three months' period from the time they purchased the property until the 1st of March, 1913, the fact that war conditions in Europe boosted the price and the demand for zinc tremendously in this country would create at least a part of the profit; so it can not be said in this case that the taxpayer was warranted under any conditions in not reporting some profit on that transaction.

The CHAIRMAN. What did the taxpayer claim the property was worth on March 1, 1913?

Mr. MANSON. He claimed that the property, together with the improvements made upon it, was worth just what he got for it.

The CHAIRMAN. The burden of proof was on the taxpayer to fix the value as of March 1, 1913, is it not?

Mr. MANSON. Absolutely.

The CHAIRMAN. And he submitted no proof fixing the value?

Mr. MANSON. And he submitted no proof fixing the value.

The engineering division had given him 30 days within which to supply data as to the value as of March 1, 1913, after a conference with the taxpayer. Such data were never supplied. The engineering division ascertained that he had consulted an engineer and had attempted to get an engineering valuation, but had not succeeded in doing so.

The CHAIRMAN. When was the case closed as to this particular transaction?

Mr. MANSON. I am just coming to that.

On April 14, 1924, Mr. Grimes, the chief of the metals valuation section, sent a memorandum to Mr. A. M. Greenidge, head of the engineering division. This memorandum sets forth the facts which I have just roughly sketched.

Copy of that letter is introduced as our Exhibit G.

The CHAIRMAN. You say that was dated in April, 1924?

Mr. MANSON. That was dated April 14, 1924.

It is apparent that there are some questions of law involved here. In the first place, as to whether the transaction out of which this profit was derived was consummated in 1917 or 1918 is clearly a question of law. Second, whether or not the failure to return this tax or to return this income constituted a fraud which would prevent the statute of limitations running against the tax is another very clear question of law.

For reasons which will be hereafter explained, on April 28, 1924—that is, two weeks after this letter to Mr. Greenidge—there was prepared for the signature of the deputy commissioner, by Mr. Borden, an engineer in the metals valuation section, a communication directed to the solicitor, requesting the solicitor's opinion upon the questions of law involved in this matter, two of which I have just mentioned. This communication is our Exhibit J.

The CHAIRMAN. Did that letter get to the solicitor?

Mr. MANSON. That letter, we have ascertained, had not reached the solicitor's office last Saturday. The date is April 28, 1924.

In other words, the letter was written on April 28, 1924, and had not reached the solicitor's office in May, 1925.

The CHAIRMAN. In other words, after 10 months it had not reached the solicitor?

Mr. MANSON. It had not reached the solicitor's office yet.

Our Exhibit H is a written statement of Mr. G. S. Borden, valuation engineer of the metals valuation section, which throws additional light on this situation.

The CHAIRMAN. The Mr. Shepherd mentioned was the special conferee, was he not?

Mr. MANSON. Yes. Mr. Shepherd was the special conferee of the engineering division.

As this engineer has stated, he made the kind of report that Mr. Shepherd instructed him to make. That report is Exhibit I, dated December 3, 1924. I am not going to read this report in full, but I do desire to call the attention of the committee to the fact that the very first statement in this report is a ruling upon a question of law, namely, "The statute of limitations has run against the claim for additional taxes for the year 1917."

That was and is one of the most important questions in this case.

Here we have this situation, identical as in the Penn Sand & Gravel Co., an engineer knowing that the ends of justice are being defeated by a taxpayer, sends a protest in writing to Mr. Greenidge. That protest is ignored. He then goes to the solicitor, the law officer of the Bureau of Internal Revenue, an officer appointed by the President and confirmed by the Senate, and put there for the purpose of passing upon questions of law. There he is advised by an assistant to the solicitor to put his case in writing and submit these questions of law to the solicitor, in order that they may be determined in the way provided by law. That communication has not as yet, or at least up to Saturday of last week, had not as yet reached the solicitor.

It is my position that regardless of the merits of this particular case, the manner in which this case has been handled shows that, in the first place, there is an entire lack of that effort which is absolutely essential for the proper check of deductions claimed for losses upon sales of stocks and bonds.

In the second place, this case establishes, as no other case which has yet come to my attention establishes, the correctness of the position taken by the chairman before the Finance Committee, when he said that some system of appeals or review whereby the Government will get some protection and whereby the subordinates of the Income Tax Unit, who have a knowledge of the facts, who are conscientious in their work and are trying to protect the Government, may have an opportunity to be heard.

Mr. KING. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Michigan yield to the Senator from Utah?

Mr. COUZENS. I do.

Mr. KING. The Senator referred to Mr. Alexander as the employee of a tax unit who settled the case of the Government against William Boyce Thompson, under the terms of which the Government lost a good many thousand dollars.

Mr. COUZENS. That is the case I am reading.

Mr. KING. Is it not a fact that this same Alexander, after being in the department for some time, getting the run of the business, learning of the multitude of cases there, large tax cases and others undisposed of—and some disposed of, but against which the statute of limitations had not run, so that there was an opportunity to reopen—resigned and opened a law office, and was advertised freely by organizations which he promoted, or at least which he utilized, as one of the great tax lawyers of the United States; and is it not a fact that he is now engaged in active practice in the department, and has been ever since he resigned?

Mr. COUZENS. I understand that is so. I have never checked it up to determine whether it is so or not, but I understand it is.

Mr. SMOOT. That is not an isolated case by any manner of means. We can begin with Commissioner Roper and come down to the present. I can name right off 50 or 60 parties who have done that.

Mr. KING. I am very glad that my colleague has said just what I was about to observe.

Mr. COUZENS. It is a most astounding thing that the chairman of the Finance Committee, knowing these things all these years, has never proposed an investigation of the Bureau of Internal Revenue.

Mr. KING. The Senator knows also that in investigations by the committee of which he and I were members it was revealed, as just stated by the chairman of the committee, that a large number of persons, after they were in the department for a number of years, and after they had obtained a large amount of information regarding taxpayers and the large amounts due from them to the Government, resigned and organized firms to promote claims against the Government, for the purpose of securing refunds, and, though I will not say in an illegitimate way, for the purpose of preventing the Government from obtaining payments from taxpayers on claims which the Government preferred against them for delinquent taxes.

Mr. COUZENS. That is not only true, but Members of Congress have gone down to the department, to these special conferees, carrying with them the taxpayers' briefs, and left them with the conferees in confidence, with their cards attached to them, asking them to give consideration to the taxpayers' briefs.

Mr. KING. While the Senator is upon that, I am told also that clerks of important public officials have acted, I will not say as lawyers, or quasi lawyers, but at any rate they have acted as messagemen to carry these briefs, and to talk with the officials of the Government.

Mr. COUZENS. Oh, they have done more than that. They have used the power of their offices to get consideration for the taxpayers.

Mr. KING. I shall offer an amendment, which I am sure the Senator will support, to prevent persons who have been employed in the tax unit from practicing before the boards and before the tax unit organizations for a period of two years after they have separated themselves from the service.

I would be perfectly willing to have it go further, and to interdict Representatives or Senators, or their clerks, or any representatives of theirs, from appearing before the tax unit, or any of the branches of the Government charged with the duty of levying and collecting taxes.

Mr. WALSH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Michigan yield to the Senator from Montana?

Mr. COUZENS. I yield.

Mr. WALSH. It has been represented to me that only a very inconsiderable number, in proportion, of the decisions of the solicitor and the decisions of the bureau have been printed and made public, and that consequently these gentlemen who have had service in the department, and who have then gone out and engaged in the practice of the law before the department, being conversant with these opinions which have not been published, and which are not, accordingly, available to the bar generally, have a decided advantage over anyone who has not thus had access to the files of the department; that they are able thus to exercise a very decided advantage in the prosecution of their business. What can the Senator tell us about that?

Mr. COUZENS. If I started to tell the Senate that story I would not get through before March 1, because we have taken volumes of testimony showing that condition, and our report has specifically shown that only 15½ per cent of the decisions and rulings of the bureau have ever been published. In other words, we have found opinions rendered by the solicitor, and decisions made by the commissioner and his deputies, which specifically state, "This is not a precedent for any other case." In other words, they have granted concessions to taxpayers which they will not permit to be granted to other taxpayers, and have specifically stated so in the opinions.

Mr. BORAH. In other words, they have spasms of virtue?

Mr. COUZENS. I do not know. I doubt if they have even those. If it is a virtue to tax one taxpayer and not another, then I do not understand the meaning of the word "virtue."

Mr. BORAH. What I meant was, they did not intend that one fraud should necessarily be a precedent for another one.

Mr. COUZENS. That is true; yes. I want to finish this concerning the William Boyce Thompson case. Continuing, I read:

The CHAIRMAN. To my mind, this develops a most astounding condition, and I think the members of the bureau here must be impressed with the power of an individual, one solitary individual, to so route a case through the bureau as to obtain anything he desires, and yet the head of the bureau or the solicitor would know nothing about it. It seems to me that that is incomprehensible. I have not heard of this case before. I do not know how it came to the attention of counsel, but if one man by the name of Alexander can steer cases through the bureau, wiping out all the work of the metals valuation section and the auditors of the solicitor's office, and even the commissioner himself, it is a most astounding situation that exists. Of course, I presume that there is some explanation yet to come to the committee, but, as presented, it is most astounding to learn that such a thing is possible.

Did you ever hear of this case before, Mr. Nash?

Mr. HARTSON. I think, Mr. Chairman, the bureau ought to be given further opportunity to consider what has been said, and reply to it later. I think, in view of the fact that representatives of the bureau had not known of this case until counsel called it to their attention on Saturday, I think we would prefer to have nothing said by the representatives of the bureau at this time, and I would ask that it be continued, and we be given an opportunity later on.

After the bureau had made this request for time it appears, in part 18 of our hearings, on page 4070, that the only reply the bureau ever made to these allegations was in the following:

The CHAIRMAN. You have something else that you want to put in the record, Mr. Nash?

Mr. NASH. I want to say that these 1924 returns for individuals, which were asked for, have been coming in during the month of May,

and they are now going through our proving section. They have been recorded and will be made available for statistical purposes immediately after that work is completed.

The chairman asked the other day for a statement as to the position of the bureau on certain cases that have been called to our attention by this investigating committee.

Mr. Gregg and I went over the list of cases that have been presented to this committee and prepared this statement showing the position of the bureau on such of these cases as are being reinvestigated or reopened.

George Bros., being reinvestigated for years not closed.

William Boyce Thompson, being reinvestigated for all years from 1917 to date.

In that connection I wish to say that that is the last we have ever heard from the bureau in explanation of that particular case.

At some later time I will continue my remarks, but I now surrender the floor.

Mr. WATSON. I understand the William Boyce Thompson case is not yet closed?

Mr. COUZENS. It was closed when we took it up, and I do not know whether it has been reopened or not.

Mr. WATSON. I may be in error, but I think I am not, when I say that the case was reopened, has been reexamined, and has not been finally closed. Is that so?

Mr. COUZENS. I read that it was being reinvestigated.

Mr. McKELLAR. Mr. President, before going into what I desire to say with reference to the tax-publicity amendment, I want to add to what has been said with reference to the coal situation by saying that I voted to lay aside the tax bill this morning simply because I thought it was a matter of humanity so to vote. Certainly I am in the greatest sympathy with the desire for rapid progress of the tax bill. I have not the slightest doubt in my own mind that it will be finally passed by the Senate within the next two or three days, Monday or Tuesday, or by Wednesday at the latest. I doubt if it takes that long.

But there is no reason in the world why the Senate should not go on record with reference to conditions that we find in Northern States. It is a question of humanity, it seems to me. While the question of dollars is important, after all it is but a question of dollars so far as tax reduction is concerned. The tax bill will give great relief financially to some people in the country, and it should be passed as rapidly as possible; but at the same time we ought not to be precluded from voting, and we ought not to be denounced for voting in the interest of manifest humanity, as it seems to me. I so voted this morning, and I shall probably vote in exactly the same way whenever the matter comes up.

Mr. President, the specific amendment that is now before the Senate is an amendment offered by the Senator from Nebraska [Mr. NORRIS] reading as follows:

On page 113, line 1, strike out all after the word "records" down to and including the word "President" in line 5 on said page, and in lieu thereof insert the following: "and shall be open to examination and inspection as other public records under the same rules and regulations as may govern the examination of public documents generally."

It seems to me that is a perfectly fair and just provision. We do not have secret returns made of our taxes in the various cities, counties, and States. Tax returns are public documents everywhere, except the income-tax returns made to the Federal Government. Why should we single out this peculiar form of taxation and say that the returns shall be secret? In the few remarks that I am going to make this afternoon I shall endeavor to present the reasons why they should not be kept secret. Before I do it I want to call the attention of Senators to the fact that this exact matter was voted on May 2, 1924, by the Senate. I am going to take the liberty of reading the roll call as shown by the RECORD of May 2, 1924, on an amendment identical with the one now before us. The yeas were 48 and the nays 27. The yeas were as follows:

Adams, who is not here now; Ashurst; Borah; Brookhart; Broussard; Bruce; Capper; Caraway; Copeland; Cummins; Dial; Dill; Ferris; Frazier; George; Glass; Gooding; Harreld; Harris; Harrison; Heflin; Howell; Johnson of California; Johnson of Minnesota; Jones of New Mexico; Jones of Washington; Kendrick; King; Ladd; McKellar; McNary; Mayfield; Neely; Norbeck; Norris; Overman; Ralston; Reed of Missouri; Sheppard; Shipstead; Simmons; Smith; Stanley; Stephens; Swanson; Underwood; Walsh of Massachusetts; Walsh of Montana; a total of 48.

The nays were as follows:

Ball, Bayard, Brandegee, Bursum, Cameron, Curtis, Dale, Fernald, Fess, Hale, Keyes, Lodge, McKinley, McLean, Moses, Oddie, Pepper, Phipps, Reed of Pennsylvania, Shields, Smoot, Stanfield, Sterling, Wadsworth, Warren, Watson, Willis, a total of 27.

There were 21 not voting, and I ask that the list of Senators not voting may be placed in the RECORD without reading.

The VICE PRESIDENT. Without objection permission is granted.

The list is as follows:

Not voting, 21: Colt, Couzens, Edge, Edwards, Elkins, Ernst, Fletcher, Gerry, Greene, La Follette, Lenroot, McCormick, Owen, Pittman, Ransdell, Robinson, Shortridge, Spencer, Trammell, Weller, and Wheeler.

Mr. WATSON. Mr. President, will the Senator yield?

Mr. McKELLAR. Certainly.

Mr. WATSON. The Senator may put my name down twice if he wishes, because I intend to vote the same way again.

Mr. McKELLAR. I am delighted to hear that. Senators, we reduced taxes on an average of about 25 per cent then. Under the reduced rates we got just about the same amount of money that we did before. While I can not say, and no man can say, why that was so, yet I have no doubt in my own mind that the publicity feature that was added to the bill, insufficient as it was, had something to do with it. I know, and every Senator here knows, that it had something to do with the increased number of returns under the low rates.

There was another amendment adopted at the same time, providing that all claims in abatement or refunds of taxes should likewise be public property, subject to inspection under similar rules, and that was adopted virtually by the same vote, the yeas being 47 and the nays being 26, and those not voting being 23. I ask unanimous consent that the list may be inserted in the RECORD without reading.

The VICE PRESIDENT. Without objection it is so ordered.

The list is as follows:

Yeas, 47: Adams, Ashurst, Borah, Brookhart, Broussard, Bruce, Capper, Caraway, Copeland, Dial, Dill, Ferris, Fletcher, Frazier, George, Glass, Gooding, Harreld, Harris, Harrison, Heflin, Howell, Johnson of California, Johnson of Minnesota, Jones of New Mexico, Jones of Washington, Kendrick, King, Ladd, McKellar, McNary, Mayfield, Neely, Norbeck, Norris, Overman, Ralston, Reed of Missouri, Sheppard, Shipstead, Simmons, Smith, Stephens, Swanson, Underwood, Walsh of Massachusetts, and Walsh of Montana.

Nays, 26: Bayard, Brandegee, Bursum, Cameron, Curtis, Dale, Fernald, Fess, Hale, Keyes, Lodge, McKinley, McLean, Moses, Oddie, Pepper, Phipps, Reed of Pennsylvania, Shields, Smoot, Stanfield, Sterling, Wadsworth, Warren, Watson, and Willis.

Not voting, 23: Ball, Colt, Couzens, Cummins, Edge, Edwards, Elkins, Ernst, Gerry, Greene, La Follette, Lenroot, McCormick, Owen, Pittman, Ransdell, Robinson, Shortridge, Spencer, Stanley, Trammell, Weller, and Wheeler.

Mr. McKELLAR. Mr. President, what was done when it went to conference? Were the amendments which the Senate had adopted on the subject of publicity agreed to? They were not. It was thought that there would be an innocuous, as it seemed to me, provision put in. That provision, which is the present law—and I read it, because I have offered it as an additional amendment in this case—was:

Provided, The commissioner shall as soon as practicable in each year cause to be prepared and made available to public inspection in such manner as he may determine, in the office of the collector in each internal-revenue district and in such other places as he may determine, lists containing the name and the post-office address of each person making an income-tax return in such district, together with the amount of the income tax paid by such person.

In other words, the law provided for the publication of lists, giving simply, solely, and alone the amount. Talk about invading the tax returns of private individuals or of corporations! Not at all. It merely provided, in the interest of orderly government in one of the vital affairs of the Government, for making public the amount.

Mr. CARAWAY. Mr. President, may I ask the Senator from Tennessee a question?

Mr. McKELLAR. I yield.

Mr. CARAWAY. The only justification for publishing the income-tax returns, of course, would be that people might furnish the Government with information that would lead to the disclosure that the taxpayer had not properly given the amount of his income. Is not that so?

Mr. McKELLAR. That is true. Then besides, even if the taxpayer has filed a proper return and others have not, it is in the interest of good government that there should be publicity as to what is being done as to taxes. The science of taxation has been described by many authors as the science of government. When we provide in our law that taxation, which is the most essential ingredient in government, to say the least of it, shall be secret and not open to all the taxpayers,

we have done a thing which, in my judgment, departs from the principle upon which our Government was erected.

Mr. CARAWAY. I wish to ask the Senator this question: Inasmuch as the only use for disclosing what a man pays in the way of taxes is that it may enable some one to inform the Government that he has not paid enough, why should we not make the publication of his whole return essential, because what he has been allowed by deductions, and so on, may be the means by which he evades the payment?

Mr. McKELLAR. I entirely agree with the Senator. I expect so to vote. I am going to vote for the amendment which has been offered by the Senator from Nebraska [Mr. NORRIS], which provides for the very thing which the Senator from Arkansas suggests. The Senator from Arkansas, I believe, voted for it on the last tax bill. I voted for it then; I am going to vote for it on this bill, and I hope the Senator from Arkansas is going to do so.

Mr. CARAWAY. Does the Senator think I voted for an amendment to publish the entire tax returns?

Mr. McKELLAR. Here is the amendment for which the Senator from Arkansas voted.

Mr. CARAWAY. I remember the amendment.

Mr. McKELLAR. It is just exactly the amendment which is offered now. That is the amendment that we are speaking to, or at least that I am speaking to now, and it is the one which is before the Senate. Let me read it; I have it right here. What was then voted for was:

> And shall be open to examination and inspection as other public records under the same rules and regulations as may govern the examination of public documents generally.

On that question the Senator from Arkansas voted "yea." That is precisely what is before us; that is precisely what I am for now. I expect to vote for it, and I hope the Senator from Arkansas is going to vote for it.

Mr. CARAWAY. Merely having the returns open for inspection and keeping them in the vaults would hardly reach the purpose which, I take it, the Senator seeks, and that is that everybody's neighbor may be informed exactly how much each individual earns, how much he claims as exemptions, and so on, and therefore how much he should pay. That is the purpose of the Senator's amendment.

Mr. McKELLAR. I am going to vote as I voted on the last tax bill. I have read the additional amendment.

Mr. CARAWAY. I am trying to find out what the Senator wants to do.

Mr. McKELLAR. I am going to offer that amendment and vote for it if the amendment of the Senator from Nebraska shall be defeated.

Mr. CARAWAY. I want to find out just exactly what it is the Senator from Tennessee wishes to do.

Mr. McKELLAR. I am sure the Senator does, but I do not know whether he can find out what I want to do if he is going to take up most of my time.

Mr. CARAWAY. I have listened for quite a while without obtaining the information.

Mr. McKELLAR. If the Senator will be good enough to listen for only a moment or two more, I think that he will find out exactly what I want to do. I am going to tell him in perfectly plain English. I want to see the Norris amendment adopted. The Senator from Arkansas and I both voted for it the last time it was offered; I expect to vote for it this time, and I sincerely hope the Senator from Arkansas will repeat his vote and vote for it this time. That is what I propose to do, and that is the amendment I am speaking in favor of now.

Mr. President, I want to call attention to some of the things that are being done under the present system of secrecy. I do not believe that our Government ought to be conducted on principles of secrecy. It is contrary to American institutions, and it is only resorted to in very few cases. I do not know whether ordinarily it ought to be resorted to at all. I voted against secret sessions of the Senate, and I doubt that they are ordinarily wise. But what is being done under the present system of secrecy? I, for one, admit that the present law does not provide as much publicity as it should. First, I am going to take up the question of how the tax money of the people is being refunded to certain individuals and corporations. I call attention in this regard to an article by the Associated Press of a few days ago. It is taken from the report of the committee of which the Senator from Michigan [Mr. COUZENS] was chairman. It says:

> More than $100,000,000 of deductions for war amortization "not based on the solicitor's rulings" have been allowed by the Internal Revenue Bureau, the Senate was informed to-day in the majority report of the special Senate committee investigating the bureau.

Now listen to this:

> The largest such deduction set forth in the committee's report was $27,926,412 for the United States Steel Corporation.

Was that deduction made publicly?

Mr. SMITH. Was that a deduction?

Mr. McKELLAR. It was a deduction. Was it made publicly? No. Was it done in such a way that the public might have knowledge of it? No. It was a deduction made by some employees of the Internal Revenue Office over the advice of the solicitor of that department, in secrecy, and to the great detriment and loss of the Government. Who can find out about it? Can the Senate find out about it? No. It takes an investigating committee to find out about it.

Mr. President, can it be possible that we, who are the trustees of the American people, the trustees of our Government, are going to permit as much as $27,000,000 virtually to be taken out of the Treasury—for it is exactly the same as if it were taken out of the Treasury—in secret, under rules and regulations that are secret, over the advice of the lawyer of the department and not provide any method of changing that situation? I can not believe that we will do so.

Mr. HARRIS. Mr. President——

Mr. McKELLAR. I yield to the Senator from Georgia.

Mr. HARRIS. I wish to ask the Senator if he knows of any State or municipality or county which has universally provided publicity for tax returns which has changed its methods and now prohibits such returns from being published?

Furthermore, I should like to say, if the Senator will permit me, that if the publicity of tax returns has not done anything else, at least it has shown that there are thousands and hundreds of thousands of returns of about a dollar, a dollar and a half or $2, which returns are costing the Government $6 apiece to audit.

Mr. McKELLAR. All of that is true. I wish to say to the Senator that, so far as I know, not one of the 48 States keeps any part of its tax returns secret; not one of the thousands of cities in this country keeps its tax returns secret; no city would dare to do so; and not one of the innumerable counties in the United States, 2,500 of them in all, keeps its tax returns secret; and the Government of the United States does not keep any of its returns secret except those relating to the income tax.

That is a remarkable situation. Why is that done? Who is benefiting by it? Let me continue to read the list. How easy it is for people of influence and power to send able lawyers and able accountants to the department, take up questions with the subordinates of the department, and secure deductions amounting to such enormous sums as $27,000,000 to one taxpayer.

It may be right, and, if it is right, the taxpayer ought to have a chance to have the deduction made. The courts ought to be open to him, but he ought to be required to come out in the open under a law that lays open to the inspection of every man all the facts in the case. He ought to have his day in court; he ought to be able to present his witnesses, and the revenue department of the Government should not be represented by a silent solicitor, who evidently agrees that his rulings may be disregarded, and should not allow the enormous sums represented by the figures set forth in the list which I have in my hand taken out of the Government's coffers simply over his silent disapproval. We would have known nothing about it if it had not been for the splendid investigation which has been conducted into the affairs of the bureau by the committee which had the investigation in charge. I will continue to read from the list.

The first deduction, as Senators will remember, was to the United States Steel Corporation in the sum of $27,926,412.

> The others listed included American Locomotive Co., Bethlehem, Pa., $1,069,022; American Rolling Mills Co., Middletown, Ohio, $1,470,210; Anaconda Copper Mining Co., New York, $2,744,410; Babcock & Wilcox, New York, boiler manufacturers, $2,049,072; Baldwin Locomotive Works, Philadelphia, $2,990,806; Central Steel Co., Masillon, Ohio, $1,399,219; Colorado Fuel & Iron Co., Denver, Colo., $2,594,109; Crucible Steel Co. of America, $8,912,879; Diamond Alkali Co., Pittsburgh, $1,344,405; Firestone Tire Co., Akron, Ohio, $1,464,983; General Electric Co., Schenectady, N. Y., $1,187,360; International Harvester Co., $2,130,215; Jones & Laughlin Steel Co., Buffalo, $5,752,758; the Koppers Co., Pittsburgh, $2,254,133; Labelle Iron Works, Wheeling, W. Va., $1,010,144; Lukens Steel Co., Coatsville, Pa., $2,418,142; McKinney Steel Co., Cleveland, $1,171,431; Pierce Oil Corporation, New York, $1,348,914; Procter & Gamble, Cincinnati, $3,330,936; Republic Iron & Steel Co., Youngstown, Ohio, $3,167,080; Skinner & Eddy Shipbuilding Corporation, Seattle, $1,415,982; Sperry Flour Co., San Francisco, $1,027,023; Westinghouse Air Brake, Pittsburgh, $1,387,799; and the Texas Co., New York, $2,300,192.

In all, $100,000,000 to these great corporations, probably 25 or 30 in number. Who knows, who can know under our law, whether the abatement of these sums, the allowance of these figures, was right and just toward our Government? Why should we permit it? We are imposing taxes on the people. Why should we permit these enormous sums to be taken virtually out of the Treasury of the United States—because they ought to have been there in the beginning—in the form of depletion, without anybody knowing anything about it except a few clerks and experts down in the Bureau of Internal Revenue?

Can anybody defend it? Is there any Senator here who can defend that secret taking of money from the Government under those circumstances, over the advice of the solicitor of the bureau? Oh, if that solicitor had had the manhood and the courage to stand up for his rights, for the rights of his Government! I respect him for his opinion, for not agreeing to the taking of the Government's money in any such way; but I regret that he did not have the courage to go further, and prohibit its being done, on pain of telling the facts.

Mr. President, all such cases as these, affecting vitally the interests of all the taxpayers of the country, should be carefully scrutinized by a court before the amounts are permitted to be taken.

Depletion! I should like Senators to read the report that has been filed by this committee. Apparently—of course I am not an expert and can not say—but apparently, from the reading of that report, literally millions and hundreds of millions of dollars have been unlawfully withheld from the Treasury of the United States by reason of these secret opinions of officers or subordinate employees of the bureau, who had these settlements made over the advice of the solicitor. Is there any Senator on the floor who can answer the question as to who had these settlements made over the advice of the Solicitor of the Internal Revenue Bureau? If there is, I will cheerfully accord him some of my time in which to answer.

Is it not remarkable, Senators, that these settlements are made in secret? And are we going to permit it to go on? Apparently so, from this bill, unless it is amended. Apparently so, unless we have publicity. That is the only thing that will save the Government and save the American people in regard to this phase of the question.

I now come to the question of refunds. Some little question has been raised as to what these refunds have been in the last few years.

Mr. WATSON. Mr. President, did I understand the Senator to say that all of these cases have been settled over the advice of the solicitor?

Mr. McKELLAR. I will give the Senator the exact words of the proof before his committee.

Mr. WATSON. Yes; I should like to have them.

Mr. McKELLAR. They are settled and not based on the solicitor's views.

Mr. WATSON. Ah! That is an entirely different thing.

Mr. McKELLAR. Oh, no; that is not a different thing.

Mr. WATSON. It is altogether different.

Mr. McKELLAR. The solicitor made his ruling, and these cases were settled without regard to that ruling.

Mr. WATSON. No.

Mr. McKELLAR. That is according to the Senator's report. If he wants to deny his own report, I am perfectly willing for him to do so.

Mr. WATSON. It is not my report. "Shake not thy gory locks at me." I did not make the report.

Mr. McKELLAR. The Senator did not make that report?

Mr. WATSON. I did not.

Mr. McKELLAR. Did the Senator file a minority report?

Mr. WATSON. No.

Mr. McKELLAR. The Senator ought to have filed one if he did not agree to that report.

Mr. WATSON. I am going to.

Mr. McKELLAR. I am glad to hear that the Senator is going to stick by his guns.

Mr. WATSON. There was just one case in which a partial decision was made contrary to and over the decision of the solicitor—just one.

Mr. McKELLAR. But the Senator does not deny that these settlements were not based upon the solicitor's ruling. If the solicitor ruled, and the cases are not settled on that ruling, then manifestly they are settled over his advice, contrary to his advice.

Mr. WATSON. Oh, not at all.

Mr. McKELLAR. I say that I respect that solicitor. I do not know who he is, but he has my respect as far as he went; but if I had been in his place I think I would have had the courage to go a little farther, and say that it could not be done without letting the American people know just what was being done.

I want to ask the Senator a question in that connection. The Senator is asking me a question, and I should like to ask him one. He served on this committee. Who directed these settlements to be made? Who was the moving spirit in directing the making of these settlements? I do not refer to all of them; I just refer to those that I have read, amounting to a hundred million dollars. Who was it, if the solicitor did not do it?—and the solicitor is the lawyer of the bureau. If he did not do it, who did do it?

Mr. WATSON. Mr. President, I will say to the Senator from Tennessee that there are certain formulas that are always used in the Treasury Department in the settlement of cases having reference to depletion or to amortization, and originally to obsolescence. When an engineer or an accountant is sent out to audit a case, he investigates the case with reference to those formulas, which are matters of regulations which conform to the law. There is not one case in a thousand that ever gets up to the solicitor. There is not one case in a thousand that ever gets up to the commissioner, in the very nature of things.

Mr. McKELLAR. That is not the wording of the report of the majority of the Senator's committee. I am not holding him responsible for it, but it is not the wording of the report of the Senator's committee that was filed with the Senate. That report shows that these sums were paid out contrary to the ruling of the solicitor. That report shows that only 15 per cent of all the rulings of the Internal Revenue Bureau have ever been made public; so I think it is perfectly fair to say that these settlements were made on secret rulings, and in our hearts we all know that that is what has happened, those of us who are familiar with the workings of this Government.

Mr. LA FOLLETTE. Mr. President——

The PRESIDING OFFICER (Mr. KING in the chair). Does the Senator from Tennessee yield to the Senator from Wisconsin?

Mr. McKELLAR. I will yield to the Senator in a moment.

Mr. WATSON. Since 1917 there have been 64,000,000 returns filed in the department. Does the Senator think that the commissioner or the solicitor read all those?

Mr. McKELLAR. Oh, no.

Mr. WATSON. Or that any other person did?

Mr. McKELLAR. I think that would be beyond the capacity of any person.

Mr. WATSON. Precisely. They never got to them. They were all adjusted down below in the department.

Mr. McKELLAR. But the committee did read these cases. There was no reason in the world why the committee could not have gotten the information about each one of these cases I have read, involving all the way from slightly over $1,000,000 to over $27,000,000 to one taxpayer. Surely the committee was put on notice that these vast sums were withheld from the Treasury on rulings to which the solicitor had not given his approval; and it seems to me it would have been a very pertinent inquiry. I will say to the Senator that if I were on that committee I would have inquired how it happened that these cases were decided without regard to the solicitor's ruling.

Mr. LA FOLLETTE. Mr. President——

Mr. McKELLAR. I yield to the Senator.

Mr. LA FOLLETTE. I just wanted to call the Senator's attention to page 130 of the committee's report, under the head of "Amortization of war facilities," where this language appears:

> No ruling or instructions for the guidance of either the engineers of the Income Tax Unit or taxpayers were published until after the expiration of the time fixed by law for the redetermination of claims. The only published ruling of the solicitor on this subject prior to October, 1925, has been completely ignored, and there has been a total lack of supervision over the work of the engineers of the Income Tax Unit engaged in passing on amortization claims.

Also, on page 131 there appears a table, and I call the Senator's attention to the fact that item 8 in that table is:

> Amortization not based on solicitor's ruling, $136,116,453.66.

Mr. McKELLAR. Yes; I thank the Senator.

Mr. WATSON. About which there is a dispute, of course. That is one of the very questions where there is a disagreement. There is just one case that I recall, that of the National Aniline Chemical Co., that was decided directly contrary to and over the decision of the solicitor.

Mr. McKELLAR. Perhaps that was the only one that he fought about. I hope he had the courage to fight about one.

Mr. KING. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. WILLIS in the chair). Does the Senator from Tennessee yield to the Senator from Utah?

Mr. McKELLAR. Will the Senator permit me to read just what the report says in reference to these matters? Then, I will yield.

Mr. KING. I wanted to make one observation in that connection.

Mr. McKELLAR. Then, I will yield to the Senator now.

Mr. KING. Mr. President, I am not sure, not having heard all that the Senator stated, what solicitor he referred to. The fact is that on October 5, 1925, Mr. Alex Gregg, who is now the solicitor, and who, under the pending bill, will be given the title of general counsel, rendered a decision with respect to amortization which I think conforms to the law, and which, if its principles had been observed anterior to that time, would have saved the Government of the United States millions of dollars. The fact is that the officials of the department did not follow the law. There were contrary rulings by engineers and subchiefs, if I may be permitted that expression, under which allowances were made which were not fair, and deductions were granted which were not justified by the law, as a result of which millions of dollars have been lost. We find specifically, and I subscribe to that finding, that there are now pending $201,000,000 of amortization claims, part of which are illegal, and a proper scrutiny of which will save to the Government, in my opinion, from $75,000,000 to $100,000,000.

There have been allowances made for discovery depletion in oil wells and in some of the copper mines, and in the sulphur mines of Louisiana, which have, in my opinion, deprived the Government of tens and tens of millions of dollars.

To illustrate my meaning, take one of the sulphur mines in Louisiana. It was known that there was sulphur there, because the investigations had been made by borings away back in the nineties. There was no controversy whatever as to the existence of a large deposit of sulphur. In violation of the law, a claim of $26,000,000 for discovery depletion was allowed. That meant, of course, that in submitting the returns for taxation purposes a depletable discovery credit was allowed of more than $26,000,000, which reduced, pro tanto, year by year, the taxes which should have been paid to the Government, and the Government lost millions and millions of dollars on that one corporation alone. If I had the time I could mention many others.

Mr. McKELLAR. Mr. President, I want to ask one of the Senators a question in my own time. As I understand the Senator, this particular concern came forward and made this claim. Of course, that was done in the open, where everybody knew that that claim was made. There was nothing secret about it, and it was allowed, under the regulations that were public and not secret. Everybody knew exactly what was going on. Is not that true?

Mr. KING. Of course not. The Senator's question, of course, is an ironical one——

Mr. McKELLAR. Of course it is.

Mr. KING. The fact is that this determination was made by individuals in the tax unit. Perhaps this particular case was not brought to the attention of the man in charge of the entire department, and one of the criticisms made in the report, and entirely justified, is that the head of the unit has not been in contact with the operation of the unit. He has left too much to subordinates, and has not known of the misapplication of law, or misinterpretation of it, and the great injustices which have been done to the Government, and some manifest injustices, too, may I say, to the taxpayers. It was not done in the open; it was done in secret.

Mr. McKELLAR. The Senator from Utah was a member of this investigating committee, and he signed the report. The Senator from Indiana has said that he did not sign it, and that he does not agree to it.

Mr. WATSON. No; the Senator is mistaken. He is a little too sweeping in his statement. I said I did not sign it, and a part of it I do not believe in.

Mr. McKELLAR. We have the Senator down exactly right now. The Senator from Utah believes in it all.

Mr. KING. Let me make this statement. When the Senator from New Mexico [Mr. JONES] and myself signed, as well as the distinguished Senator from Michigan [Mr. COUZENS], the chairman of the committee, as to the recommendations made, and some of the conclusions drawn, we expressed neither assent nor dissent, but as to the findings of fact and the general criticisms I agreed.

Mr. McKELLAR. Knowing the great ability of my distinguished friend from Utah and his great energy in investigating when he is on an investigating committee, I want to ask him this: If the deductions I read—and I believe the Senator was in the chair when I read them—amounting to $100,000,000 and more, were not based on the solicitor's ruling, can the Senator tell upon whose ruling they were based? Who ordered those deductions made?

Mr. KING. Those deductions were made by the various metal sections to which the claims were sent.

Mr. McKELLAR. Surely these enormous sums were not deducted from these taxpayers' bills without some one in authority finally passing on them, were they?

Mr. KING. I agree with the Senator from Indiana that the solicitor saw in the main but very few of those claims.

Mr. McKELLAR. This report says that they were not based on the solicitor's rulings. What I am wondering is did the Senator, while a member of the committee, find out on whose rulings or upon whose directions these deductions of these enormous sums were made? Who was responsible for it? Will the Senator say that some clerks in the department were responsible or that an engineer who was sent out to investigate was responsible? Surely the opinions of the clerks and engineers had to be upheld by some responsible chief in the department. If the solicitor did not do it, who did it?

Mr. KING. May I give another illustration?

Mr. McKELLAR. I will be very glad to have the Senator give us any information on that subject.

Mr. KING. Two engineers would be allocated to two different taxpayers to examine the physical properties upon which they claimed depletion or obsolescence or depreciation or amortization. Unfortunately there were no settled rules published for the guidance of those engineers. Engineer A would place a physical valuation of so much upon a given property, and would place a depletion value of so much. Engineer B, upon a property of substantially the same character—of course, two properties can not be identical—would place a different valuation. Perhaps those two engineers would not consult, and there was no coordinating machinery in the organization by which the report would be brought to one head who would be chargeable with the responsibility of harmonizing conflicting valuations and establishing a just rule of determination, as the result of which those auditations, passing on in the ordinary course of business, would finally get to some particular division, and the final auditation would take place, and the taxpayer would be called upon to pay or a refund would be permitted. So that two different policies would be pursued by those two different engineers, and it might result in a disparity of hundreds of thousands of dollars in the amount of taxes due the Government.

Mr. McKELLAR. Surely, if this bureau sent out two engineers, for instance, to examine into the claims of the United States Steel Corporation for depletion, or abatement, when they came in, there was some one in the department to say which engineer was right or whether they were both right, was there not? Or did they just allow the taxpayer the biggest amount? How was that handled?

Mr. KING. As I stated a few moments ago, there was no channel to bring into one reservoir all these conflicting determinations, so that there might be a uniform rule established. Let me give the Senator one more illustration, if I may, to show the enormous disparity which resulted.

Mr. McKELLAR. I would be very glad to have the Senator do so.

Mr. KING. I might not give the exact number, but about 29 copper companies filed returns. To understand it, Senators must remember that there was a statute which permitted discovery depletion; that is to say, if a discovery were made after the 1st of March, 1913, which augmented the value of the property, that was treated as capital, and the discovery value added to the property was attributed to capital investment. For instance, if in 1912 a man had a piece of property, a mining claim or an oil well, for which he paid $1,000 and after the 1st of January, 1913, he discovered a vein or an oil pool, then they permitted him to add to the value of that property what was called depletable discovery value. It might be that it was worth $100,000 or $1,000,000.

Then, when he came to make his return, he would claim credit for discovery depletion, and if the engineer fixed $1,000,000 as discovery depletion, that would be treated as capital, it would be a deductable allowance from his income, and he would get credit for it until the entire amount was exhausted.

Twenty-nine copper companies made returns. One engineer, or a group of engineers, valued those copper companies for discovery depletion value at five hundred and some odd million dollars. The mining companies were entirely satisfied with that. Yet may I say that in the case of one of the companies, when the capital stock was to be divided up in New York and sold through the surrogate's court, and it became necessary to ascertain the value of the property of the corporation, experts put a value upon it perhaps one-half of that which had been already fixed by the United States for discovery depletable purposes.

Later on another engineer, who had been in the employ of some of the copper-mining companies in the United States, and then was in the employ of the Government, made another valuation, and he swelled the value of those properties from $500,000,000 plus to more than $1,200,000,000. That, of course, the Senator will see permitted discovery depletion to the extent of six or seven or eight hundred million dollars, and diminished the taxes which they would pay to the extent of hundreds of millions of dollars.

In the investigation which we conducted that situation was discovered, and the attention of the tax unit was drawn to that fact. It was the subject of investigation before our committee. The tax unit caused another valuation to be made, as I now recall, for 1918 and 1919, the result of which I do not know. While we insisted that there should be a reopening of all those claims for the purpose of disallowing some of those enormous discovery depletable values, our suggestions were disregarded, but as to 1917 they were reopened, the result of which I am not able to state, because it was not brought out in our committee.

So the Senator will see what an enormous field there is for adding to the valuations of property or diminishing the valuation of property, or producing in the department the most incongruous, irreconcilable conclusions and decisions, which may result in imposing upon the taxpayer unjust burdens, and in too many instances robbing the Government. I make bold to say that the Government has been denied hundreds of millions of dollars of taxes through misinterpretations of the law.

Mr. McKELLAR. Mr. President, the responsible head of that Revenue Bureau is Mr. D. H. Blair, a man I esteem very highly.

Is it possible that Mr. Blair permitted all these things to happen, and just approved what the engineers said or what the clerks in his department did, without asking any questions?

Mr. WATSON. Mr. President, does the Senator think Mr. Blair can examine 17,000,000 claims?

Mr. McKELLAR. No; but when it comes to having taken from the Treasury enormous sums like those I have been citing, one of them $27,000,000, surely it is Mr. Blair's duty to look into it before it is consummated.

Mr. SMOOT. Mr. President, this all happened before Mr. Blair's time.

Mr. McKELLAR. Oh, no, no! The Senator is mistaken about that.

Mr. SMOOT. I say that the 1919 cases happened before Mr. Blair's time.

Mr. KING. The assessments——

Mr. SMOOT. The assessments were made before Mr. Blair's time. But that is not what I rose for. If the Senator himself, or any other man, has a copper mine, and has five of the very best engineers in the United States examine the property, there will be five different reports.

Mr. McKELLAR. Yes; but here the engineers are in a department where they have a solicitor, whose duty it is to advise. Why, in the name of fair play, do not those engineers go to their solicitor and take his advice about it?

Why does the department permit these enormous withdrawals from the Treasury of the United States virtually upon the suggestion of the engineers, as to whose opinions the Senator from Utah said no two of them agreed? How did the $27,000,000 go? How did the $2,000,000 go? How did the $8,000,000 go if they do not agree? Somebody agreed. I have asked the Senator from Indiana [Mr. WATSON], who is on the committee, and I have asked the Senator from Utah [Mr. SMOOT], who is on the committee, and neither one has been able to tell me. The Senator from Utah, who knows more about the Government than any other Senator here, I imagine, can surely tell me who was the responsible party that fixed the amount of these enormous deductions. Who was it?

Mr. SMOOT. Perhaps no one party ever passed upon two cases of a similar kind, so we could not tell unless we got the record.

Mr. McKELLAR. Is it possible that the Government is going to have these enormous sums taken out of its coffers upon the theory that one clerk in the department permits it this time and another clerk in another department permits it at another time, and no one responsible for the bureau has anything to do with it?

Mr. SMOOT. No such intimation was made by me.

Mr. McKELLAR. Who is responsible for it?

Mr. SMOOT. For instance, all of the metal cases are referred to the metal section. I do not know how many hundred people they have in that section. All such cases are allocated to the different men in the section. When a case is presented there——

Mr. McKELLAR. And all in secrecy!

Mr. SMOOT. Wait a minute.

Mr. McKELLAR. It is done secretly, is it not?

Mr. SMOOT. I do not think there is anybody from the outside there while the work is being done. It is done within that section, as I understand it.

Mr. McKELLAR. The public officers, the Secretary of the Treasury and the Commissioner of the Bureau of Internal Revenue, know nothing about it. They are the responsible heads, but the work has been put upon engineers of various and sundry kinds, upon clerks in the department, and they alone seem to be responsible for the withdrawals from the Treasury of over $100,000,000. That may be an explanation satisfactory to the Senator from Utah, but it is not an explanation satisfactory to me, and I do not think it is an explanation at all.

Mr. SMOOT. I have not had an opportunity to explain it to the Senator and therefore shall have nothing further to say.

Mr. McKELLAR. I will let the Senator explain it a little later.

Mr. SMOOT. I have had no opportunity to make any explanation at all yet. The Senator does not permit me to say anything.

Mr. HEFLIN. I am informed that the clerk who figured out Mr. Doheny's income tax was taken out of the bureau by Mr. Doheny and taken into his employ.

Mr. McKELLAR. I can not state it as a fact, I can only state what the general understanding is here in the city, but I am told that after it was found that the Treasury Department was allowing these enormous sums for depletion, that they were allowing hundreds of millions of dollars a year in the way of refunds, innumerable men connected with the Revenue Bureau resigned from the department and became lawyers or accountants. It is charged further by the officers of the revenue service that many of them went out over the country saying to various taxpayers who had paid in large sums or for whom they could get depletions under these secret rulings, "Divide up with us and we will get you a lot of money refunded." I have no doubt if this course was pursued by the United States Steel Corporation that it must have been a very profitable transaction for some one.

I am not accusing anybody in the department or out of it of any wrongdoing. I do not know anything about it. But I say the whole damnable policy of secrecy in the conduct of the affairs of the Government is wrong and ought to be stopped. It should be stopped while we have the tax bill under consideration. I am in favor of passing the bill as soon as possible, but we should abolish any policy that permits such withdrawals from the public coffers, vast fortunes of $27,000,000, $8,000,000 at another time and $2,000,000 or $3,000,000 or $4,000,000 at other times, more money than the people of many States ever saw in all their lives, paid out on the signature of a clerk or an engineer sent out to examine a subject. It is not the right thing to do.

Are we acting as trustees when we permit that to be done, Senators? Let us free our minds of all prejudice about the matter. Let us do right toward the other taxpayers. Are we right in permitting that sort of thing to take place in the Government? I hope Senators will read the splendid report made by the investigating committee known as the Couzens committee.

Mr. SHORTRIDGE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Tennessee yield to the Senator from California?

Mr. McKELLAR. I will yield in a moment. Some Senators say that the report is not a unanimous report. I believe three Senators have signed it. My distinguished and splendid friend, whom I love very dearly, the Senator from Indiana [Mr. WATSON], has said that he approved a part of it, and that he did not approve a part of it, but surely, it comes to us in a way that we ought to consider. I say to Senators that they can not vote for secrecy in the management of the affairs of the Government in the Internal Revenue Bureau if they will read the facts set forth in this report.

I now yield to the Senator from California.

Mr. SHORTRIDGE. I rose merely to observe that Senators who signed the majority report have admitted that there are mistakes of law as well as mistakes of fact in that report.

Mr. KING. Mr. President, I suppose the Senator refers to me?

Mr. SHORTRIDGE. Oh, no.

Mr. KING. I have not made that admission and I am sure the Senator from New Mexico [Mr. JONES] has not made the admission.

Mr. SHORTRIDGE. I recall very distinctly that it was admitted that there were mistakes of law and mistakes of fact, as stated in the report, and that there was an agreement that a supplemental and explanatory report would be filed.

Mr. McKELLAR. Let me answer the Senator's statement. I want to say, in reply to what the Senator from California said——

Mr. SHORTRIDGE. Quite apart from the merits of the matter——

Mr. McKELLAR. I am dealing with the merits of the matter this particular afternoon.

Mr. SHORTRIDGE. I have been stating the facts.

Mr. McKELLAR. I want to say that the report indicates, and from the expressions of Senators who have filed the report, I am led to believe, that the half has not been told. Under the circumstances why is it that we do not have the information as to all these claims? If I were Secretary of the Treasury, or if I were the Commissioner of Internal Revenue, and the statement was made publicly to the world, as was done by the Associated Press the other day, that $100,000,000 had been deducted from the taxpayers' returns in secret by some of my subordinates, as the Couzens committee report certainly suggests, against the advice of the Solicitor of the Internal Revenue Bureau, I would seek an opportunity to show the justice of every one of those claims, and at the earliest possible moment. The officers of the bureau owe it to themselves and to the country and to the Government they serve to show what the facts are.

Listen to the report for just a moment. Speaking of depletions, the report says:

> No statistics of the amount of discovered depletion as deducted from the taxable incomes have been filed by the Bureau of Internal Revenue.

Does any Senator wonder that there are no statistics? Their regulations are secret, the claims are secret, the allowances are secret, their decisions, and the amounts allowed are secret, the very names of those who get the claims allowed are secret, or were secret until the select committee of the Senate investigated the bureau. Who can wonder that there have been no statistics filed? Would any officer of that department like to compile statistics showing that some unnamed clerk, some unnamed engineer, or some unnamed chief of division had paid out these enormous sums? I think not.

Now, let us see what else. We are giving carte blanche to the Revenue Bureau to proceed in secrecy to dispose of millions of dollars of the taxpayers' money. Let us see how they do it. I want to read a typical case that is covered in the report. It will interest Senators. This is the way they do business in the Internal Revenue Bureau.

> Union Natural Gas Co. of Pittsburgh, Pa.

Here is the way they dealt with that company. I read from page 96 of the so-called Couzens report:

> A review of the files in this case shows that there is still pending an additional tax of approximately $200,000 for the year 1917. There have been apparent delays on the part of the taxpayer and the department has not been able to close this case for any year.
>
> The following chronology best illustrates the conditions prevailing in this case.

And this is a typical case, as I have said.

> May 29, 1918: Schedules filed answering questions in the 1917 tax returns.
>
> March 19, 1919: Taxpayer requested to file valuation data.
>
> April 3, 1919: Second request asking for valuation data.
>
> April 4, 1919: Taxpayer desires to comply with request for valuation data and asks extension of time and conference.

A conference! A conference! Over $100,000,000 depleted, and they can have conferences because we are not taking into consideration little claims like $200,000.

Mr. FLETCHER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Tennessee yield to the Senator from Florida?

Mr. McKELLAR. I yield.

Mr. FLETCHER. If that sort of practice has prevailed, all that the big taxpayer has to do is ask for time.

Mr. McKELLAR. Listen to this: If there was ever a crying shame in any department of the Government it is to be found in the Internal Revenue Bureau of the Government at this time, as shown by the Couzens report:

> April 8, 1919: Conference granted for April 16.
>
> April 16, 1919: No conference memorandum.

That taxpayer evidently knew what he was doing.

> January 26, 1920—

They waited nearly a year—

> taxpayer asks for ruling regarding drilling expenses.

That taxpayer ought to be commended for asking a ruling with reference to drilling expenses after two years of waiting.

> April 19, 1920: Taxpayer asked to file affiliated questionnaire.

I stop here long enough to inquire what outrageous thing the Government was trying to do to the taxpayer three years after the tax was imposed. Two years after the proceeding was started the taxpayer files a questionnaire with the Government.

> May 26, 1920: Second request for affiliated corporation questionnaire.

Affiliated corporation questionnaire! That brings us to another provision of the bill—"affiliated corporation questionnaire." Two or three or four corporations all owned by the same people are making affiliated returns.

It ought not to be allowed.

> July 21, 1920: Third request for affiliated corporation questionnaire given to August 16 to reply.
>
> December 4, 1920: Taxpayer refers to letter of January 26, 1920, asking for ruling on method of handling labor and drilling costs for gas wells.

We have often heard that in a criminal case if the defendant obtains a year's delay it means that he will not be convicted, but in this instance three years have elapsed and the case has not yet been concluded.

Mr. WATSON. Mr. President——

The PRESIDING OFFICER. Does the Senator from Tennessee yield to the Senator from Indiana?

Mr. McKELLAR. I yield.

Mr. WATSON. I have no desire, of course, to thrust anything of a partisan nature into this discussion, but I call the attention of my friend from Tennessee to the fact that all that occurred before Mr. Blair became Commissioner of Internal Revenue.

Mr. McKELLAR. I do not care in whose administration it occurred; it is wrong and ought not to have been permitted. We ought not to permit it now. I am reading the record as it is. I am not indulging in any partisan politics about it.

Mr. WATSON. I wish merely to say that it is very refreshing to have my friend condemn the practice under the previous administration.

Mr. McKELLAR. If the Senator from Indiana can get any satisfaction out of it, he is welcome to all he can get.

Mr. WATSON. I have gotten a great deal of satisfaction out of it.

Mr. McKELLAR. Does the Senator from Indiana defend this kind of proceeding?

Mr. WATSON. I explain it.

Mr. McKELLAR. Very well; we will just let it go at that. The Senator explains it, just as the subordinates in the department are attempting to explain it. I continue reading from this document:

> December 9, 1920: Affiliated corporation questionnaire received by department.
>
> January 4, 1921: Taxpayer reminds department in answer received in reply to letters of January 26, 1920, and December 4, 1920.
>
> January 13, 1921: Coal valuation section asks for data to substantiate coal-land values.
>
> January 22, 1921: Taxpayer asked to file consolidated income and profits tax return for 1919.
>
> February 4, 1921: Coal valuation reports mailed by taxpayer.
>
> February 12, 1921: Taxpayer advised regarding drilling costs per request of December 4, 1920.
>
> August, 1921: Form O oil and gas valuation data for 1917, 1918, and 1919 received.
>
> October 10, 1921—

We are now down to a Republican administration—

> Taxpayer asks for conference. Conference arranged for October 18.
>
> December 13, 1921: Taxpayer preparing amended returns for 1917 to 1920 asks status of case.

I am now reading from page 97 of the Couzens report. The taxpayer had forgotten what the case was about. It was merely a paltry claim for $200,000, and he had forgotten what

it was about and desired to know, so he writes to the tax department inquiring what it was about.

December 27, 1921: Valuation oil and gas properties in progress by oil and gas section.

January 3, 1922: Taxpayer asks for extension of time for filing amended returns.

January 10, 1922: Extension granted to February 15, 1922.

The Senator from Indiana [Mr. WATSON] has left the Chamber, I believe, but I desire to say that it was a Republican administration in which this occurred—

February 18, 1922: Taxpayer asks for 90 days' extension to file amended returns.

February 28, 1922: No extension granted.

March 1, 1922: Taxpayer asks further extension.

March 18, 1922: No extension granted.

That is twice when a request for an extension was not granted.

On November 7, 1922—

After paying no attention to it for nearly a year—

November 7, 1922: Letter to taxpayer explaining valuation methods.

Twice an extension was asked for and twice it was refused, and yet afterwards the department writes to the taxpayer and again explains valuation methods.

January 29, 1923: Revenue agent's report filed showing additional tax for 1917, $232,440.70.

February 1, 1923: Conference oil and gas section.

April 30, 1923: Taxpayer asks for conference.

May 2, 1923: Conference granted May 10.

May 11, 1923: Conference oil and gas section, discoveries disallowed.

January 10, 1924: Assessment letter showing additional tax for 1917, $198,190.75; for 1918, $2,719.30. This letter shows that taxpayer paid for 1917, $446,676.13, and for 1918, $289,400.58. The consolidated net income for 1917 was $3,330,798.48, while the aggregate net income for 1917 was $4,553,827.21. The consolidated invested capital for 1917 was $13,448,957.62.

February 8, 1924: Protest filed regarding A–2 letter January 10, 1924.

May 2, 1924: Taxpayer asks for conference May 13, 1924.

May 13, 1924: No conference memorandum.

July 22, 1924: Conference held in oil and gas section.

August 21, 1924: Conference held in consolidated audit section with request that another conference be held September 12.

September 12, 1924: Conference, consolidated audit section; certain balance-sheets requested.

September 23, 1924: Balance sheets received by department.

October 21, 1924: Conference, consolidated audit section.

December 1, 1924: A 300-page revenue agent's report received covering the years 1918 to 1921, inclusive, showing additional tax due of $29,865.01.

March 14, 1925: Department refers to taxpayer's appeal and asks for additional information.

April 2, 1925: Taxpayer granted extension to April 24, 1925, to file additional information.

So during seven years there was nothing but conferences and delays. No taxes were assessed, no taxes were collected, and so far as this record shows there never has been the collection of any tax. Senators, that is one of the results of secrecy in the Internal Revenue Department of the Government.

Mr. President, I next come—and I am going to deal with it very briefly—to the question of refunds of taxes. I will get through with it just as soon as possible. Some discussion has taken place in regard to refunds and their amount. I have gone to the Appropriations Committee and secured the exact figures, by years, from the record. They are shown in the following table:

Refund of taxes erroneously collected

1917	$887,127.94
1918	2,088,565.46
1919	8,654,171.21
1920	14,127,098.00
1921	28,656,357.95
1922	48,134,127.83
1923	123,992,820.34
1924	137,006,225.65
1925	151,885,415.60
1926 (refunds to Dec. 31, 1925)	59,422,518.18
Total	574,854,428.76

In addition to the figures set out in the table, there is now a deficiency appropriation before the Appropriations Committee of the House, which will be over here in a very short time, of $150,000,000 more for the purpose of refunding taxes. A portion of that amount will be to cover refunds that are now in the process of being settled for the present year, but much of it is to cover refunds for prior years.

It will be seen, therefore, that $724,000,000 in all have been or are about to be provided for refunds. Most of that amount has been refunded during the last five years. Only about $20,000,000 were refunded prior to that period, so that nearly all of it has been refunded during the last two administrations.

Mr. SMOOT. Of course, the cases were then pending, and the bureau is trying now to bring them up to date.

Mr. McKELLAR. Of course. I am just giving the Senate the facts as to the refunds which have been allowed by the department during the last two administrations in the enormous figures I have given. If the appropriations for this purpose continue to increase as they have in the past, from $28,656,357 in 1921 to $151,885,415 in 1925 and $209,000,000 for 1925 and 1926, there is no telling where they will go in the future.

However, I wish to call the attention of the Senate to the testimony of Mr. Nash, who is asking for the $149,250,000 with which to pay refunds. There is some very valuable information in the testimony of Mr. Nash which ought to be brought to the attention of every Senator, and, Mr. President, I ask unanimous consent at this point to have printed in the RECORD at the conclusion of my remarks the testimony of Mr. Nash, giving the figures, and appearing on pages 515 to 529 of the House hearings on the first deficiency appropriation bill of 1926, which have just been published.

The PRESIDING OFFICER. Without objection, it is so ordered.

[The testimony of Mr. Nash is printed as Exhibit A at the end of Mr. McKELLAR'S remarks.]

Mr. McKELLAR. Mr. President, there is given in Mr. Nash's testimony a statement as to the tremendous number of tax claims still pending for the various years. It seems that by omission or by putting something into the tax law of 1924 which, perhaps, ought not to have been there, virtually there was opened a way for claims for refunds to be made for all the years from 1917 down to date.

There have been many, many thousands of claims for refunds made since 1920, and since we passed the act of 1924, for refunds of taxes accruing in 1917, 1918, 1919, 1920, 1921, 1922, 1923, 1924, and 1925, without regard to the so-called statute of limitations, it being the interpretation of the department that the taxpayers have a right to file these claims. The result is that those who are on the inside, and who know about these matters, are filing claims almost daily before the department. It is said that the number is decreasing. It is decreasing only because we are lessening the number of taxpayers, and not because claims are not being filed increasingly on every possible ground before the department for all of these years.

It was under these circumstances that I offered several methods of correcting that situation; and at this point I am going to take the liberty of reading a very short amendment that I have offered, and that will be on the desks of Senators in the morning, to see if we can not get some relief from going back through all these years. It is not fair to the Government and it is not fair to the taxpayers.

Right here I want to say that under the present situation a taxpayer living in California or in Tennessee or in New England or in Montana or in Utah, as the case may be, when he has a claim against the Government, has to employ a lawyer and come all the way to Washington to prosecute that claim; or if some ex-employee of the department tells him about a claim, he has to employ that man or some other man and come all the way to Washington; and when he gets to Washington, what is his situation? He has to go up before the Internal Revenue Bureau in secret. His claim is determined secretly. It is based on secret decisions. It is based on decisions, perhaps, that the department itself does not know at the time.

Is that the way for an American citizen to get redress? What do we have courts for? It is a rule in this country that a man ought to be able to go into the courts of his own community and obtain redress against the Government or anyone else. It ought to be done in these cases. No taxpayer in this country, away off from the seat of government, ought to be required to go to the expense or the trouble of coming perhaps many thousands of miles, all the way to Washington, to try his case before a court in secret, before subordinates of a department for whom apparently the heads of the department are not responsible, where there are no decisions that are open to him. Not one in a hundred has a chance under those circumstances; and therefore I am going to offer an amendment on page 264 of the bill which reads as follows:

DISTRICT COURTS

Exclusive jurisdiction is hereby conferred upon the district courts of the United States to hear and determine, according to the rules of equity as in other cases, where the sum involved exceeds $10,000; first, all claims of taxpayers hereafter arising for refunds; second, all claims of taxpayers hereafter arising for depletions and abatements; third, all claims for additional taxes claimed by the Government against any taxpayer, whatever the nature of the claim, when the amount is in excess of $10,000.

No action shall be maintained under this section unless brought within the statute of limitations two years from the date of payment of the tax, or, if brought by the Government, two years from the date the tax became due: *Provided*, That in all cases of constructive fraud the action may be brought at any time within six years. Service of process upon the district attorney of the district upon which the taxpayer resides or his assistant, shall be binding upon the United States, and the district attorney shall defend all tax suits brought under this paragraph. All suits brought on behalf of the Government under this paragraph shall be brought by the district attorney of the district in which the taxpayer resides. The records of the Internal Revenue bureau respecting such claims of taxes shall be sent to the district attorney in the event of a suit brought under this section, and shall be available to the inspection of the taxpayer or his attorney. Appeals from the decision of the district judge are to be granted in accordance with the rules of practice in other equity cases arising in such courts.

Mr. President, the purpose of this amendment is to give both the Government and the taxpayer a fair deal in the first place.

Mr. DILL. Mr. President——

The PRESIDING OFFICER. Does the Senator from Tennessee yield to the Senator from Washington?

Mr. McKELLAR. I yield to the Senator.

Mr. DILL. If that amendment should be adopted, how does the Senator think the returns of these taxpayers could be kept secret?

Mr. McKELLAR. I am assuming that under the facts that have been brought out by this investigation, and under the vote that was taken on May 2, 1924, on the identical amendment that is now pending, surely this body is not going to reverse itself and vote against publicity and in favor of secrecy. I can not believe that the Senate of the United States will be so volatile in its opinions as to change like the wind and refuse to have publicity, because certain gentlemen in this country whom we all know demand that there shall be no publicity. Surely the Senator from Washington is not going to vote against publicity?

Mr. DILL. Oh, no; I am not going to vote against it.

Mr. McKELLAR. I am glad to know that the Senator is with us.

Mr. DILL. I introduced in the House of Representatives the amendment providing for publicity at a time when we did not have enough support for it to get a roll call.

Mr. McKELLAR. We can get a roll call this time, and I think if all the Senators who are favorable to the amendment are present in the Chamber when it is voted upon it will be adopted; and we ought to see to it that it is kept in the bill in conference, and no conference report ought to be agreed to unless publicity is contained in it.

Mr. DILL. I could not refrain from asking the question, because that method of procedure brings before us the very fact that all ordinary things of this kind are done in the open, while this is done in secret.

Mr. McKELLAR. I do not believe the Senator was in the Chamber a while ago when I discussed that question. The Income Tax Unit is the only tax gatherer in this country that is known to anybody where entire publicity does not prevail; and we have seen illustrations of what secrecy will do. What objection can any Senator have to voting for an amendment which provides that the taxpayer, if he has a just claim against the Government, can go into the court in his own locality and recover on that claim if he is entitled to recover, or have it dismissed if he is not entitled to recover? What Senator can vote against a provision that is fair to the Government, that if the Government, after collecting its taxes, finds that there is an additional amount due it can go into its own courts and recover from the taxpayer that amount? It seems to me that this amendment ought to have the approval of every Senator who wants to be exactly fair to the Government and to the taxpayer.

There is another provision in the amendment, and that is the two-year limitation; and I desire to call the attention of the Senator from Utah to the fact that it does not apply to these old claims. These secret engineers and secret heads of divisions may conduct their present parleys in secret, if they desire to do so, on all these old claims. The taxpayers who have been filing these claims can still come here, and under the old law I do not interfere with them; but surely, in the case of claims arising from now on, two years is ample time for the taxpayer to find out whether he has made a mistake, or for the Government to find out whether it has made a mistake. It is fair alike to the Government and the taxpayer. The two-year limitation is ample.

I offered an amendment on that subject the other day, and I want to say that my mail has been full of letters of commendation of the position taken in that amendment. Senators, no taxpayer ought to be required year after year to be liable to have his tax matters gone over for four years or five years or six years or even eight years, as under the present system. We ought to change it. It may be that the department is only carrying out our views. I am not making any charges against individuals. I say that the system is wrong, and the Congress is wrong in allowing such a system of secrecy. It is contrary to republican institutions; it is contrary to right; it is contrary to the best interests of this country; it is contrary to the interests of the taxpayer. It is a shame and a wrong upon the great Government of the United States, to which we all owe allegiance, and of which we are all so fond.

Mr. President, I ask unanimous consent to place in the RECORD the part of the report of the committee headed, "Publicity of principles and practices," beginning on page 7 and going down to "Causes of delay in disposal of cases" on page 8.

The PRESIDING OFFICER. In the absence of objection, that order will be made.

The matter referred to is as follows:

PUBLICITY OF PRINCIPLES AND PRACTICES

Many of the principles, practices, methods, and formulas applied in the determination of tax have never been reduced to writing, and only 15½ per cent of the formal written rulings applicable to income taxes have been published.

This failure to promulgate and publish the principles and practices to be followed in the determination of tax liability has had the following results:

1. Information for the guidance of the employees of the Income Tax Unit is so incomplete that gross discrimination results from the failure to apply uniform principles to similar cases.

2. Taxpayers in many instances have failed to claim allowances granted others similarly situated.

3. To secure the benefit of unpublished precedents taxpayers are forced to employ former employees of the Income Tax Unit to advise and represent them in tax cases.

4. Their exclusive possession of information as to the unpublished precedents and practices of the Income Tax Unit has placed an artificial premium upon the value of the services of ex-employees which enables them to demand and receive immense fees for information which should be freely available to everybody.

5. This artificial premium thus placed upon the exclusive information possessed by the employees of the Income Tax Unit and the opportunity thus afforded for highly lucrative outside employment is the cause of the extraordinary turnover among the employees of the unit and of the difficulty experienced by the unit in retaining the services of competent employees at salaries within the range of the salaries paid by the Government for comparable service.

6. The failure to consider closed cases as precedents and to publish the principles and practices followed in closed cases as precedents has deterred the formation of a body of settled law and practice. The unsettled state of the law and practice has encouraged the filing of claims for allowances and require the constant rediscussion and reconsideration of questions which should be settled by precedents established by closed cases.

7. The fact that a ruling will be published and the benefit of its principles claimed by taxpayers similarly situated is the strongest possible deterrent against making unsound rulings.

8. During the course of the hearings there has been a great deal of evidence tending to show that it is the policy of the bureau to fix taxes by bargain rather than by principle. Rulings based upon bargains can not be published as precedents. The best and most persistent trader gets the lowest tax and gross discrimination is the inevitable result of such a policy.

PUBLICITY OF RECORDS

The unsatisfactory conditions developed by this investigation are the inevitable result of the delegation of almost unlimited discretion to be secretly exercised. It is believed that but few of the unsound settlements to which attention has been called would have been made if it were not for the belief that they would never become public.

While the objections to throwing the records of the Income Tax Unit open to the public are recognized, the necessity for the opportunity for some outside scrutiny is imperative.

Congress in imposing a system of taxation the administration of which necessarily involves the exercise of so much discretion assumes some duty to the public to see that such discretion is not abused.

Mr. McKELLAR. I next ask to have printed in the RECORD the list of refunds, credits, and abatements in excess of $1,000,000 each, which total $85,929,697.99, as shown on page 195 of the report of the committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

The matter referred to is as follows:

List of refunds, credits, and abatements in excess of $1,000,000 each

A. E. Clegg, New York City	$1,828,438.95
H. F. Kerr, New York City	1,818,813.52
John N. Willys, New York City	1,211,035.02
New England Cotton Yarn Co., Boston, Mass	1,029,052.76
Bartlett-Hayward Corporation, Baltimore, Md	2,641,019.39
American Brass Co., Waterbury, Conn	1,372,152.38
Amoskeag Manufacturing Co., Boston, Mass	2,247,588.98
International Harvester Co., Chicago, Ill	2,293,040.37
P. Lorillard & Co., New York City	1,562,137.92
The Mackey Cos., New York City	4,985,357.22
Arlington Mills, Lawrence, Mass	2,505,694.04
National Aniline & Chemical Co., New York, N. Y	3,035,771.55
Armour & Co., Chicago, Ill	2,251,395.31
Cudahy Packing Co., Chicago, Ill	2,221,101.13
Libby, McNeil & Libby, Chicago, Ill	2,452,102.22
American Locomotive Co., New York	1,876,250.63
Burrows Adding Machine Co., Detroit, Mich	1,531,746.21
American Shipbuilding Co., Cleveland, Ohio	2,085,732.40
Firestone Tire & Rubber Co., Akron, Ohio	2,960,290.98
Amalgamated Leather Cos., New York	1,858,540.66
Plymouth Cordage Co., Plymouth, Mass	2,468,798.17
William J. Haar, Savannah, Ga	1,681,526.97
Security Trust Co. (estate of Cornelia Curtis), Detroit, Mich	1,363,207.18
Commercial Pacific Cable Co., New York	2,357,492.89
New Jersey Zinc Co., New York	1,440,214.14
Aluminum Co. of America, Pittsburgh, Pa	1,501,277.88
Francis H. Clerque, Montreal, Canada	1,377,188.04
Singer Manufacturing Co., Elizabeth, N. J	1,623,473.92
Commercial Cable Co. of New York, New York	1,537,945.61
Conrad H. Mann (receiver for Steward Farm Mortgage Co.), Kansas City	3,048,546.20
Schoellkopf Aniline & Chemical Works, Buffalo, N. Y	1,829,141.16
International Shell & Ordnance Co., New York	1,819,009.54
International Loading Co., New York	1,943,170.25
R. J. Reynolds Tobacco Co., North Carolina	1,698,265.47
American Car & Foundry Co., New York	5,209,204.74
Youngstown Sheet & Tube Co., Ohio	3,482,610.51
Pittsburgh Steel Products Co., Pittsburgh, Pa	1,830,227.55
Standard Steel Car Co., Pittsburgh, Pa	1,955,050.95
Gulf Oil Corporation, Pittsburgh, Pa	3,996,080.18
Total	85,929,697.99

Mr. McKELLAR. I also ask that the part of the report headed "Publicity of records," as shown on pages 238 and 239, be printed as a part of my remarks.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The matter referred to is as follows:

PUBLICITY OF RECORDS

The unsatisfactory conditions developed by this investigation are the inevitable result of the delegation of almost unlimited discretion to be secretly exercised. It is believed that but few of the unsound settlements, to which attention has been called, would have been made if it were not for the belief that they would never become public.

While the objections to throwing the records of the Income Tax Unit open to the public are recognized, the necessity for the opportunity for some outside scrutiny is imperative.

Congress, in imposing a system of taxation the administration of which necessarily involves the exercise of so much discretion, assumes some duty to the public to see that such discretion is not abused.

It is suggested that the law should provide that any Member of Congress or Senator shall have the right to examine any return or record at any time and take a copy thereof.

To insure the full publicity of the rulings, practices, methods, and formulas in use in the determination of tax, it is suggested that the law provide that no settlement of any tax be considered final unless the principles applied in determining such tax shall have been published within 30 days after such determination.

EXHIBIT A

TREASURY DEPARTMENT,
BUREAU OF INTERNAL REVENUE,
Tuesday, January 19, 1926.

STATEMENT OF CHARLES R. NASH, ASSISTANT COMMISSIONER OF INTERNAL REVENUE

REFUNDING TAXES ILLEGALLY COLLECTED

The CHAIRMAN. Mr. Nash, we have a very formidable-looking document here requesting an appropriation of $149,250,000 for refunding taxes illegally collected under the provisions of sections 3220 and 3689 of the Revised Statutes, etc. We would like to have you make a very comprehensive statement as to what the situation is in respect to the audit of the schedules and the number of schedules still unaudited for the different years. If you will give us what we want, we will let you proceed to make your statement without any interruption, except in cases where we do not understand your meaning for the time being.

Mr. NASH. We are asking for $149,250,000 for refunding taxes illegally collected under the provisions of sections 3220 and 3689, Revised Statutes, as amended by the acts of February 24, 1919, November 23, 1921, and June 2, 1924, including the payment of claims for the fiscal year 1927 and prior years, to remain available until June 30, 1927. This estimate is made up from the figures presented by the various divisions of the Internal Revenue Bureau and was prepared as of November 1, 1925. The estimate is divided into two parts, one for the amount that will be necessary to carry us until June 30, 1926, and the second part for the amount that will be necessary to carry us from July 1, 1926, to December 31, 1926.

INCOME AND PROFITS TAXES

For income and profits taxes there was on hand on November 1, 1925, awaiting payment claims aggregating $3,235,024; the estimate for the period from November 1, 1925, to June 30, 1926, was $88,400,000, and the estimate for the period from July 1, 1926, to December 31, 1926, is $54,300,000, making a total of $145,935,024 for income and profits taxes.

ESTATE TAXES

For estate taxes the estimate is $4,500,000 for the period from November 1, 1925, to June 30, 1926, and $4,000,000 for the period from July 1, 1926, to December 31, 1926, making a total of $8,500,000.

CAPITAL-STOCK TAXES

For capital-stock tax the estimate for the period from November 1, 1925, to June 30, 1926, is $896,000, and for the period from July 1, 1926, to December 31, 1926, the estimate is $672,000, making a total of $1,568,000.

SALES TAX

For the sales tax the estimate from November 1, 1925, to June 30, 1926, is $2,760,000, and for the period from July 1, 1926, to December 31, 1926, the estimate is $840,000, making a total of $3,600,000.

TOBACCO TAX

For the tobacco tax the estimate for the period from November 1, 1925, to June 30, 1926, is $3,500, and for the period from July 1, 1926, to December 31, 1926, the estimate is $2,000, making a total of $5,500.

MISCELLANEOUS TAXES

For miscellaneous taxes the estimate for the period from November 1, 1925, to June 30, 1926, is $800,000, and the estimate for the period from July 1, 1926, to December 31, 1926, is $1,000,000, making a total of $1,800,000.

PROHIBITION AND NARCOTIC TAXES

For the prohibition and narcotic taxes the estimate for the period from November 1, 1925, to June 30, 1926, is $55,000, and the estimate for the period from July 1, 1926, to December 31, 1926, is $38,000, making a total of $93,000.

TOTAL OF CLAIMS ALLOWED AND ESTIMATED

The grand total of refund claims allowed and awaiting payment on November 1, 1925, is $3,235,024; the grand total estimated for the period from November 1, 1925, to June 30, 1926, is $97,414,500; the grand total estimated for the period from July 1, 1926, to December 31, 1926, is $60,852,000, and the grand total for the entire period from November 1, 1925, to December 31, 1926, is $161,501,524.

UNOBLIGATED BALANCES

On November 1, 1925, the unobligated balances existing on appropriations which have been available for the payment of refund claims during the present fiscal year were as follows:

Refunding taxes illegally collected, 1924 and prior years	$1,401,105.20
Refunding taxes illegally collected, 1925 and prior years	58,116.65
Refunding taxes illegally collected, 1926 and prior years	10,787,952.42
Making the total unobligated balances	12,247,174.27

These balances will become exhausted some time during the present month, and the bureau will then be without funds to make any further refunds to taxpayers for internal-revenue taxes which have been illegally or erroneously assessed and collected.

TOTAL AMOUNTS APPROPRIATED TO DATE

The total amounts which have been appropriated to date, applying on the three appropriations listed above, are as follows:

Refunding taxes illegally collected, 1924 and prior years	$133,607,000
Refunding taxes illegally collected, 1925 and prior years	12,000,000
Refunding taxes illegally collected, 1926 and prior years	150,000,000

METHOD OF DETERMINING AMOUNT OF THE ESTIMATE

By deducting the total of the unencumbered balances existing on November 1, 1925, as set forth above ($12,247,174.27) from the total estimated amount which will be required to pay refund claims during the 14-month period beginning November 1, 1925, and ending December 31, 1926, inclusive ($161,501,524), the result will show

$149,254,349.73 as the net amount which it is estimated will be required by this bureau to pay refund claims during the period in question. The amount for which the supplemental estimate is submitted at this time is, therefore, placed at $149,250,000.

The CHAIRMAN. How do you arrive at that amount?

Mr. NASH. We have taken our total estimates from the various divisions for the 14-month period, which aggregated $161,501,524.

The CHAIRMAN. That is the past 14-month period.

Mr. NASH. The ensuing 14 months beginning November 1, 1925, and extending to December 31, 1926, inclusive, and from that total we deducted the unencumbered balances as of November 1, 1925.

The CHAIRMAN. That is for the past 14-month period.

Mr. NASH. That is the 14-month period beginning November 1, 1925. From that estimate we deducted the unencumbered balances on our appropriations as of that date, which totaled $12,247,174.27.

The CHAIRMAN. What I want to find out is how you can tell in advance how much you will require, because those bills are not audited yet, are they?

Mr. NASH. The only way we can tell, Mr. Chairman, is to base it on our past experience. In our audit for the past three years we have averaged about from $10,000,000 to $12,000,000 per month in refunds, and our estimate for the next 14 months is based on what has happened in the past.

The CHAIRMAN. Was it not thought a year or more ago that we were reaching a point where the amount of refunds would become smaller instead of larger?

Mr. NASH. That is true, and I believe that we are still approaching that point.

The CHAIRMAN. But you approach it very carefully.

Mr. NASH. We are approaching it slowly.

The CHAIRMAN. Why do you not get to it?

Mr. NASH. The cases that we are handling now from the war years, of course, are the most difficult and intricate cases that were filed for those years.

NUMBER OF UNAUDITED CLAIMS

The CHAIRMAN. How many unaudited claims or schedules are there?

Mr. NASH. On December 31, 1925, we had pending 2,768 cases for the year 1917; 4,620 for the year 1918; 9,341 for the year 1919; 32,816 for the year 1920; 46,701 for the year 1921; 254,072 for the year 1922; 345,709 for the year 1923; and 500,500 for the year 1924, making a total of 1,196,527.

The CHAIRMAN. How does that compare with the situation at this time last year?

Mr. NASH. It is still possible, under certain conditions, to file claims for all of those years, and whole I am on this statement I would like to complete it.

1917 CASES

This statement was made up as of July 1, 1925, to December 31, 1925, showing just what happened in those six months. On July 1, 1925, we had 4,067 1917 cases; during the six months from July 1 to December 31 we received 3,824 claims affecting that year, which gave us a total of 7,891 cases. In those six months we closed 5,123 cases, leaving a balance of 2,768 cases unadjusted at the end of the period. I want to call attention to the fact that while we had about 4,000 cases on the 1st of July, in the six months' period we received 3,800 new ones. We actually closed out 5,100 and have about 2,700 left.

The CHAIRMAN. How does it happen that they can file claims at this late date for 1917?

Mr. NASH. Under the amendment to section 3228 of the Revised Statutes, and under the provisions of section 281 of the revenue act of 1924, it is possible to file claims for refunds for 1917 or any subsequent year for four years after the final payment of the tax is made. If the final payment in a 1917 case was made this week, under that statute the taxpayer would have the right to file a claim for refund at any time within the next four years. We will never get a 100 per cent current as long as the cases come in. Many people have the impression that we are still working on an accumulation of work which has nothing added to it and that we are disposing of this accumulation very slowly, while, as a matter of fact, there is practically a 100 per cent turnover in six months. The 2,700 cases we have now are not the identical 2,700 that we had six months ago.

The CHAIRMAN. They are some newly filed cases?

Mr. NASH. Yes, sir.

1918 CASES

For 1918, on July 1, 1925, we had 7,871 cases, and during the six months' period from July 1 to December 31, we received 1,863 1918 cases, making a total to be considered of 9,734 cases. We closed during that period 5,114 cases, leaving on hand December 31 4,620 cases.

1919 CASES

For 1919 we had on hand July 1, 1925, 16,128 cases and received from July 1 to December 31 2,975 cases affecting that year, making the total number of cases to be considered 19,103. During that period we closed 9,762 1919 cases, leaving a balance on hand December 31, 1925, of 9,341.

1920 CASES

For 1920 we had on hand July 1, 1925, 103,038 cases; we received 3,835 claims, making a total number to be considered of 106,873. During the six months' period in question we closed 74,057 cases, leaving a balance on hand unadjusted December 31, 1925, of 32,816.

1921 CASES

For 1921 we had on hand July 1, 1925, 251,617 cases; we received 3,029 claims during the six months' period, making a total number to be considered of 254,646. During the six months' period we closed 207,945 cases, leaving a balance on hand unadjusted December 31, 1925, of 46,701.

1922 CASES

For 1922 we had on hand July 1, 1925, 369,134 cases; we received during the six months' period from July 1 to December 31, 3,444 claims, making a total number of cases to be considered 372,578. During that period we closed 118,506 cases, leaving a balance on hand unadjusted on December 31, 1925, of 254,072.

I might say at this point that our efforts during the past year have been to close out the years 1920 and 1921, and we are now working on 1922 and 1923 cases. This 254,000 balance looks large on the statement.

The CHAIRMAN. You will not be able to close them up as long as they have the right to come in with claims.

Mr. NASH. Well, the bulk of the claims are filed for the older years. We find that as we approach the more recent years there are fewer claims being filed affecting such years.

1923 CASES

For 1923 we had on hand July 1, 1925, 377,201 cases; we received 3,193 claims during the six months' period, making a total number of cases to be considered, 380,394. Between July 1 and December 31 we closed 34,685 cases, leaving a balance on hand December 31 of 345,709.

1924 CASES

For 1924—the returns that were filed last March—we had on hand July 1, 1925, 974,717; we have received claims to the number of 2,032, making a total number of cases to be considered of 976,749. During the six months' period we closed 476,249 cases, leaving a balance on hand to be adjusted as of December 31, 1925, of 500,500.

TOTAL NUMBER OF CASES FOR ALL YEARS

Out of the total number of cases on hand for all years, there were on hand on July 1, 1925, 2,103,773. During that period we received 24,195 claims affecting cases that were on file in Washington. That makes a total number of cases to be considered of 2,127,968. The cases closed from July 1, 1925, to December 31, 1925, aggregate 931,441, and the total number of cases on hand pending adjustment December 31, 1925, is 1,196,527.

TOTAL OF CASES PENDING ONE YEAR AGO

The CHAIRMAN. How does that compare with a year ago?

Mr. NASH. On December 31, 1924, we had 5,314 cases for 1917, 11,833 for 1918, 36,158 for 1919, 125,201 for 1920, 219,249 for 1921, 440,456 for 1922, and 520,205 for 1923; a total of 1,358,416.

The CHAIRMAN. That is about 200,000 less now than then?

Mr. NASH. Yes; in the aggregate.

PERCENTAGE OF RETURNS FOR VARIOUS YEARS STILL OPEN

For 1917 there were filed 4,742,693 returns.

The CHAIRMAN. That was the number of taxpayers?

Mr. NASH. Yes, sir.

On December 11, 1925, there were open on 1917, 2,841 returns, or 0.07 per cent.

The CHAIRMAN. Seven one-hundredths of 1 per cent?

Mr. NASH. Yes, sir.

For 1918 there were filed 5,652,958 returns, and on December 11, 1925, there were pending in the bureau 4,977, or 0.09 per cent.

For 1919 there were filed 7,605,539 returns. On December 11, 1925, there were on hand in the bureau 10,256 unadjusted, or 0.13 per cent.

For 1920 there were filed 8,716,072 returns; on December 11, 1925, there were on hand unadjusted in the bureau 33,196, or 0.38 per cent.

For 1921 there were filed 7,575,927 returns; on December 11, 1925, there were on hand unadjusted in the bureau 47,772, or 0.63 per cent.

For 1922 there were filed 7,696,283 returns, and on December 11, 1925, there were on hand unadjusted 272,362, or 3.54 per cent.

For 1923 there were filed 8,818,644 returns, and on December 11, 1925, there were on hand unadjusted 347,292, or 3.94 per cent.

For 1924 there were filed approximately 8,407,276 returns, and there were on hand unadjusted on December 11 last, 499,701, or 5.94 per cent.

The CHAIRMAN. So you are disposing of more schedules than are being filed, to some extent?

Mr. NASH. We are gaining on them, and our present program calls for completing this work—that is, completing it as nearly as it can be completed—by the end of this calendar year.

The CHAIRMAN. That is, completing what you have on hand?

Mr. NASH. Yes, sir.

The CHAIRMAN. In case no new filings are made?

Mr. NASH. Well, the new filings are getting less from month to month.

STATEMENT BY MONTHS OF CLAIMS FILED AFFECTING DIFFERENT YEARS

I have a statement here beginning with June, 1925, showing the number of claims filed affecting each year, and by months.

In June, 1925, there were filed 833 claims affecting 1917; in July, 640; in August, 485; in September, 437; in October, 741; in November, 639; in December, 882; making a total of 4,657 claims affecting 1917 over a period of seven months.

For 1918, there were filed in June, 1925, 1,193 claims; in July, 390; in August, 299; in September, 220; in October, 278; in November, 247; in December, 429; making a total of 3,056.

For 1919, in June there were filed 1,319; in July, 848; in August, 512; in September, 354; in October, 406; in November, 356; in December, 499; making a total of 4,294.

For 1920, in June 854 claims were filed; in July, 662; in August, 515; in September, 563; in October, 657; in November, 663; in December, 775; making a total of 4,689.

For 1921, in June there were filed 544; in July, 478; in August, 886; in September, 480; in October, 525; in November, 517; in December, 643; making a total of 3,573.

For 1922, in June, 637; in July, 485; in August, 517; in September, 451; in October, 552; in November, 584; in December, 855; making a total of 4,081.

For 1923, in June, 1,053; in July, 698; in August, 539; in September, 559; in October, 515; in November, 512; in December, 370; making a total of 4,246.

For 1924 there were filed in June, 365; in July, 501; in August, 387; in September, 246; in October, 369; in November, 294; in December, 235; making a total of 2,397.

We have a total number of claims filed in June—that is, affecting returns on file in Washington—of 6,803; in July, 4,709; in August, 3,648; in September, 3,316; in October, 4,047; in November, 3,820; in December, 4,698; making a grand total of 31,041 claims filed in this seven months' period, or an average monthly total of 4,434, and an average daily total of 175.

The CHAIRMAN. And you say that is getting less?

Mr. NASH. It is. Taking last June, the monthly total was 6,803, and the December total was 4,698, and there were some summer months in which the number of claims filed dropped to less than 4,000, September being 3,316.

The CHAIRMAN. That is during the lawyers' vacation.

Now, your calculation of $149,250,000 that you require is based wholly on the probable number of schedules that you will be able to audit, and the amount involved in the schedules is based on past experience?

Mr. NASH. Yes, sir.

AVERAGE AMOUNT PER CLAIM

The CHAIRMAN. What is the average per schedule for claims? Can you give us the total number of claims paid in the calendar year 1925, Mr. Nash?

Mr. NASH. For the period from July 1, 1925, to December 31, 1925, we have expended $59,422,518.18.

The CHAIRMAN. And that involved how many schedules?

Mr. NASH. That involved 131,731 cases, including 16,523 claims covering the 25 per cent refund of 1923 taxes.

For the fiscal year ended June 30, 1925, we expended $151,885,415.60. That covered 2,771,401 cases, but this number included 2,612,735 cases of the 25 per cent reduction made under the act of 1924; so the number of cases involved that were really adjustment cases was 158,666. The $151,000,000 for 1925 also includes approximately $17,500,000 which was used for the 25 per cent refund, and it also includes about $31,000,000 interest.

The CHAIRMAN. What will be the average per claim or per case?

Mr. NASH. It will be a little over $600 a case.

The CHAIRMAN. What is the highest one, approximately?

Mr. NASH. The largest case that has come to my attention recently was for about $7,000,000.

The CHAIRMAN. What would be involved in a case like that?

Mr. NASH. That case involved amortization of war facilities, valuations of mineral deposits, oil deposits, construction of invested capital, depreciation of transportation lines, of manufacturing plants, losses on sales of real estate; it involved about every difficult feature that you could find in the income tax law.

UNEXPENDED BALANCES OF APPROPRIATIONS

The CHAIRMAN. What is your unexpended balance now?

Mr. NASH. As of January 16, on the appropriation for refunding taxes illegally collected for 1924, our unexpended balance was $29,489.50.

On the appropriation for refunding taxes illegally collected for 1925 the unexpended balance was $74,474.07.

On the appropriation for refunding taxes illegally collected for 1926 the unexpended balance was $502,327.81.

ADJUSTED CLAIMS AWAITING PAYMENT

We have to-day on hand claims adjusted and waiting payment numbering 57,611.

The CHAIRMAN. Fifty-seven thousand claims?

Mr. NASH. Yes, sir; 57,611 cases.

The CHAIRMAN. Involving how much?

Mr. NASH. Involving $17,778,151.85.

The CHAIRMAN. How much cash have you on hand?

Mr. NASH. Our cash on hand is about $600,000.

The CHAIRMAN. All told?

Mr. NASH. Yes, sir; the balance is pretty close to $600,000.

The CHAIRMAN. And your obligations are $17,000,000?

Mr. NASH. Seventeen million seven hundred and seventy-eight thousand dollars.

The CHAIRMAN. Already ascertained?

Mr. NASH. Yes, sir.

MONTHLY RATE OF PAYMENT

The CHAIRMAN. What is the monthly rate of payment now, compared with what it has been?

Mr. NASH. The total amount of refunds of taxes allowed by the bureau during the 16 months' period ended October 31, 1925, was $200,130,184, or a monthly average of $12,508,136. The total amount which it is estimated the bureau will refund during the ensuing 14 months' period beginning November 1, 1925, and ending December 31, 1926, namely, $161,501,524 is on a monthly average of $11,535,823 or $972,313 less per month than the average which prevailed during the 16 months' period ended October 31 last.

TOTAL COLLECTIONS COMPARED WITH TOTAL REFUNDS

The CHAIRMAN. What is the total amount paid out for refunds since 1917 including this item now estimated for?

Mr. NASH. From 1917 up through September 30, 1925, we have refunded $554,331,125.28.

The CHAIRMAN. In that period how much did you collect?

Mr. NASH. During the same period we collected, as a result of office audits and field investigations, $2,886,733,215, and during the same period our total collections were $30,252,653,751.44.

The CHAIRMAN. $2,800,000,000. Then you have not been increasing that very much lately?

Mr. NASH. We increased it $75,000,000 during the first quarter of this year.

The CHAIRMAN. That is at the rate of $25,000,000 a month. I thought it was more than that. So $500,000,000 has been paid out?

Mr. NASH. $554,000,000.

The CHAIRMAN. $554,000,000 has been paid out and $2,886,000,000 taken in?

Mr. NASH. Yes, sir.

The CHAIRMAN. Keeping up the average of about five to one that we have been going on?

Mr. NASH. Yes, sir. These refunds are 19.2 per cent of the amount of additional assessments and collections and 1.8 per cent of the total collections.

The CHAIRMAN. What have the total collections been?

Mr. NASH. The total collections during the period from 1917 up to September 30, 1925, were $30,252,653,751.44.

REFUNDS DUE TO COURT DECISIONS

The CHAIRMAN. What proportion of the refunds have been due to decisions of the courts and what was the character of the cases, and what proportion has been due to the overpayments on the returns by the taxpayers?

Mr. NASH. About $156,000,000 of the refunds has been due to court decisions. I have a statement of several pages, giving the various court decisions which have affected us adversely.

The CHAIRMAN. I think it might be interesting to have it read to us or put in the record.

The statement referred to is as follows:

STATEMENT SHOWING DECISIONS RENDERED BY VARIOUS FEDERAL COURTS RESULTING IN REFUNDS OF INTERNAL-REVENUE TAXES, AND ESTIMATED AMOUNTS OF TAXES REFUNDED OR TO BE REFUNDED

Eisner *v.* Macomber (252 U. S. 189), holding that a stock dividend declared by a corporation is not income to the stockholder. (Estimated, $70,000,000.)

Shwab *v.* Doyle (42 Sup. Ct. Rep. 391), holding that transfers in contemplation of death made prior to the passage of the revenue act of 1916 are not part of the gross estate of a decedent and are not subject to the estate tax imposed by that act. (Estimated, $18,000,000.)

Union Trust Co. *v.* Wardell (42 Sup. Ct. Rep. 393), holding that a trust to take effect in possession and enjoyment at or after the death of the creator but created prior to the passage of the revenue act of 1916 is not part of the gross estate of the decedent and is not subject to the estate tax imposed by that act. (Estimated, $2,000,000.)

Miles v. Safe Deposit & Trust Co. (42 Sup. Ct. Rep. 483), holding that a stockholder's privilege of subscribing to new stock in a corporation does not result in taxable income until the stock subscribed for is sold. (Estimated, $5,000,000.)

United States v. Stanley Field (41 Sup. Ct. Rep. 256), holding that property passing under testamentary execution of a general power of appointment created prior to the passage of the revenue act of 1916 but executed subsequent to the passage of that act is not part of the gross estate of the decedent and is not subject to the estate tax imposed by that act. (Estimated, $2,000,000.)

Bailey v. Drexel Furniture Co. (42 Sup. Ct. Rep. 449), holding that the child labor tax is unconstitutional. (Estimated, $41,828.)

Lederer v. Pearce (U. S. C. C. A., Third Circuit, 266 Fed. 497), holding that property passing under general power of appointment where the construction and effect of the power and rights of the parties thereunder are governed by the laws of Pennsylvania can not be included in the gross estate of the decedent exercising the power in a case arising under the provisions of the revenue act of 1916. (Estimated, $1,000,000.)

United States v. Guinsburg (U. S. C. C. A., Second Circuit, 278 Fed. 363) and Plant v. Walsh (280 Fed. 722), holding that a dividend declared by a corporation prior to March 1, 1913, but not paid until after that date is not taxable income of the stockholder. (Estimated, $5,000,000.)

Lipke v. Lederer, held that naming a penalty a "tax" does not make it such in fact. Therefore assessments of double tax and penalties made under section 35, title 11, of the national prohibition act can not be collected as taxes. (Estimated, $50,000.)

Smietanka v. First Trust & Savings Bank (42 Sup. Ct. Rep. 223), holding that income held and accumulated by a trustee for the benefit of unborn or unascertained beneficiaries is not subject to the income tax imposed by the act of 1913. (Estimated, $2,000,000.)

A. G. Spalding & Bro. v. Edwards (U. S. Sup. Ct.). Section 600 (f) revenue act of 1917, in which the question was whether a sale is one for export. The court holds that where the act passing title commits the goods for the purpose of export the articles are in course of export transportation and are not subject to sales tax. (Estimated, $400,000.)

Haverty Furniture Co. v. United States (U. S. Dist. Ct., No. Ga.). This was a case to recover stamp taxes collected under Schedule A–6 of the revenue act of 1918. The court holds that the instrument was a conditional bill of sale and not a promissory note, and therefore was not subject to stamp tax. (Estimated, $18,000.)

Empire Fuel Co. v. Hayes, Collector (295 Fed. 704; T. D. 3592). Section 207 of the revenue act of 1917 excludes borrowed money from invested capital for the purpose of computing the excess-profits tax, and a corporation whose capital consists entirely of borrowed capital has no invested capital within the meaning of the act and is therefore entitled to assessment under the provisions of section 209. (Estimated, $15,000,000.)

United States v. Supplee-Biddle Hardware Co. (44 Sup. Ct. Rep. 546; 265 U. S. 189; T. D. 3604). Proceeds of a policy of insurance upon the life of an officer of a corporation paid to the corporation as beneficiary are not taxable as income. A policy of insurance by a corporation upon the life of one of its officers is not wagering contract. (Estimated, $1,000,000.)

Trinidad, Insular Collector, v. Sagrada Orden de Predicadores, etc. (263 U. S. 578; T. D. 3548). A religious corporation which receives income from the rent of real property, dividends from stock ownership in private corporations, and interest on money loaned is exempt from income tax under the provisions of section 11 (G) of the act of October 3, 1913, where all of the income is held and used for carrying on its work. Deriving income from the sale of wine, chocolate, and other articles does not amount to engaging in trade where profit is a negligible factor, sales are not made to the public or in competition with others, and the articles are bought and supplied for use within the organization, either for religious purposes or incidental to the work carried on. (Estimated, $500,000.)

Bankers Trust Co. et al., Executors of Glackner, v. Bowers, Collector (295 Fed. 89; T. D. 3547). The tax upon the income of a decedent to the date of death and the tax upon the income of an estate during the period of settlement should be computed under the general provisions relating to returns for a period of 12 months and not under section 226 (c), revenue act of 1921, which applies to returns for a period of less than one year. (Estimated, $2,000,000.)

Weiss, Collector, v. Stearn (44 Sup. Ct. Rep. 490; 265 U. S. 242; T. D. 3609). Where a corporation transfers all of its property to a new corporation organized under the laws of the same State, with substantially the same name and for the conduct of the same business, having a capital stock five times as large as the old company, and stockholders of the old company sell one-half of their shares of stock in the old company at $150 a share and exchange the other half for stock in the new company, income is received based upon the value of the stock sold, but no income is received from the exchange of stock in the old company for stock in the new. (Estimated, $500,000.)

United States v. Merriam (263 U. S. 179; T. D. 3535). Where a testator bequeaths specific sums to certain persons and in a subsequent paragraph of the will names such persons as executors and trustees, and provides that the bequests made are in lieu of all compensation or commissions to which they would otherwise be entitled as executors or trustees, the bequests are not compensation and taxable as income under section 11, A, subdivision 1 and B, act of October 3, 1913 (38 Stat. L. 114, 166). (Estimated, $1,000,000.)

Edwards v. Slocum et al., Executors, etc., of Olivia Sage (United States Supreme Court; 264 U. S. 61; T. D. 3584). Where a decedent after providing for certain legacies, bequeaths the residue of his estate to charity, the Federal estate tax is not, under the provisions of section 403, revenue act of 1918, to be deducted from the residue in determining the amount of such charitable bequest. (Estimated, $1,489,000.)

Miles v. Curley, Executor of Graffin (United States Circuit Court of Appeals for the Fourth Circuit; 291 Fed. 761; T. D. 3514). The Maryland collateral inheritance tax is not an inheritance tax but an estate tax, and in computing the Federal estate tax is deductible from the gross estate under the provisions of Title II of the revenue act of 1916, as amended by the act of October 3, 1917. (Estimated, $100,000.)

Lynch, executrix of Lynch, Collector, v. Alworth-Stephens Co. (Supreme Court of United States; 45 Sup. Ct. Rep. 274; T. D. 3690). Under the provisions of the revenue act of 1916 a lessee of mineral lands is entitled to deduct a reasonable allowance for exhaustion or depletion of his leasehold or property interest due to the extraction and disposition of the product of the mine. (Estimated, $15,000,000.)

Lewellyn, Collector, v. Frick et al. (Supreme Court of the United States; 45 Sup. Ct. Rep. 487; T. D. 3715). Section 402 (f) of the revenue act of 1918 is not retroactive in application, and the amount of insurance in excess of $40,000 can not be included in the gross estate of a decedent where the policy is taken out and a beneficiary, other than the estate, is designated prior to the date of the passage of the act. (Estimated, $5,000,000.)

Martin Rocking Fifth Wheel Co. v. United States (Court of Claims of United States; unreported to date; T. D. 3716). The word "parts" as used in paragraph (3) of section 900 of the revenue act of 1918 must be presumed to have been used in the plain, every-day, generally understood meaning of the word, and to refer to such "parts" as break and wear out and are replaced by a new one at a service station. The so-called "semitrailer," which is attached to the drawing vehicle by means of a fifth wheel, is not taxable as a "part" of an automobile within the ordinary, usual, and commonly accepted meaning of the word. (Estimated, $700,000.)

The Cuba Railroad Co. v. United States (Court of Claims of the United States; unreported to date; T. D. 3679). Schedule A–2, Title XI, revenue act of 1921, does not tax an exchange of no par value common stock for outstanding par value common stock when such exchange is effected without any capital being paid in or any addition to the capital account of the corporation. Schedule A–2, Title XI, revenue act of 1921, taxes only original issues of certificates of capital stock; and the exchange of certificates of one kind of stock for certificates of another kind of stock, without change in the corporation's capital or its property, is not an original issue within the meaning of the statute; and

The Bailey Co. v. Routzahn, collector (United States District Court for the Northern District of Ohio; unreported to date; T. D. 3680). Schedule A–3, Title XI, revenue act of 1918, does not tax an exchange of no par value common stock for outstanding par value common and preferred stock, where such exchange is effected without the capital of the corporation being increased either by contributions from the outside or by corporate surplus being transferred to capital account, as in the case of stock dividends. Schedule A–3, Title XI, revenue act of 1918, taxes only "original" issues of certificates of capital stock and not "new" issues of certificates of capital stock exchanged for outstanding certificates of original issue, where the transaction results in no addition to the capital account of the corporation; and

Cleveland Provision Co. v. Weiss, Collector, and five other cases involving the same question (United States District Court for the Northern District of Ohio; 4 Fed. (2d) 408; T. D. 3681). Schedule A–3, Title XI, revenue act of 1918, and Schedule A–2, Title XI, revenue act of 1921, do not tax exchanges of no par-value stock for outstanding par-value stock where such exchanges are effected without the capital of the corporation being increased either by contributions from the outside or by corporate surplus being transferred to capital account, as in the case of stock dividends. Schedule A–3, Title XI, revenue act of 1918, and Schedule A–2, Title XI, revenue act of 1921, tax only original issues of certificates of capital stock and not "new" issues of certificates of capital stock exchanged for outstanding certificates of original issue where the transaction results in no addition to the capital account of the corporation. The phrase "whether on organization or reorganization," used in Schedule A of the revenue acts of 1918 and 1921, means "Whether on organization or reorganization," or not, and does not limit the operation of the statute to occasion of organizations and reorganizations. The statutes apply to all original issues of certificates of capital stock. (Following American Laundry Machinery Co. (Inc.) v. Dean, 282 Fed. 620.)

Goodyear Tire & Rubber Co. v. United States (Court of Claims of the United States; unreported to date; T. D. 3697). Under section 1100, Schedule A–4 of the revenue act of 1918, the provisions of which

are also contained in the revenue act of 1921, the rate of tax on the transfer of shares of capital stock is to be determined by reference to the face of the certificate and is not controlled by the certificate of incorporation where there is conflict between the two. Where a corporation had outstanding shares of capital stock of $100 par value each, and by amendment to its certificate of incorporation reduced the par value of such shares to $1 each without changing the face value of the certificates, the tax upon the transfer of such certificates should be computed in accordance with the par value as shown by the face of the certificates. (Estimated, $8,000,000.)

Ferguson, Collector, v. Thomas Dickson et al., executors (3d circuit, 300 Fed. 961). Certiorari denied by United States Supreme Court (266 U. S. 628). Holding that there is a fair consideration in money or money's worth within the meaning of section 402 (c) of the estate tax provisions of the revenue act of 1918, where a wife releases her dower in consideration for amounts to be received under an antenuptial agreement and trust. (Estimated, $1,000,000.)

INTEREST ON ALLOWED CLAIMS

The CHAIRMAN. How much of the present estimate of $149,250,000 is due to interest to be paid on these claims?

Mr. NASH. $41,486,275.

The CHAIRMAN. So that if it were not for that amount of interest you would only be asking about $108,000,000 instead of $149,000,000?

Mr. NASH. That is correct.

Mr. BYRNS. When does the interest commence?

Mr. NASH. The interest is paid from the date of payment of the tax.

The CHAIRMAN. Under what authority do you pay this interest?

Mr. NASH. Under section 1019 of the revenue act of 1924.

The CHAIRMAN. The revenue act of 1924 requires the payment of the interest and fixes the rate, does it?

Mr. NASH. Section 1019 reads as follows:

"Upon the allowance of a credit or refund of any internal-revenue tax erroneously or illegally assessed or collected, or of any penalty collected without authority, or of any sum which was excessive or in any manner wrongfully collected, interest shall be allowed and paid on the amount of such credit or refund at the rate of 6 per cent per annum from the date such tax, penalty, or sum was paid to the date of the allowance of the refund, or, in case of a credit, to the due date of the amount against which the credit is taken; but if the amount against which the credit is taken is an additional assessment, then to the date of the assessment of that amount. The term "additional assessment" as used in this section means a further assessment for a tax of the same character previously paid in part."

Mr. BYRNS. No interest was paid after the allowance of the refund?

Mr. NASH. No interest is paid after the allowance is approved by the commissioner. The date of the approval of the allowance by the commissioner is the date at which we cut off the interest of all these contested cases, but some taxpayers claim interest up to the date of the issuance of the check covering the refund. I believe there is a case now pending in the courts to determine which date is correct.

Our solicitor has held that the date of the approval of the commissioner is the correct date.

The CHAIRMAN. You stated a few moments ago that $156,000,000 of the total of $550,000,000 had been refunded on account of court decisions.

Mr. NASH. Yes, sir.

The CHAIRMAN. Then how much of the total of $550,000,000 is due to interest under the act of 1924?

Mr. NASH. For the first six months of this fiscal year—from July 1 to December 31—we expended $15,859,237.60 for interest.

For the fiscal year ended June 30, 1925, we expended $31,563,458.06.

For the fiscal year 1924 we expended $7,174,400.37.

For the fiscal year 1923 we expended $3,856,124.32.

I do not have any figures prior to that, Mr. Chairman; it amounts to about fifty-eight and one-quarter million dollars for the past three years.

The CHAIRMAN. Two hundred and some odd million dollars of the total of $550,000,000 is either due to interest or to court decisions?

Mr. NASH. Yes, sir.

The CHAIRMAN. What was the practice before the enactment of this statute?

Mr. NASH. Of the interest statute?

The CHAIRMAN. Yes.

Mr. NASH. Under section 1324 of the 1921 act the provision for the payment of interest was as follows:

"(a) That upon the allowance of a claim for the refund of or credit for internal-revenue taxes paid interest shall be allowed and paid upon the total amount of such refund or credit at the rate of one-half of 1 per cent per month to the date of such allowance as follows:

"(1) If such amount was paid under a specific protest setting forth in detail the basis of and reasons for such protest from the time when such tax was paid, or

"(2) If such amount was not paid under protest but pursuant to an additional assessment from the time such additional assessment was paid, or

"(3) If no protest was made and the tax was not paid pursuant to an additional assessment from six months after the date of filing of such claim for refund or credit.

"The term 'additional assessment' as used in this section means a further assessment for a tax of the same character previously paid in part."

The CHAIRMAN. Which of these two acts called for the most moderate expenditure?

Mr. NASH. The 1921 act, because under the third provision of section 1324 interest began at six months after the date of the filing of the claim for a refund, and under the present act interest begins with the date of the original payment.

The CHAIRMAN. Did the interest continue under the first act until the final payment of the claim?

Mr. NASH. Interest continued until the date of the approval of the claim by the commissioner.

The CHAIRMAN. A claim under a tax in 1918 would at this rate allow 48 per cent interest, would it not?

Mr. NASH. A claim for refund for a 1917 tax which was paid in 1918 will carry interest at the rate of 42 per cent and a refund for a 1918 tax which was paid in 1919 would carry interest at the rate of 36 per cent.

The CHAIRMAN. That is from the date of the payment?

Mr. NASH. Yes, sir; a refund of a 1919 tax paid in 1920 will carry interest at the rate of 30 per cent, etc.

The CHAIRMAN. How many of these payments have carried interest for five or six years?

Mr. NASH. I do not have those statistics before me.

EXPEDITION OF CASES CARRYING LARGE INTEREST ACCRUALS

The CHAIRMAN. Let me ask you this question: Is there a special effort being made in the Internal Revenue Office to dispose of cases where the interest, if allowed, would cover a great many years?

Mr. NASH. We have what we call an expedite tag on every large case on which the interest is accruing very rapidly. We have some cases pending now in the solicitor's office on which the interest will run to several hundred dollars a day. Every one of those cases is in course of settlement. I believe that everything that is humanely possible to do is being done to bring these cases to a close, because the interest that we paid last year almost equaled the total administrative expense for running the bureau. It is a serious item with us.

The CHAIRMAN. Does the establishment of the Board of Tax Appeals expedite the disposition of the cases?

Mr. NASH. I can not say that it expedites the disposition of the cases so far as the Internal Revenue Bureau is concerned, because it affords the taxpayer an appeal from the action of the Internal Revenue Bureau. It probably does relieve the courts in a great many cases.

The CHAIRMAN. It relieves the courts, but does not relieve the Internal Revenue Office?

Mr. NASH. No, sir.

The CHAIRMAN. Does it relieve the taxpayer to any extent?

Mr. NASH. I think the board was created for that purpose.

REFUND OF OFFERS IN COMPROMISE

The CHAIRMAN. On page 49 there is an item to enable the Secretary of the Treasury to refund money covered into the Treasury as internal-revenue collections under the provisions of the act approved May 27, 1908, fiscal year 1925, $488,000. Tell us about that.

Mr. NASH. Prior to the enactment of the revenue act of 1924, approved June 2, 1924, sums offered in compromise under the provisions of section 3229, Revised Statutes, and section 35 of Title II of the national prohibition act, sums offered for the purchase of real estate under the provisions of section 3208, Revised Statutes, and surplus proceeds in any distraint sale under the provisions of section 3195, Revised Statutes, as amended by the act of May 27, 1908, were deposited into the Federal Treasury as internal-revenue collections, as provided by the act of May 27, 1908, as amended by the act of May 10, 1916. Under this procedure a definite annual appropriation which has been provided by Congress each year up to the current fiscal year for "refunding internal-revenue collections" was charged in each instance where an offer in compromise was rejected or where a refund of an offer to purchase real estate or surplus proceeds in any distraint sale were authorized.

The CHAIRMAN. That is where a man paid some money in the earnest fund as an evidence of good faith, that went into the Treasury and could not be taken out and given back to him if the contract was not concluded, without this provision?

Mr. NASH. Section 1031 of the revenue act of 1924 changed this procedure by establishing for each collector of internal revenue with the Treasurer of the United States a special deposit account into which account all collectors must deposit receipts of the three above-mentioned classes and from which accounts such officers must refund such deposits when authorized.

This change in the law has eliminated the necessity for the bureau to request any appropriation for "refunding internal-revenue collections" for the current fiscal year or in the future.

The appropriation which was granted to the bureau for the fiscal year 1925, ended June 30 last, was in the amount of $200,000, and is exhausted. There are on hand at the present time in the bureau awaiting payment or in the process of adjustment rejected offers in compromise or offers in compromise which it is anticipated will be rejected, aggregating $487,954.09, as shown by the following statement:

Classification of tax	Rejected offers in compromise on hand and awaiting payment Nov. 16, 1925		Estimated offers in compromise to be rejected of those pending in bureau on Nov. 16, 1925		Total estimated rejected offers in compromise to be refunded from appropriation "refund, internal-revenue collections, 1925"	
	Number	Amount	Number	Amount	Number	Amount
Income and profits	10	$12,946.03	509	$413,831.43	519	$426,777.46
Estate	1	12,000.00			1	12,000.00
Capital stock						
Sales	10	2,121.53	180	31,620.00	190	33,741.53
Tobacco	3	20.00			3	20.00
Miscellaneous			24	2,434.00	24	2,434.00
Prohibition	18	6,085.00	51	5,700.10	69	11,785.10
Narcotics			41	1,196.00	41	1,196.00
Total	42	33,172.56	805	454,781.53	847	487,954.09

All of these offers in compromise were deposited into the Federal Treasury as internal-revenue collections under the procedure which was in effect prior to the enactment of the revenue act of 1924, and the rejection of these offers will make it necessary to refund the same from the above-mentioned appropriation when additional funds requested herein become available. The amount of the deficiency estimate submitted at this time is intended to provide these additional funds and is therefore transmitted to you in the sum of $488,000.

This estimate is required to meet an emergency which has arisen since the transmission of the Budget for the fiscal year 1925.

ALUMINUM CO. OF AMERICA

During the delivery of Mr. McKELLAR's speech,

Mr. CUMMINS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Tennessee yield to the Senator from Iowa?

Mr. McKELLAR. I yield to the Senator.

Mr. CUMMINS. Mr. President, the Judiciary Committee has directed me to report to the Senate an original resolution, which I ask unanimous consent to present at this time.

Mr. McKELLAR. Does the Senator wish to have the resolution considered immediately?

Mr. CUMMINS. I think there will be no objection to it.

Mr. McKELLAR. If it will not take any time, I will be glad to yield.

Mr. SMOOT. Mr. President, if there shall be no discussion of the resolution I have no objection, but if any discussion is to ensue I want the Senator to withdraw it.

Mr. CUMMINS. I intend to ask unanimous consent for the immediate consideration of the resolution, if I may be permitted to present it; but I do not believe there will be any debate upon it.

Mr. REED of Pennsylvania. I ask to have the resolution read.

The PRESIDING OFFICER. The resolution will be read for information.

The resolution (S. Res. 141) was read, as follows:

Resolved, That the Federal Trade Commission be directed to transmit to the Senate, at the request of the Committee on the Judiciary, any evidence, documentary or otherwise, in its possession affecting the question of whether there have been infractions by the Aluminum Co. of America of the decree entered against it in the year 1912 in the District Court for the Western District of Pennsylvania.

Mr. CUMMINS. Mr. President, I ask unanimous consent for the immediate consideration of the resolution.

The PRESIDING OFFICER. Is there objection to its present consideration?

Mr. REED of Pennsylvania. Mr. President, I hope nobody will object to the resolution. I am advised that the Aluminum Co. itself has sent a letter to the Federal Trade Commission releasing any seal of confidence or secrecy or privacy that may attach to this mass of correspondence and other papers.

Mr. LA FOLLETTE. Mr. President, I simply rise to observe that most likely the Senate will now get the information, the Aluminum Co. of America having released the Federal Trade Commission, whereas the Department of Justice was unable to get the same information from the Federal Trade Commission. I have no objection whatever to the resolution.

The resolution was considered by unanimous consent and agreed to.

TAX REDUCTION

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 1) to reduce and equalize taxation, to provide revenue, and for other purposes.

After the conclusion of Mr. McKELLAR's speech,

Mr. SMOOT. Mr. President, I have been asked by a great many Senators whether we are going to hold a night session to-morrow. I have no intention of asking for that to-morrow, but I am going to ask the Senate on Monday to begin night sessions.

I thought I had better make that statement in answer to the many questions that have been asked.

Mr. SMITH. Mr. President, I send to the desk an amendment, which I ask to have read. I desire to make some remarks on it and have it lie on the table, subject to such action as the Senate may take.

The PRESIDING OFFICER. The amendment will be read for the information of the Senate.

The LEGISLATIVE CLERK. It is proposed to insert at the proper place the following:

When returns are made in accordance with the rules and regulations prescribed by the Treasury Department for making returns for taxes imposed by this act, and such returns are made by or with the aid of an official of the Treasury Department qualified to make such returns for the taxpayer or to aid in making such return, the amount thus found due, when paid by the taxpayer, there shall issue to him by the Treasury Department a receipt for the same, which shall be final, except for actual fraud.

The Secretary of the Treasury is hereby authorized and directed to designate for each State officers of the Treasury Department in number adequate to the requirements of the taxpayers thereof qualified to make or aid in making returns as prescribed by the Treasury Department, which shall by rule prescribe the times when and the places at which the services of such officers will be available.

The PRESIDING OFFICER. The amendment will lie on the table and be printed.

Mr. SMITH. Mr. President, I do not think there has been any act on the part of the Government that has done so much to cause dissatisfaction among the citizens of this country toward their Government as the method we pursue in collecting the income tax.

In the first place, we have a return that requires an expert accountant and an expert mind, legally trained, to make it out.

In addition to that, the attitude of the Government is that every man who makes out a tax return is a questionable character, and therefore nothing is final until the Government itself, through its chosen agents, has examined the return and then makes such demands for further payments as the parties to whom they have committed this work may claim are necessary.

I contend that when a citizen of this country, under rules and regulations prescribed by the Congress, makes his return and swears to it, the Government should take that citizen's word. I believe that not only would the amount saved by that process in actual dollars be increased but the number of men who would be encouraged to respect their Government would be infinitely increased.

I have been informed by those in a position to know, in lieu of an actual calculation, that the excess the Government has obtained by virtue of later discoveries of amounts still due and the rebates that have been paid have about balanced one with the other, while the cost of the process has practically taken all that remained.

Therefore, under the amendment I have offered, when the rules and regulations prescribed by the Treasury Department have been set forth, and an officer trained for the purpose has directed the taxpayer how to bring together those matters which are taxable—after the taxpayer and the officer have collaborated, the amount ascertained, and the taxpayer has tendered it and the Government has received it—the taxpayer is entitled to a receipt, so that he may feel free to go on with the capital he has and engage in business, and not be forced to sail near the shore for fear that in later years the amount he paid may be reopened and he be embarrassed at a time when he may not be able to pay.

There is no reason why this Government should not take the oath of the citizen, individual or corporation, when we have prescribed the method and the things to be taxed, and the taxpayer, in collaboration with an officer of the Government, has honestly made a return and has sworn to the return, and ten-

dered the amount of the tax. Why is he not entitled to a final settlement then and there?

Men in ordinary business follow that course. How long could business exist if, in the settlement of every account, there was left a leeway of three or four years during which it would be legal to come back and open up the account, and nothing was ever finally settled until after the lapse of some long number of years?

I shall not take the time this afternoon to go further into this, but shall discuss it at length when the amendment comes up for final action. Now, there may be two years, four years, eight years, in which the Government may take the sworn statements of its taxpayers and scrutinize them to see whether or not they are guilty at least of constructive fraud. Nothing in all the history of this country has been as irritating, as prolific of the bolshevistic spirit, as the method we have inaugurated of having tax returns made, and then coming back for additional payments. I for one would rather have the Government lose one-half of the income it now gets, and display its faith in its citizens, than to have it collect what it now collects, with the spirit which is engendered among the people of this country.

Mr. President, I see no reason why the amendment I have offered should not meet the approval of every honest, upright American citizen, in the Senate and outside of it.

Mr. HEFLIN. Mr. President, I agree with what the Senator from South Carolina has said. The Federal income taxpayers are annoyed a great deal by the uncertain and unjust methods now employed. They are kept in a state of doubt and uncertainty about their taxes even after they have paid them. They do not know just when they are through with the Government.

Every man and woman likes to be able to balance his or her books and close accounts at the end of the year. Every intelligent citizen likes to know just how he or she stands financially at the end of the old year and at the beginning of the new, but under the indefinite system that has been in vogue here he can not know. He pays his taxes and holds his receipt "paid in full" and signed by the Government, and after two or three or four years have gone some clerk or agent of the Government goes and tells him that he or some one else has discovered that he owes some more money to the Government.

There ought to be a way and we ought to provide a way now for settling this thing right at the outset when the taxes are paid, so that when the Government gives its receipt to the taxpayer it will mean something to him.

The Government should be careful and accurate in stating the amount due in taxes by the citizen and then it should shield and protect that citizen against annoyance and unjust additional expense. Under the present plan, which can not be defended, we are told that certain former clerks and agents in the Treasury Department, who are now employed by certain lawyers here in Washington, furnished them with lists of income-tax payers, and then that letters are written to certain taxpayers for the purpose of frightening them and inducing them to pay a retainer's fee to have their cases looked after if the Government should get after them. Senators, that is an outrageous and shameful situation. Let us put a stop to it now. A Federal tax receipt should at least be as much respected and as binding as any other receipt for money paid. I want to say a word about what the Senator from Tennessee has said. The situation in the Treasury Department as disclosed here is a very serious one, and Congress should do something to correct the evil complained of. There is no excuse, no justification, for refunding these taxes in secret. I want to submit this to the Senate: Congress considers a tax bill in the open. We discuss the rates pertaining to the various classes of income-tax payers in the country in the open. A roll call is had and we vote in the open. The bill is enacted into law and the President signs it in the open. We say in public what we think taxpayers ought to pay. Now we are confronted with the situation where the Congress levies taxes in the open and the taxes are refunded in secret. Why should the clerks in the Treasury Department be permitted to sit down at their desks secretly and pass a secret note up to some one else, and he pass another secret note on to some one else, and finally have the taxes refunded in amounts running into the millions and hundreds of millions of dollars?

Senators, nobody can justify that, because it is wrong. This question has been discussed here this afternoon for two hours or more, and nobody here has been able to name the particular officials upon whose finding these millions of dollars have been refunded. Is not that an awful situation for intelligent and patriotic men to permit to exist?

These things were hinted at in the testimony in the Teapot Dome scandal. It was said that Mr. Doheny had large sums of taxes refunded to him, and he employed the clerk who worked out the case and caused him to get the refund, took him out of the department, where he was drawing $2,500, as I remember, and put him on his private pay roll at a salary of $7,500 a year. Verily he received his reward.

What have we heard in this Chamber this afternoon? The able Senator from Utah [Mr. KING] cited an instance where engineers formerly in the employ of copper companies were now in the Government's employ, passing on those companies' cases and deciding with their former employers against the Government, where the companies got the best of the decision by many millions of dollars. Can anyone condone or justify things like that? If so it would seem that all these big taxpayers have to do is to employ some shrewd, smart fellow, keep him in their employ long enough, pay him salary enough, and maybe assure him that they will employ him again, if necessary, in the future, get him out of their employment, and put him in the Government service, where he sits as a special counsel, in a way, for the interests he once represented back home, and at the same time clothed with authority on the part of the Government to decide cases between the Government and those who sent him to Washington and got him his position. I repeat nobody can defend such a thing.

Why should millions of dollars of taxes levied by the people's Congress in the open be refunded by clerks and agents behind closed doors in secret. I think there is a great deal in the contention of the Senator from Tennessee that we ought to clothe Federal districts in the various States with authority to pass upon these cases. Why should a taxpayer in Alabama have to come to Washington, at great expense, and employ a lawyer here to go before subordinate officials of the Government? Why should not the Government proceed against him at Birmingham, Montgomery, Mobile, or some other convenient point in Alabama, and let him go in and try his case at home, and see whether or not the Government is right in its contention?

Then, Mr. President, the taxpayer would not have to come here and go before these various clerks. There would not be any secrecy about it. We would not have the star-chamber proceeding we now have here in Washington. The citizen would be apprised in the open that he owed the Government so many thousand dollars and he would be cited to come into open court. He would come into court, represented by a lawyer in his State, and he would appear before a judge appointed by the President and confirmed by the Senate, and all that was said and done would be in the open. Who could object to that?

Senators, I would much prefer to have a judge appointed by the President and confirmed by the Senate decide these cases in the open, than to have the taxpayer compelled to employ some lawyer here in the city of Washington to go in and maneuver around with clerks, and have some fellow in secret pass upon his case. It is not right.

Mr. WADSWORTH. Mr. President——

The PRESIDING OFFICER (Mr. GOFF in the chair). Does the Senator from Alabama yield to the Senator from New York?

Mr. HEFLIN. I yield.

Mr. WADSWORTH. Following that suggestion to its logical conclusion, the Senator, I assume, then, would advocate the abolition of the Board of Tax Appeals?

Mr. HEFLIN. The Senator from Tennessee provides in his amendment that a taxpayer can appeal from the decision of the United States district judges in the various States.

Mr. WADSWORTH. To what jurisdiction?

Mr. HEFLIN. To the circuit court of appeals, and on up to the Supreme Court of the United States, if necessary.

Mr. WADSWORTH. The procedure provided in this bill, which is a revised procedure, permits the taxpayer to appeal first to the Board of Tax Appeals which we have established by law——

Mr. HEFLIN. Here in Washington?

Mr. WADSWORTH. Yes; and from there to appeal to the circuit court of appeals.

Mr. HEFLIN. Is that provision in the bill now?

Mr. WADSWORTH. It is; yes. So the taxpayer may bring his case finally before a judge or a body of judges.

Mr. HEFLIN. Yes, Mr. President; but it ought to be in the open at the outset.

Mr. WADSWORTH. Both those hearings are in the open.

Mr. HEFLIN. Senators have referred this afternoon to millions and hundreds of millions that have been refunded, and nobody could tell us upon whose findings the decisions were finally rendered.

Mr. WADSWORTH. That situation is cleared by the pending legislation, because the opinions of the Board of Tax Appeals, of course, are public, and their reasons therefor are

public, and any appeal taken from them going to the circuit court of appeals is also public.

Mr. HEFLIN. Does the Senator mean there is a provision in the pending bill that does away with the old system that we now have?

Mr. WADSWORTH. No; not all the system that we now have. Of course, the first decision of the Treasury Department is made by the executive officials, the Commissioner of Internal Revenue, or his appropriate subordinates. If the taxpayer is dissatisfied with that decision, he does not appeal to them but appeals to the Board of Tax Appeals.

Mr. HEFLIN. It seems to me that the McKellar plan is the better plan. In the first place it is more convenient to the taxpayer and we ought to consider him. The Government then has to go into the State where the citizen lives and where he pays his taxes. If the Government wants to proceed against him it goes down and brings him into open court. I want to get away from the closed-door, star-chamber proceedings that have been going on here in Washington. Millions and millions of dollars have been refunded to big taxpayers in secret. I fear in the light of the disclosures made here to-day that big sums have been refunded without much justification. If those amounts were refunded in open court where the public could sit, because the public is interested and has a right to sit when these big cases are being determined, no one could complain. Yet the facts disclosed here this afternoon show not only that these things were done in secret, but that nobody could tell who rendered the decisions upon which these vast sums of money were finally refunded. In other words, no one knows who worked up the case or who rendered the judgment on it, which caused the official above to finally decide that the money should be refunded. I submit that that course can not be defended. There ought to be some way of opening the books to inspection. As the Senator from Tennessee [Mr. McKELLAR] said, anyone can go in and inspect the books in any courthouse in any county in any State in the Union. He can look over those records and find out just how much the various people pay. We can not do that way in the matter of Federal taxes. We have no way to find out what is going on in the Treasury Department, and nobody knows even what is going on when they give back the money that Congress has declared taxpayers should pay in the outset.

Mr. McKELLAR. Mr. President——

Mr. HEFLIN. I yield to my friend, the Senator from Tennessee.

Mr. McKELLAR. Does the Senator know of any great harm that has been done to any taxpayer in the land because his tax returns in State or county or municipal instances were open to public inspection?

Mr. HEFLIN. I do not.

Mr. McKELLAR. Did the Senator ever hear of any complaints because of the publicity of State, county, and municipal tax returns?

Mr. HEFLIN. I never have.

Mr. McKELLAR. If it is a crime to make public the Federal income-tax returns, why is it not just as much a crime to make public the State, county, and municipal tax returns?

Mr. HEFLIN. Certainly. All taxpayers are entitled to fair and just consideration. I am pleading for the taxpayers of the country. I want them all treated alike. I do not think that the big taxpayers should be held up and imposed upon. I am pleading for fair treatment for both the big taxpayer and the little taxpayer. Does the big taxpayer's immense wealth buy for him immunity from publicity or inspection by the public? Why should it?

Mr. TRAMMELL. Mr. President——

The VICE PRESIDENT. Does the Senator from Alabama yield to the Senator from Florida?

Mr. HEFLIN. I yield to my good friend from Florida.

Mr. TRAMMELL. The amendment proposed by the Senator from Tennessee would treat the small taxpayer the same as it would the large taxpayer with regard to giving a hearing in court. As I understand, it provides that if they interpose a claim of $10,000 or more, then they can go into court, but if it is below $10,000 that avenue to prosecute the claim is not open to the taxpayer. Does not the Senator think that discriminates against a very large body of the taxpayers of the country?

Mr. HEFLIN. I agree with the Senator's suggestion. I would not object to seeing it made $5,000 or even smaller than that. Open hearings will not hurt anybody who wants to be honest and deal fairly with the Government. We ought to be fair with the small taxpayer, and we ought to be fair with the large taxpayer. Here is the situation that confronts us. We deliberately lay such a tax on the people as we think should be laid under the circumstances. Some big interests fight the rates that we fix. They do not want us to levy as high a rate as we do levy. We pass the bill, the President approves it, and it becomes the law. Then some of them slip around to the Treasury, and behind closed doors, in the dark and in secrecy, they nullify the acts of Congress and of the President, and have refunded to themselves in a secret way the money that the Congress of the country declared they ought to pay.

Senators, again I say that is wrong, and nobody can defend it. Mistakes may be made, and some are made in collecting these taxes, but not running into the hundreds of millions of dollars; there is something wrong, radically wrong, about that. If mistakes are made, if a citizen has unjustly paid the Government money that he is entitled to get back, he will not hesitate to go into a Federal district court and file his claim against the Government, provided the Government will not pay it without a suit. The Government might do that. He might call attention to the error that was made and have it refunded without a suit. But if that can not be done, then the Government ought not to drag him in behind closed doors and make him submit in secret to a judgment some clerk has rendered in secret.

The public is interested in having fair treatment accorded to every taxpayer in the country. No big taxpayer should be immune from the fair and just regulations that rest upon the small taxpayers of the country. They ought not to have some private, secret place where they can go behind closed doors and, by political influence or ways that are dark and devious, persuade some clerk to work out a case to refund hundreds of thousands of dollars and even millions of dollars, and then take the clerk out and put him on their pay roll at a big salary. Senators, no one can defend that sort of thing. There is not a better time in the world to correct this evil than now. These big men ought to be measured by the same yardstick as the little men. The same standard of common honesty and common right and justice ought to be applied to them that is applied to the small taxpayer and the public ought to be considered. The public interest is at stake. We ought to give consideration to that interest while this bill is here for consideration.

I am in favor of the amendment that the Senator from Tennessee has offered, and I would accept the suggestion of my friend from Florida [Mr. TRAMMELL] and make it so that it would reach even smaller cases. Instead of bringing these taxpayers to Washington and having a swarm of lawyers here in Washington who formerly worked in the department sending their cards and letters out, working up the cases and getting themselves employed and frightening the lives out of the taxpayers of the country, let them know that if there is any suit to be brought against them it will be done in their own State and in the district where they live, in the courthouse in the open, where they can be heard in the open and where the judge who finally decides the case is a responsible person appointed by the President and confirmed by the Senate.

Mr. WHEELER. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Bayard	Fess	McMaster	Simmons
Bingham	Fletcher	McNary	Smith
Blease	Frazier	Means	Smoot
Borah	George	Metcalf	Stanfield
Brookhart	Gerry	Moses	Stephens
Broussard	Goff	Norbeck	Swanson
Bruce	Hale	Norris	Trammell
Butler	Harrison	Nye	Tyson
Cameron	Heflin	Oddie	Wadsworth
Capper	Howell	Overman	Walsh
Copeland	Johnson	Pepper	Warren
Couzens	Jones, Wash.	Phipps	Watson
Cummins	Kendrick	Ransdell	Weller
Dale	Keyes	Reed, Pa.	Wheeler
Deneen	King	Robinson, Ind.	Williams
Dill	Lenroot	Sackett	Willis
Edge	McKellar	Schall	
Edwards	McKinley	Sheppard	
Fernald	McLean	Shipstead	

The VICE PRESIDENT. Seventy-three Senators having answered to their names, a quorum is present. The question is on the amendment of the Senator from Nebraska [Mr. NORRIS].

Mr. SMOOT. Mr. President, at this time I ask that the Senate consider some of the amendments which are found necessary to the administrative features of the bill. The Finance Committee appointed the Senator from Pennsylvania [Mr. REED] and the junior Senator from Utah [Mr. KING] a special committee to consider the changes in the administrative features which the department thought necessary. The Senator from Pennsylvania is ready to proceed with the presentation of those amendments, and I should like to get them out of the way.

Before that is done, however, I should like to have the Senate return to the amendment on page 170 of the bill, lines 8 to 13, which was passed over because its adoption was dependent upon the surtax and the corporation tax. I now ask that that amendment be agreed to.

The VICE PRESIDENT. Is there objection to passing over the amendment proposed by the Senator from Nebraska? The Chair hears none.

Mr. KING. What is the proposition of the chairman of the Committee on Finance, Mr. President?

Mr. SMOOT. On page 170 the amendment providing for the time when the pending act shall take effect was passed over because that was dependent upon the surtax and corporation tax. The Senate has agreed upon those two taxes, so there is no necessity now that the amendment to which I refer should be further passed over. I, therefore, ask that it may be agreed to.

The VICE PRESIDENT. The amendment referred to by the Senator from Utah will be stated.

The CHIEF CLERK. On page 170, line 18, the Committee on Finance propose to strike out section 283, as follows:

SEC. 283. This title shall take effect as of January 1, 1925.

And in lieu thereof to insert:

SEC. 286. This title shall take effect as of January 1, 1925, except that section 257 and sections 271 and 285, inclusive, and this section, shall take effect on the enactment of this act.

The VICE PRESIDENT. Without objection, the amendment is agreed to.

Mr. REED of Pennsylvania. Mr. President, I offer the amendment which I send to the desk to the committee amendment.

The VICE PRESIDENT. The amendment to the amendment will be stated.

The CHIEF CLERK. In the committee amendment on page 129, line 4, it is proposed to strike out the words "whether or not" and to insert the word "if."

Mr. REED of Pennsylvania. In explanation of this amendment to the committee amendment and the amendments immediately following on the same page, it should be said that this subdivision as reported by the Finance Committee authorized the Board of Tax Appeals to determine that the deficiency is greater than the amount of which notice was given to the taxpayer whether or not claim to that effect was asserted by the Commissioner at or before the hearing. The amendment that we now suggest is for the purpose of confining the power of the board to increase the deficiency to cases where the question is raised at or before the hearing or a rehearing. To authorize the board after a hearing is over to discover points in favor of the Government without an opportunity for the taxpayer to present his side of the case does not seem to the committee to be just.

The amendment now offered also proposes to strike out lines 6 to 11 on page 129. This is done for the reason that those lines are believed by us to be surplusage, because the general power of the board to make rules is adequate to take care of such cases.

Mr. KING. Mr. President, if I may, let me add that this does not in any way limit the power of the Government to secure review or appeals; it does not restrict the Government's power to assert its right because it gives to the taxpayer a further right.

Mr. REED of Pennsylvania. It leaves both the Government and the taxpayer free to ask a rehearing at which their claims may be presented.

Mr. SWANSON. When a rehearing is given, is it given both to the Government and to the taxpayer?

Mr. REED of Pennsylvania. Of course.

Mr. SWANSON. A rehearing could not be given to one without being given to the other?

Mr. REED of Pennsylvania. It would be a rehearing de novo.

Mr. SWANSON. And that crudity or injustice in the existing law is modified to that extent?

Mr. REED of Pennsylvania. That is the purpose of the amendment.

Mr. WALSH. I should like to understand this proposition. I tried to follow the Senator from Pennsylvania, but there is so much confusion in the Chamber that I am utterly at a loss to understand what the amendment means. Will the Senator from Pennsylvania again kindly explain the amendment?

Mr. REED of Pennsylvania. I shall be glad again to explain it. The original amendment as reported by the Finance Committee allowed the Board of Tax Appeals to increase the amount of an award against the taxpayer whether or not the commissioner made claim for that increase at the hearing. It seemed to the junior Senator from Utah [Mr. KING] and to myself, on going over the matter, that that was a great injustice——

Mr. KING. To the taxpayer.

Mr. REED of Pennsylvania. To the taxpayer; and that if the amount found to be due by the commissioner is going to be increased by the board, on an appeal to the board, then it ought not to be increased unless the claim be made in open hearing with notice to the taxpayer and with an opportunity to him to reply to it.

The language of the amendment as the Finance Committee originally framed it, however, would have allowed the board to raise the tax on the taxpayer without any notice to him in the pleadings or in the proofs or in the argument, and without any opportunity for him to reply.

Mr. WALSH. Does the board hear the matter de novo or merely review it upon the record made?

Mr. REED of Pennsylvania. The board hears the matter de novo.

Mr. WALSH. If the board hears the matter de novo, why should not the Government be entitled to present any matter it has to present?

Mr. REED of Pennsylvania. It is, and we allow the bureau to present it, but as the amendment was written in the bill as reported it would allow the board to give a judgment in favor of the Government, which the commissioner had not urged at the hearing. What we are trying to do, in brief, is to confine the judgment to the pleading.

Mr. WALSH. I understand the matter perfectly now. If the matter were reviewed by the board upon the record made before the commissioner obviously, no claim should be made before the board except a claim that was made before the commissioner; but, as I understand, the board hears the matter not upon the record made before the commissioner but may itself hear further evidence?

Mr. REED of Pennsylvania. That is correct.

Mr. WALSH. Then I see no reason why the Government should not have the right to urge any ground before the board that it feels is available at that time.

Mr. REED of Pennsylvania. Ah, the Government has that right, and we are not trying to take it away, but what we are trying to take away is the right of the board to increase the assessment if it never occurred to the Government counsel at the hearing to urge it. Does not the Senator understand my point?

Mr. KING. Suppose, Mr. President, if the Senator will pardon me, that the commissioner urged that there was due a back tax of $5,000 which was contested; that the case went before the Board of Appeals where it was contested upon one certain ground which was urged, and the defendant or the taxpayer tried to meet the only issue which was tendered by the commissioner as it was submitted to the board of review? In reviewing it they might find that upon some other ground the Government ought to have $10,000 instead of $5,000. The proposition is that they may not render a judgment for the $10,000 without giving an opportunity to the taxpayer to meet that issue.

Mr. WALSH. But, as I understand the matter, he has that opportunity. This is the situation as it presents itself to me: The taxpayer insists that the tax exacted of him is too high; he insists upon an abatement of that tax; they simply determine the question as to whether, upon the record made, his tax is too high; the decision goes against him, and he takes an appeal to the board; then the commissioner discovers that instead of being too high, as the taxpayer claims, it is even too low on account of some other circumstances which have since come to his attention, and he is not permitted to urge that before the board.

Mr. REED of Pennsylvania. Oh, no, quite to the contrary; he is permitted to urge it, and if he urges it the board could give judgment in such case in favor of the Government for the increased amount.

Mr. WALSH. But I understand the amendment to be that the Government can not urge it unless the point was made before the commissioner.

Mr. REED of Pennsylvania. I see now where the misunderstanding arises. What we say is that the board in its judgment can not give judgment for the Government unless the point was raised in the argument before the board. If the commissioner raises the point before the board, then the board can give judgment for it.

Mr. WALSH. This is the way the law will read if amended as suggested by the Senator:

(c) The board shall have jurisdiction to redetermine the correct amount of the deficiency even if the amount so redetermined is greater than the amount of the deficiency, notice of which has been mailed to

the taxpayer, and to determine whether any penalty, additional amount or addition to the tax should be assessed, if claim therefor is asserted by the commissioner at or before the hearing.

Mr. REED of Pennsylvania. That is perfectly right.

Mr. WALSH. That is the hearing before the board.

Mr. REED of Pennsylvania. The hearing before the board.

Mr. WALSH. Then, there is no objection to that, of course.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Pennsylvania to the amendment reported by the committee.

The amendment to the amendment was agreed to.

The VICE PRESIDENT. The Senator from Pennsylvania proposes a further amendment, which will be stated.

The CHIEF CLERK. On page 129 it is proposed to strike out line 6 to line 11, as follows:

The commissioner, under such conditions and at such times as the board shall by rules prescribe, may assert before the board that the deficiency is greater than the amount, notice of which was mailed to the taxpayer, or that any penalty, additional amount, or addition to the tax should be assessed.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Pennsylvania to the amendment reported by the committee.

The amendment to the amendment was agreed to.

Mr. SMOOT. Mr. President, I ask unanimous consent that when the Senate concludes its business to-day it take a recess until to-morrow at 11 o'clock a. m.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

Mr. REED of Pennsylvania. Mr. President, I send to the desk an amendment, which I ask to have stated.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. On page 129, line 15, after the word "board," it is proposed to insert:

within the time prescribed in such subdivision.

Mr. REED of Pennsylvania. The purpose of this amendment is to make certain that a petition is not considered to have been filed unless in fact it was filed within the 60-day period provided by law.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Pennsylvania to the amendment of the committee.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. REED of Pennsylvania. Mr. President, I now ask that the committee amendment on page 130, line 19, be considered.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. On page 130, line 19, after the words "provided in," the Committee on Finance proposes to strike out "subdivision (d) of this section" and insert "section 279," so as to read:

(i) If the taxpayer has elected to pay the tax in installments and a deficiency has been assessed, the deficiency shall be prorated to the four installments. Except as provided in section 279, that part of the deficiency so prorated to any installment the date for payment of which has not arrived, shall be collected at the same time as and as part of such installment. That part of the deficiency so prorated to any installment the date for payment of which has arrived, shall be paid upon notice and demand from the collector.

The amendment was agreed to.

The CHIEF CLERK. On page 131, line 8, after the words "deficiency is," the Committee on Finance proposes to strike out "assessed" and insert "assessed, or, in the case of a waiver under subdivision (d) of this section, to the thirtieth day after the filing of such waiver or to the date the deficiency is assessed, whichever is the earlier," so as to read:

(j) Interest upon the amount determined as a deficiency shall be assessed at the same time as the deficiency, shall be paid upon notice and demand from the collector, and shall be collected as a part of the tax, at the rate of 6 per cent per annum from the date prescribed for the payment of the tax (or, if the tax is paid in installments, from the date prescribed for the payment of the first installment) to the date the deficiency is assessed, or, in the case of a waiver under subdivision (d) of this section, to the thirtieth day after the filing of such waiver or to the date the deficiency is assessed, whichever is the earlier.

Mr. KING. Mr. President, I do not think that amendment was brought to the attention of the Senator from Pennsylvania or myself; at any rate, not to my attention.

Mr. REED of Pennsylvania. It was one of the regular committee amendments.

Mr. KING. Very well.

Mr. REED of Pennsylvania. There is no objection to it. It was merely passed over because all the administrative sections had been.

Mr. KING. I have no objection.

Mr. REED of Pennsylvania. I thought we had better clean up these matters as we go along.

Mr. KING. Yes.

Mr. SMITH. Mr. President, may I ask the Senator from Pennsylvania if he is now going over only those committee amendments that were passed over?

Mr. REED of Pennsylvania. This particular one is an administrative amendment which was passed over because action on all of these sections was deferred pending the consideration by the subcommittee of these additional changes. The amendment now before the Senate is a small procedural amendment which was approved by the whole Finance Committee.

Mr. SMITH. After these amendments are disposed of under the unanimous-consent agreement, then we will consider miscellaneous amendments that are offered or that have been passed over?

Mr. REED of Pennsylvania. We can not do that to-night, because there are still some committee amendments, such as those dealing with estate taxes and publicity, which can not be voted on to-night.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. REED of Pennsylvania. The next amendment is on page 133, line 7.

The CHIEF CLERK. Under the subhead "Additions to the tax in case of delinquency," on page 133, line 7, the Committee on Finance propose, after the word "paid," to strike out "at the time" and insert "on or before the date," so as to read:

SEC. 276. (a) (1) Where the amount determined by the taxpayer as the tax imposed by this title, or any installment thereof, or any part of such amount or installment, is not paid on or before the date prescribed for its payment there shall be collected as a part of the tax interest upon such unpaid amount at the rate of 1 per cent a month from the date prescribed for its payment until it is paid.

The amendment was agreed to.

The CHIEF CLERK. On page 134, line 9, after the word "on," the Committee on Finance propose to insert "or before," so as to read:

(b) Where a deficiency, or any interest or additional amounts assessed in connection therewith under subdivision (j) of section 274, or under section 275, or any addition to the tax in case of delinquency provided for in section 3176 of the Revised Statutes, as amended, is not paid in full within 10 days from the date of notice and demand from the collector, there shall be collected as part of the tax interest upon the unpaid amount at the rate of 1 per cent a month from the date of such notice and demand until it is paid. If any part of a deficiency prorated to any unpaid installment under subdivision (i) of section 274 is not paid in full on or before the date prescribed for the payment of such installment, there shall be collected as part of the tax interest upon the unpaid amount at the rate of 1 per cent a month from such date until it is paid.

The amendment was agreed to.

Mr. REED of Pennsylvania. Mr. President, I send to the desk an amendment which I ask to have stated.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. On page 134 it is proposed to strike out lines 13 and 14 through the word "persons," and in lieu thereof to insert the following:

(c) For any period an estate is held by a fiduciary appointed by order of any court of competent jurisdiction or by will.

Mr. REED of Pennsylvania. Mr. President, the purpose of this amendment and of the three amendments which follow it is to take care of this situation:

Under the bill as passed by the House there is some doubt as to whether the reduced rate of interest provided in this subdivision is applicable only in cases where the tax is imposed upon the estate, or whether it also includes cases where the estate is called upon to pay interest for the period before the estate came under the control of the fiduciary.

For example, if notice is given and demand made upon a taxpayer, and he is delinquent in payment and dies, can there be collected out of the estate interest at the rate of 12 per cent down to the time of his death? It seems to the committee that in such a case the relief provided in this subdivision should cover only the period when the property is under the control of the fiduciary.

There is also some doubt as to what estates are included in the provisions of the House bill. The amendment now offered

seeks to make it clear that the provision applies in every case where an estate is held by a fiduciary appointed by a court or by will.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Pennsylvania.

The amendment was agreed to.

The CHIEF CLERK. On page 145 it is proposed to strike out all of line 1 after the comma, and line 2 through the word "persons," and in lieu thereof to insert the following:

for any period the estate of the taxpayer is held by a fiduciary appointed by any court of competent jurisdiction or by will.

Mr. REED of Pennsylvania. That is the same question.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Pennsylvania to the amendment of the committee.

The amendment to the amendment was agreed to.

The CHIEF CLERK. On page 149, it is proposed to strike out lines 16 to 20, both inclusive.

Mr. REED of Pennsylvania. That becomes surplusage, because it is clearly within the provisions of the amendment just adopted.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Pennsylvania to the amendment of the committee.

The amendment to the amendment was agreed to.

The CHIEF CLERK. On page 149, line 21, it is proposed to strike out "(c)" and to insert in lieu thereof "(b)", and on page 150, line 1, to strike out "(d)" and to insert in lieu thereof "(c)."

The amendment to the amendment was agreed to.

Mr. REED of Pennsylvania. Now I ask that we go back to page 134 and take up the committee amendment in line 17.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. On page 134, line 17, before the words "is filed," the Committee on Finance propose to strike out "claim in abatement" and insert "bond," and at the end of line 19 the committee propose to strike out "claim in abatement" and insert "bond," so as to read:

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

The amendment was agreed to.

The CHIEF CLERK. Under the subhead "Period of limitation upon assessment and collection of tax," on page 135, line 5, after the word "court," the Committee on Finance propose to insert "without assessment," so as to read:

SEC. 277. (a) Except as provided in section 278—

(1) The amount of income, excess-profits, and war-profits taxes imposed by the revenue act of 1921, and by such act as amended, for the taxable year 1921 and succeeding taxable years, and the amount of income taxes imposed by the revenue act of 1924, and by this act, shall be assessed within four years after the return was filed, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of such period.

The amendment was agreed to.

The CHIEF CLERK. On page 135, line 22, after the word "court," the Committee on Finance propose to insert "without assessment," so as to read:

(2) The amount of income, excess-profits, and war-profits taxes imposed by the act entitled "An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," approved August 5, 1909, the act entitled "An act to reduce tariff duties and to provide revenue for the Government, and for other purposes," approved October 3, 1913, the revenue act of 1916, the revenue act of 1917, the revenue act of 1918, and by any such act as amended, shall be assessed within five years after the return was filed, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of such period.

The amendment was agreed to.

The CHIEF CLERK. On page 135, line 18, after the word "court," the committee propose to insert "without assessment," so as to read:

(3) In the case of income received during the lifetime of a decedent, the tax shall be assessed, and any proceeding in court without assessment for the collection of such tax shall be begun, within one year after written request therefor (filed after the return is made) by the executor, administrator, or other fiduciary representing the estate of such decedent, but not after the expiration of the period prescribed for the assessment of the tax in paragraph (1) or (2) of this subdivision.

The amendment was agreed to.

The CHIEF CLERK. On page 136, line 9, after the word "section," the committee proposes to strike out "280" and insert "283," so as to read:

(4) If a corporation makes no return of the tax imposed by this title, but each of the shareholders includes in his return his distributive share of the net income of the corporation, then the tax of the corporation shall be assessed within four years after the last date on which any such shareholder's return was filed. Nothing in section 283 shall be construed as making the provisions of this paragraph applicable to any tax imposed by a prior act of Congress.

The amendment was agreed to.

The CHIEF CLERK. On page 136, after line 11, the committee proposes to strike out:

(b) The running of the statute of limitations on the making of assessments and the beginning of distraint or a proceeding in court for collection, in respect of any deficiency, shall be suspended for the period during which, under the provisions of this title, the commissioner is prohibited from making the assessment or beginning distraint, or a proceeding in court.

And in lieu thereof to insert:

(b) The running of the statute of limitations provided in this section or in section 278 on the making of assessments and the beginning of distraint or a proceeding in court for collection, in respect of any deficiency, shall (after the mailing of a notice under subdivision (a) of section 274) be suspended for the period during which the commissioner is prohibited from making the assessment or beginning distraint or a proceeding in court. In no event shall the commissioner have less than 60 days after the decision of the Board of Tax Appeals has become final in which to make the assessment; nor, in cases where no petition is filed with the board, shall he have less than 90 days after the mailing of the notice under subdivision (a) of section 274 in which to make the assessment.

Mr. REED of Pennsylvania. I send to the desk an amendment to the committee amendment, and ask that it be stated.

The VICE PRESIDENT. The amendment to the amendment will be stated.

The CHIEF CLERK. On page 137, line 1, it is proposed to strike out all after the word "court" down to and including the word "assessment" in line 7, and to insert in lieu thereof a comma and the following:

and for 60 days thereafter.

Mr. REED of Pennsylvania. Mr. President, the purpose of this amendment is to clarify the language, and to make certain that the commissioner will always have a reasonable period in which to make the assessment or to begin distraint proceedings, or proceedings for collection, after he is free to take action. It simplifies the rule.

Mr. WILLIS. Mr. President, will the Senator yield?

Mr. REED of Pennsylvania. I yield to the Senator from Ohio.

Mr. WILLIS. I do not desire to object to the Senator's amendment. I simply wish to make an inquiry, so as to be certain of my rights. I was unable to be present when the consideration of the bill was begun, and therefore do not know what order was taken touching amendments. I understand that committee amendments are first being considered.

Mr. REED of Pennsylvania. There was a unanimous-consent agreement for the consideration first of committee amendments.

Mr. WILLIS. I assumed that that was the order, but I was unavoidably absent from the Chamber at the time. I shall have opportunity, then, later on, to present and have considered an amendment?

Mr. REED of Pennsylvania. Certainly. The amendments which I am now offering are authorized by the Finance Committee to be made to their committee amendments already put in.

Mr. WILLIS. I thank the Senator for the information.

The VICE PRESIDENT. Any amendment to a committee amendment, however, should be offered before the committee amendments are agreed to.

Mr. WILLIS. The amendment to which I have just adverted is not to this section. I thank the Chair for the suggestion.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Pennsylvania to the amendment of the committee.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

Mr. REED of Pennsylvania. Now, Mr. President, I ask consideration of the committee amendment at the bottom of page 137.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. On page 137, after line 23, the Committee on Finance proposes to strike out:

(d) Where the assessment of the tax is made within the period prescribed in section 277 or in this section, such tax may be collected by distraint or by a proceeding in court, begun (1) within six years after the assessment of the tax, or (2) at any time prior to the expiration of any period for collection agreed upon in writing by the commissioner and the taxpayer.

(e) This section shall not affect any assessment made, or distraint or proceeding in court begun, before the enactment of this act, nor shall it authorize the assessment of a tax or the collection thereof by distraint or by a proceeding in court (1) if at the time of the enactment of this act such assessment, distraint, or proceeding was barred by the period of limitation then in existence, or (2) contrary to the provisions of subdivision (a) of section 274.

And in lieu thereof to insert:

(d) Where the assessment of any income, excess-profits, or war-profits tax imposed by this title or by prior act of Congress has been made (whether before or after the enactment of this act) within the statutory period of limitation properly applicable thereto, such tax may be collected by distraint or by a proceeding in court (begun before or after the enactment of this act), but only if begun (1) within six years after the assessment of the tax, or (2) prior to the expiration of any period for collection agreed upon in writing by the commissioner and the taxpayer.

(e) This section shall not bar a distraint or proceeding in court begun before the enactment of the revenue act of 1924; nor shall it authorize the assessment of a tax or the collection thereof by distraint or by proceeding in court (1) if at the time of the enactment of this act such assessment, distraint, or proceeding was barred by the statutory period of limitation properly applicable thereto, unless prior to the enactment of this act the commissioner and the taxpayer agreed in writing thereto, or (2) contrary to the provisions of subdivision (a) of section 274 of this act.

Mr. KING. That relates to fraud; does it not?

Mr. REED of Pennsylvania. Yes.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. REED of Pennsylvania. Now, Mr. President, I offer the amendment which I send to the desk to the committee amendment which appears on page 141.

The VICE PRESIDENT. The amendment to the amendment will be stated.

The CHIEF CLERK. On page 141, line 20, it is proposed to strike out "shall so certify in the records of his office and."

Mr. REED of Pennsylvania. Mr. President, the purpose of this amendment is to strike out what seems to the committee to be useless red tape in the commissioner's office. We feel that the making of the assessment and the signing of the assessment list is of itself a sufficient certification of his determination of the fact of jeopardy. Therefore this additional requirement merely adds a cumbersome detail which serves no useful purpose.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Pennsylvania to the amendment of the committee.

The amendment to the amendment was agreed to.

Mr. REED of Pennsylvania. I send to the desk another amendment to the same committee amendment.

The VICE PRESIDENT. The amendment to the amendment will be stated.

The CHIEF CLERK. On page 142, line 15, it is proposed to strike out "assessment" and to insert—

deficiency and of all amounts assessed at the same time in connection therewith.

Mr. REED of Pennsylvania. That is a mere clerical change. We think it is more apt language than the language now in the bill.

The amendment to the amendment was agreed to.

Mr. REED of Pennsylvania. Mr. President, I send to the desk another amendment, on page 144.

The VICE PRESIDENT. The amendment to the amendment will be stated.

The CHIEF CLERK. On page 144, line 15, after the period, it is proposed to insert a new sentence to read as follows:

If the amount determined as the amount which should have been assessed is greater than the amount actually assessed, then the difference shall be assessed and shall be collected as part of the tax upon notice and demand from the collector.

Mr. REED of Pennsylvania. Mr. President, the purpose of this amendment is to take care of such a case as this:

Where the commissioner has made a jeopardy assessment, let us say, for example, of $10,000, and on appeal to the board it is determined that the correct deficiency is $15,000, the bill as it has been reported does not provide for the assessment and collection of the additional $5,000. The amendment now read and the amendment which will immediately follow it propose to cure this defect, and to provide for the assessment of interest on the additional $5,000 at the rate of 6 per cent from the time prescribed for the payment of the tax down to the date of assessment.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Pennsylvania to the amendment of the committee.

The amendment to the amendment was agreed to.

The CHIEF CLERK. On the same page, in line 21, after the word "section" and before the period, it is proposed to insert a comma and the following:

or, in the case of the amount collected in excess of the amount of the jeopardy assessment, interest as provided in subdivision (j) of section 274.

The amendment to the amendment was agreed to.

Mr. REED of Pennsylvania. On page 148, I offer the following amendment:

The VICE PRESIDENT. The Clerk will read the amendment.

The CHIEF CLERK. On page 148, line 25, before the word "determined," insert in parenthesis, "together with all interest, additional amounts, or additions to the tax provided for by law."

The amendment to the amendment was agreed to.

Mr. REED of Pennsylvania. In passing over page 144, I failed to call attention to a misprint in line 18. Am I correct in assuming that that will be corrected by the enrolling clerk?

The VICE PRESIDENT. Without objection, the correction will be made.

Mr. REED of Pennsylvania. I send to the desk the following amendment.

The VICE PRESIDENT. The clerk will state the amendment.

The CHIEF CLERK. On page 149, line 3, strike out all after the word "law" down to and including line 15, and insert in lieu thereof a period and the following:

Claims for deficiency and such interest, additional amounts and additions to the tax may be presented for adjudication in accordance with law to the court before which the bankruptcy or receivership proceeding is pending, despite the pendency of proceedings for the redetermination of the deficiency, in pursuance of an appeal to the board, but no petition for any such redetermination shall be filed with the board after adjudication of bankruptcy or the appointment of the receiver.

Mr. REED of Pennsylvania. The purpose of this amendment is to cover cases which are pending before the Board of Tax Appeals at the time of a receivership or bankruptcy.

The first of the amendments has regard to the situation presented by the institution of bankruptcy or receivership proceedings against a taxpayer, or by him, subsequent to the institution of proceedings before the board for the redetermination of a deficiency in his tax bill. Under the provisions on page 149, as they came from the committee, the proceedings before the board would be required to be dismissed unless the board had reached a decision at the time of the adjudication of the bankruptcy or the appointment of the receiver.

The amendment proposes to permit proceedings before the board to be continued if a petition therefor has been filed before the adjudication of bankruptcy or the appointment of a receiver. Of course, a claim for the amount of the deficiency may and should be filed by the commissioner in bankruptcy or the equity court.

In the case of a final decision of the board before the determination of the bankruptcy or receivership proceedings a copy of the decision of the board could be filed with the bankruptcy or equity court, and the decision would presumably be followed by those courts. During the pendency of bankruptcy or receivership proceedings the deficiency may be assessed in accordance with the final decision of the board, but the amount thereof may not be collected by distraint against the assets under the jurisdiction of the bankruptcy or equity court. The second amendment which I have offered is solely for the purpose of clarification.

I might add to this explanation that the bill as it came from the committee left things in this shape—that although the board might have proceeded with the trial of a long and complicated case almost to the point of decision, the appointment of

a receiver or the institution of bankruptcy proceedings would have required that the case be thrown out by the Board of Tax Appeals, and all the work by the taxpayer, by the Government counsel, and by the board itself would have been wasted. In order to avoid that situation the committee has decided to propose these amendments.

The VICE PRESIDENT. The question is on agreeing to the amendment to the amendment.

The amendment to the amendment was agreed to.

The VICE PRESIDENT. The clerk will state the next amendment.

The CHIEF CLERK. On the same page, line 23, after the word "paid," insert the words "by the taxpayer."

The amendment to the amendment was agreed to.

Mr. REED of Pennsylvania. Now I ask that the committee amendment as amended be agreed to. That would take in all of the new language from page 141 to line 10 on page 150.

The amendment as amended was agreed to.

Mr. REED of Pennsylvania. We now reach page 150, and consider the amendment of the committee which begins on page 156. To that amendment of the committee I propose the following amendments.

The VICE PRESIDENT. The clerk will state the first amendment.

The CHIEF CLERK. The committee amendment begins on page 150, line 12, and is to strike out down to and including line 9, on page 156, and to insert. On page 157, line 20, after the word "section" and the comma, the committee now proposes to insert in the committee amendment the words "except as provided in subdivision (j) of this section and."

The amendment to the amendment was agreed to.

The CHIEF CLERK. On page 160, line 17, after the word "section" and the comma, insert the words "except as provided in subdivision (j) of this section and."

The amendment to the amendment was agreed to.

The CHIEF CLERK. On page 162, after line 16, insert a new subdivision to read as follows:

(j) In cases within the scope of subdivision (b) or (f) of this section where any hearing before the board has been held before the enactment of this act and the decision is rendered after the enactment of this act, such decision shall, for the purposes of this title, be considered to have become final upon the date when it is rendered and neither party shall have any right to petition for a review of the decision. The commissioner may, within one year from the time the decision is rendered, begin a proceeding in court for the collection of any part of the amount disallowed by the board, unless the statutory period of limitations properly applicable thereto has expired before the appeal was taken to the board. The court shall include in its judgment interest upon the amount thereof in the same cases, at the same rate, and for the same period, as if such amount were collected otherwise than by proceeding in court. In any such proceeding by the commissioner or in any suit by the taxpayer for a refund, the findings of the board shall be prima facie evidence of the facts therein stated.

The VICE PRESIDENT. The question is on agreeing to the amendment to the amendment.

The amendment to the amendment was agreed to.

Mr. REED of Pennsylvania. I send the following amendment to the desk, going back to page 157.

The VICE PRESIDENT. The clerk will state the first amendment.

The CHIEF CLERK. On page 157, line 8, strike out the words "or subdivision (b) of section 279."

The amendment to the amendment was agreed to.

The CHIEF CLERK. On page 157, line 25, strike out the words "or subdivision (b) of section 279."

The amendment to the amendment was agreed to.

The CHIEF CLERK. On page 162, after line 16, after the amendment previously agreed to, insert a subdivision to read as follows:

(k) Where before the enactment of this act a jeopardy assessment has been made under subdivision (d) of section 274 of the revenue act of 1924—whether of a deficiency in the tax imposed by Title II of such act or of a deficiency in an income, war-profits, or excess-profits tax imposed by any of the prior acts enumerated in subdivision (a) of this section—all proceedings after the enactment of this act shall be the same as under the revenue act of 1924 as amended by this act, except that—

(1) A decision of the board rendered after the enactment of this act where no hearing has been held by the board before the enactment of this act may be reviewed in the same manner as provided in this act in the case of a tax imposed by this title;

(2) Where no hearing has been held by the board before the enactment of this act, the commissioner shall have no right to begin a proceeding in court for the collection of any part of the deficiency disallowed by the board; and

(3) In the consideration of the case the jurisdiction and powers of the board shall be the same as provided in this act in the case of a tax imposed by this title.

The VICE PRESIDENT. The question is on agreeing to the amendment to the amendment.

The amendment to the amendment was agreed to.

Mr. REED of Pennsylvania. I send to the desk the following amendment.

The VICE PRESIDENT. The clerk will state the amendment.

The CHIEF CLERK. On page 158, line 6, after the word "act," insert the words "and no appeal has been filed before the enactment of this act."

The amendment to the amendment was agreed to.

Mr. REED of Pennsylvania. I send the following amendment, to be inserted on page 159.

The CHIEF CLERK. On page 159, line 15, strike out "In such case" and insert the words "In the case of any such final determination."

The amendment to the amendment was agreed to.

Mr. REED of Pennsylvania. I send to the desk the following amendment, to be inserted on page 161.

The VICE PRESIDENT. The clerk will state the amendment.

The CHIEF CLERK. On page 161, line 2, after the word "act," insert the words "and no appeal has been filed before the enactment of this act."

The amendment to the amendment was agreed to.

Mr. REED of Pennsylvania. The following amendment, on page 162, is proposed by the committee.

The VICE PRESIDENT. The clerk will state the amendment.

The CHIEF CLERK. On page 162, after line 16, and after the amendment previously adopted, insert a new subdivision, to read as follows:

(1) In the case of any income, war-profits, or excess-profits tax imposed by prior act of Congress, in computing the period of limitations provided in sections 277 or 278 of this act on the making of assessments and the beginning of distraint or a proceeding in court, the running of the statute of limitations shall be considered to have been suspended (in addition to the period of suspension provided for in subdivision (b) of section 277) for any period prior to the enactment of this act during which the commissioner was prohibited from making the assessment or beginning distraint or proceeding in court.

The VICE PRESIDENT. The question is on agreeing to the amendment to the amendment.

The amendment to the amendment was agreed to.

Mr. REED of Pennsylvania. I ask that the amendment on pages 156 to 163 as amended be agreed to.

The amendment as amended was agreed to.

Mr. REED of Pennsylvania. I send the following amendments to the desk, to be inserted on page 164.

The VICE PRESIDENT. The clerk will state the first amendment.

The CHIEF CLERK. On page 164, line 24, after the word "Appeals," insert the words "within the time prescribed in such subdivision."

The amendment to the amendment was agreed to.

The CHIEF CLERK. On page 165, line 2, after the word "suit," insert the words "by the taxpayer," and after the word "recovery" strike out the word "for" and insert the word "of."

The amendment to the amendment was agreed to.

Mr. KING. Mr. President, was subdivision (d), on page 164, eliminated?

Mr. REED of Pennsylvania. No; certain words were added in line 24.

Mr. KING. I refer to subdivision (d), and ask whether that amendment proposed by the Finance Committee has been agreed to?

Mr. REED of Pennsylvania. No; that is what I am about to ask to have done. We have just amended the committee amendment. Now I ask that the committee amendment as amended be agreed to.

The amendment as amended was agreed to.

Mr. REED of Pennsylvania. I ask for action on the amendment on line 11, page 165.

The CHIEF CLERK. On page 165, line 11, the committee proposes to strike out the words, "of Tax Appeals."

The amendment was agreed to.

Mr. REED of Pennsylvania. I ask that the amendment on page 166, line 18 be agreed to.

The CHIEF CLERK. On page 166, line 18, after the word "paid," insert the following:

If the taxpayer has, on or before June 15, 1926, filed such a waiver in respect of the taxes due for the taxable year 1920 or 1921, then such credit or refund relating to the taxes for the taxable year 1920 or 1921 shall be allowed or made if claim therefor is filed either on or before April 1, 1927, or within four years from the time the tax was paid.

The amendment was agreed to.

Mr. REED of Pennsylvania. Let the committee amendment on page 167, line 10, be stated.

The CHIEF CLERK. On page 167, line 10, strike out "1919" and insert "1919, or on or before April 1, 1928, in the case of credits or refunds relating to the taxes for the taxable years 1920 and 1921."

Mr. REED of Pennsylvania. I ask that the amendment be agreed to.

The amendment was agreed to.

Mr. KING. Mr. President, the amendment on page 166 perhaps was considered in the committee. It was not one which was referred to the Senator from Pennsylvania and myself. I am wondering if that was an extension or could be construed in anyway as an enlargement of the right of taxpayers over that which now exists to prosecute their claims or to obtain refunds. I have not read it carefully in connection with the text.

Mr. REED of Pennsylvania. It merely permits the present practice as to waivers to be continued for the additional years mentioned in the bill. Heretofore we have passed special acts to take care of the situation. This time we hope to get away from the necessity of a special act by putting it in the bill itself.

Mr. KING. I will challenge attention to it later if I find it is broader than upon its face it appears to be.

Mr. REED of Pennsylvania. I ask now to turn to page 210, and I send to the desk an amendment which I offer.

The CHIEF CLERK. On page 210, lines 9 and 10 in the proposed committee amendment, strike out "each calendar year thereafter" and insert "and the calendar year 1925."

The amendment to the amendment was agreed to.

Mr. COPELAND. Mr. President, may I ask the Senator what is the significance of the amendment we just agreed to on page 210?

Mr. REED of Pennsylvania. The intention of the Finance Committee was to reduce the rates of the gift taxes for the years 1924 and 1925. When we wrote the amendment, through a slip on the part of the draftsman, it was made to amend the gift-tax section so that it would apply indefinitely in the future. It was our intention to agree to the action of the House striking down the gift tax entirely after January 1, 1926. I am not going to ask that the committee amendment as amended be agreed to, because I understand that the agreement is that the gift tax and estate tax shall go over for further consideration. All I am trying to do now is to perfect the committee amendment in preparation for that discussion.

Mr. COPELAND. I thank the Senator.

Mr. REED of Pennsylvania. I send to the desk another amendment.

The CHIEF CLERK. On page 212, line 2, after the word "act," strike out the remainder of the line and all of line 3 and insert in lieu thereof the following:

shall be refunded without interest. Where the tax imposed by such title is less than the tax imposed by such title as amended by this act, the tax shall be computed without regard to the provisions of section 300 of this act.

Mr. REED of Pennsylvania. It was felt by the committee that where we are reducing the gift tax retroactively, if any tax has been paid and is now to be refunded, there was no occasion for the Government paying interest on it as if it had exacted it illegally.

The amendment to the amendment was agreed to.

Mr. REED of Pennsylvania. I send another amendment to the desk, which I offer.

The CHIEF CLERK. On page 266, line 9, after the word "expire" insert the words "at the close of business."

The amendment to the amendment was agreed to.

Mr. REED of Pennsylvania. I now ask that the committee amendment on page 265 be agreed to.

The CHIEF CLERK. On page 265, line 6, after the word "members" and the semicolon insert the words "except as provided in subdivision (c) of section 901 and."

The amendment was agreed to.

Mr. REED of Pennsylvania. The other committee amendment, on page 265, I think ought to be passed over for discussion. I think the Senator from Utah [Mr. KING] expects to discuss that among others. It pertains to the terms of the members of the board of tax appeals.

Mr. KING. Yes.

The VICE PRESIDENT. The amendment will be passed over.

Mr. REED of Pennsylvania. I send to the desk another amendment on page 268.

The CHIEF CLERK. On page 268, lines 17 and 18, strike out "of two or more members," and strike out lines 24 and 25 on page 268, and lines 1 and 2 on page 269.

The amendment was agreed to.

Mr. REED of Pennsylvania. I ask that the committee amendment on page 268, in line 19, may be agreed to.

The CHIEF CLERK. On page 268, line 19, after the word "shall," the committee proposes to strike out "(except as provided in subdivision (d))."

The amendment was agreed to.

Mr. REED of Pennsylvania. I send to the desk another amendment, which I offer.

The CHIEF CLERK. On page 269 strike out lines 24 and 25, and on page 270 strike out lines 1 to 13, both inclusive, and insert in lieu thereof the following:

(c) If a petition for a redetermination of a deficiency has been filed by the taxpayer, a decision of the board dismissing the proceeding shall, for the purposes of this title and of the revenue act of 1926, be considered as its decision that the deficiency is the amount determined by the commissioner. An order specifying such amount shall be entered in the records of the board unless the board can not determine such amount from the pleadings.

(d) A decision of the board shall be held to be rendered upon the date that an order specifying the amount of the deficiency is entered in the records of the board. If the board dismisses a proceeding and is unable from the pleadings to determine the amount of the deficiency determined by the commissioner, an order to that effect shall be entered in the records of the board, and the decision of the board shall be held to be rendered upon the date of such entry.

(e) If the assessment or collection of any tax is barred by any statute of limitations, the decision of the board to that effect shall, for the purposes of this title and of the revenue act of 1926, be considered as its decision that there is no deficiency in respect of such tax.

And on page 270, line 14, strike out "(g)" and insert "(f)."

The amendment to the amendment was agreed to.

Mr. REED of Pennsylvania. I ask that the committee amendment as amended be agreed to.

The amendment as amended was agreed to.

Mr. REED of Pennsylvania. I send to the desk another amendment which I offer.

The CHIEF CLERK. On page 271, after the period in line 6, insert the following new sentence:

The mailing by registered mail to the taxpayer of any pleading, order, notice, or process in respect of proceedings before the board shall be held sufficient service of such pleading, order, notice, or process.

The amendment was agreed to.

Mr. REED of Pennsylvania. I ask that the committee amendment on page 272 be amended by striking out all after the words "the board," in line 2, down to the end of the page, including line 24; in other words, strike out all matter in italics.

The CHIEF CLERK. Strike out the committee amendment inserted after the House text in line 2, down to and including line 24.

The amendment to the amendment was agreed to.

Mr. REED of Pennsylvania. I now ask that the committee amendment as amended be agreed to. That will be tantamount to striking out the language of the House text which is struck through, beginning in line 6, on page 271.

The amendment as amended was agreed to.

Mr. REED of Pennsylvania. I ask that the committee amendment on page 275 be agreed to.

The CHIEF CLERK. On page 275, line 17, strike out the word "taxes" and insert "taxes, and may be made in advance."

The amendment was agreed to.

Mr. REED of Pennsylvania. I send to the desk another amendment, which I offer.

The CHIEF CLERK. On page 278, line 24, after the word "act," insert "(except as provided in subdivision (j) of section 283)."

The amendment to the amendment was agreed to.

Mr. REED of Pennsylvania. I ask that the committee amendment beginning on page 278 and extending to page 280 be agreed to as amended.

The amendment as amended was agreed to.

Mr. REED of Pennsylvania. I send to the desk another amendment, which I offer.

The CHIEF CLERK. On page 298, line 8, strike out "this act" and insert "the revenue act of 1924."

The amendment was agreed to.

Mr. KING. Mr. President, I want to direct attention very briefly to the amendment just agreed to on page 275, line 17, inserting the words "taxes, and may be made in advance," in the section providing for the payment of witnesses. Has there been any question as to the power of the commissioner to pay in advance under the provisions of existing law, and if not, what is the necessity for this provision; and if there is necessity, where will he get his funds? Are they to be anticipated and placed in a reservoir from which he may draw ad infinitum ad libitum?

Mr. REED of Pennsylvania. I do not know whether he has a contingent fund from which he can draw, but the situation is that the witnesses will not come to a trial unless they are paid in advance their fees, and the Comptroller General will not approve any payment if it is made in advance; so that between the witnesses and the Comptroller General the commissioner is not in a good position.

Mr. KING. I appreciate the importance of it, but I was wondering whether in the past any difficulties had been experienced, and if not, what objection had been made to the payment; in other words, whether there is some other law under which payment was made, because we have gotten along so far apparently without necessity for such a provision. I am not challenging the wisdom of the section, but I was wondering if it were not a duplication.

Mr. REED of Pennsylvania. I think the money to pay them has been taken care of in appropriation bills and this is a new tack taken by the Comptroller General, who refuses to allow them to be paid out of such an appropriation except after service has been rendered.

Mr. KING. I do not exactly see how the commissioner is going to pay in advance. He may pay mileage, but he does not know the length of time that may be involved. In criminal cases, where witnesses are subpœnaed by the Government, they have to come to court and after the case is ended the marshal or the clerk of the court gives the necessary certificate which entitles them to compensation. I do not quite see why the witnesses here should be placed in a different category from witnesses in any other causes in which the Government is a party.

Mr. REED of Pennsylvania. If the commissioner pays more than the mileage and one day's witness fee he does it at his own peril. Obviously I think the intention of the provision is to permit the payment of one day's witness fee and the mileage.

Mr. KING. If Mr. Walker will get full information for me in regard to this particular matter before the bill is passed, I shall not ask further consideration of it now.

Mr. SMOOT. I will say to my colleague that if he will look at the report he will see a full explanation as given by the department.

Mr. REED of Pennsylvania. Was the committee amendment on pages 280 and 281 adopted?

Mr. SMOOT. No; it was not.

The VICE PRESIDENT. That amendment has not been adopted.

Mr. REED of Pennsylvania. I ask that it may be adopted at this time.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. On page 280, after line 13, strike out:

SEC. 913. (a) Such decision may be reviewed—

(1) In the case of an individual, by the circuit court of appeals for the circuit whereof he is an inhabitant, or if not an inhabitant of any circuit, then by the Court of Appeals of the District of Columbia.

(2) In the case of a person (other than an individual), except as provided in paragraph (3), by the circuit court of appeals for the circuit in which is located the office of the collector of internal revenue to whom such person made the return, and in case such person made no return, then for any circuit in which is located the office of a collector of internal revenue to whom such person should have made the return.

(3) In the case of a corporation which had no principal place of business or principal office or agency in the United States, then by the Court of Appeals of the District of Columbia:

And in lieu thereof to insert:

VENUE

SEC. 1002. Such decision may be reviewed—

(a) In the case of an individual, by the circuit court of appeals for the circuit whereof he is an inhabitant, or if not an inhabitant of any circuit, then by the Court of Appeals of the District of Columbia.

(b) In the case of a person (other than an individual), except as provided in subdivision (c), by the circuit court of appeals for the circuit in which is located the office of the collector to whom such person made the return, or in case such person made no return, then by the Court of Appeals of the District of Columbia.

(c) In the case of a corporation which had no principal place of business or principal office or agency in the United States, then by the Court of Appeals of the District of Columbia.

(d) In the case of an agreement between the commissioner and the taxpayer, then by the circuit court of appeals for the circuit, or the Court of Appeals of the District of Columbia, as stipulated in such agreement.

The amendment was agreed to.

Mr. REED of Pennsylvania. On page 282, in line 16, after the word "Board," where it first occurs, I move that the remainder of that line and all of lines 17, 18, and 19 be stricken out, and that in lieu thereof there be inserted the words "with or without remanding the case for a rehearing, as justice may require."

The VICE PRESIDENT. Without objection, the amendment is agreed to.

Mr. REED of Pennsylvania. Mr. President, have the section numbers and paragraph lettering been agreed to?

Mr. KING. That has been taken care of by general understanding.

Mr. REED of Pennsylvania. Has that been taken care of by unanimous consent?

Mr. SMOOT. Yes; it has been taken care of by unanimous consent.

Mr. REED of Pennsylvania. I ask that the committee amendment on page 283, line 5, may be now considered.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. On page 283, line 5, the Committee on Finance propose to insert the subhead, "Date on which board's decision becomes final."

The VICE PRESIDENT. Without objection, the amendment is agreed to.

Mr. REED of Pennsylvania. Mr. President, on the pages both preceding and following this point the committee has moved to strike out a number of punctuation marks, such as quotation marks, and so forth. I ask unanimous consent that that may be done by the Secretary without further action of the Senate.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. REED of Pennsylvania. The next committee amendment passed over is on page 285.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. On page 285, after line 5, the Committee on Finance propose to strike out:

"(e) As used in this section—

"(1) The term 'circuit court of appeals' includes the Court of Appeals of the District of Columbia;

"(2) The term 'mandate,' in case a mandate has been recalled prior to the expiration of 30 days from the date of issuance thereof, means the final mandate."

And in lieu thereof to insert:

(e) As used in this section—

(1) The term "circuit court of appeals" includes the Court of Appeals of the District of Columbia;

(2) The term "mandate," in case a mandate has been recalled prior to the expiration of 30 days from the date of issuance thereof, means the final mandate.

The VICE PRESIDENT. Without objection, the amendment is agreed to.

Mr. REED of Pennsylvania. Now, Mr. President, at the bottom of page 292, line 25, I move that the committee amendment be amended by striking out the figure "(1)" and inserting the figure "(2)."

The VICE PRESIDENT. Without objection, the amendment to the amendment is agreed to.

Mr. REED of Pennsylvania. On page 293, line 1, I move to strike out the figure "(2)" and to insert the figure "(3)."

The amendment to the amendment was agreed to.

Mr. REED of Pennsylvania. May I now ask that the committee amendment as amended be agreed to?

Mr. COPELAND. Mr. President, I desire to ask the Senator from Pennsylvania, was it not at this point that the Senator from Tennessee [Mr. MCKELLAR] proposed to offer an amendment?

Mr. REED of Pennsylvania. I am not sure of that.

Mr. COPELAND. The Senator from Tennessee, I think, was proposing to limit the period of assessment to two years instead of four years.

Mr. REED of Pennsylvania. That is true.

Mr. KING. Let the amendment go over.

Mr. SMOOT. We could now agree to the amendment, and if the Senator from Tennessee shall later desire to propose an amendment to it, we shall ask for a reconsideration of the vote by which the amendment was agreed to.

Mr. COPELAND. I have no personal interest in the matter, but I remember the discussion of the Senator from Tennessee about it.

Mr. WILLIS. Mr. President——

Mr. REED of Pennsylvania. I yield to the Senator from Ohio.

Mr. WILLIS. I find there is some inquiry and some confusion among Senators as to what the plan of the Senator from Pennsylvania and the senior Senator from Utah may be as to to-morrow. Is it proposed to go ahead with the publicity feature of the bill?

Mr. SMOOT. It is proposed to go on with the publicity provisions of the bill the first thing to-morrow morning when the Senate meets at 11 o'clock.

Mr. WILLIS. Following that, whenever that matter shall be disposed of, does the Senator propose to take up the estate tax?

Mr. KING. It is then proposed to take up the estate tax.

Mr. WILLIS. That was my understanding; but I wanted to have it definitely understood.

Mr. SMOOT. That would not be in order. I had just as leave take up the estate tax; but the next thing to be taken up would be the tobacco tax; then the admissions tax; then the tax on dues and excise taxes; but we will take up the estate tax next.

Mr. WILLIS. At all events, the matter to be taken up to-morrow and proceeded with, so far as may be necessary, will be the publicity provision of the bill.

Mr. SMOOT. The publicity feature will be taken up to-morrow, and then following that the estate tax.

Mr. WILLIS. I thank the Senator.

Mr. KING. If we can conclude the discussion on the publicity feature of the bill to-morrow and dispose of the taxes on automobiles and admissions it would give the taxpayers a little comfort for Sunday, which I should be very glad to do. I should be gratified if we might dispose of and lower those taxes or strike them out entirely.

Mr. WILLIS. That would be a splendid day's work.

Mr. KING. I agree with the Senator from Ohio, and I hope he will vote to do so.

Mr. REED of Pennsylvania. I ask that the amendment of the committee which begins on page 292 and extends to page 294 be considered, with the understanding that if any Senator hereafter wishes to move an amendment to it that we will interpose no objection to its reconsideration.

The VICE PRESIDENT. Without objection, the amendment as amended is agreed to.

Mr. REED of Pennsylvania. I inquire if the committee amendment on page 295, in lines 20 to 21, has been agreed to?

The VICE PRESIDENT. The Chair is informed that that amendment has been agreed to.

Mr. KING. I wish to state with respect to section 1111, on page 295, where such broad powers are given to the commissioner to pay refunds, I may desire to offer an amendment to that. I have no objection to the formal amendments which have been agreed to, but I do not want to be precluded from offering an amendment to the residue of the section.

The VICE PRESIDENT. The next amendment passed over will be stated.

The CHIEF CLERK. On page 307, line 16, it is proposed to strike out the words "reenacted without change, as" and insert "amended to read as."

The amendment was agreed to.

Mr. SMOOT. I think that amendment has heretofore been agreed to; it is so marked in my book; but it is all right.

Mr. REED of Pennsylvania. I inquire if the amendment at the bottom of page 322, the repealer clause, was agreed to?

Mr. SMOOT. That amendment has been agreed to.

The VICE PRESIDENT. The next amendment passed over will be stated.

The CHIEF CLERK. On page 325, after line 23, an amendment was passed over at the request of the junior Senator from Utah [Mr. KING].

Mr. REED of Pennsylvania. Does the Senator from Utah desire to have that amendment go over until to-morrow?

Mr. KING. On what page is the amendment?

Mr. REED of Pennsylvania. On page 325, relating to the office of assistant to the general counsel.

Mr. KING. Let that go over.

Mr. COUZENS. I do not understand that the amendments on page 323 have been agreed to. Have they been adopted?

Mr. REED of Pennsylvania. The committee amendments have been agreed to, but with the understanding that the action of the Senate on the estate tax will reopen them if necessary.

Mr. SMOOT. The Senator from Michigan, I understand, has an amendment to offer on that page. I have made a note of it.

Mr. COUZENS. Yes. Let me ask the Senator from Pennsylvania if he has offered as yet the amendment as to amortization?

Mr. REED of Pennsylvania. Not as yet. I am just about to do that.

Mr. President, I send to the desk an amendment to come in on page 334.

The CHIEF CLERK. On page 334, between lines 10 and 11, and following the amendment heretofore agreed to at that point, it is proposed to insert a new section, to read as follows:

SEC. —. The computation of invested capital for any taxable year under the revenue act of 1917, the revenue act of 1918, and the revenue act of 1921, in the case of a taxpayer whose books of account were kept on the accrual basis, shall be considered as having been correctly made, so far as relating to the inclusion in invested capital for such year of income, war-profits, or excess-profits taxes for the preceding year, if made in accordance with the regulations in force in respect of such taxable year applicable to the relationship between invested capital of one year and taxes for the preceding year.

Mr. COUZENS. Will the Senator from Pennsylvania explain what that means?

Mr. REED of Pennsylvania. Mr. President, it is rather involved, but I think I can express it in a few words. The excess-profits tax under the 1917, 1918, and 1921 acts provided for the inclusion in invested capital of earned surplus. The question immediately arose in framing the regulations whether in the case of a corporation which kept its books on the accrual basis the tax for the preceding year should be taken out of the earned surplus at the beginning of the year or should be kept in for the whole year.

Mr. COUZENS. I think the Supreme Court decided that case.

Mr. REED of Pennsylvania. I am not going to take the time of the Senate with a long explanation, but it comes down to this: The bureau established regulations saying that the tax should be taken out of invested capital at the time when it was supposed to be paid on each of the four payment dates. The Board of Tax Appeals decided that that was not so; that the tax be considered as being taken out at the end of the year during which payment was made; and then along comes the Supreme Court recently and decides that they are both wrong and the tax ought to be taken out of invested capital on the first day of the year during which the payment should be made.

Mr. COUZENS. That is as I understood it. What is this amendment?

Mr. REED of Pennsylvania. What we do is to provide by this amendment that the regulations that were in force throughout all these years, before these two conflicting decisions were handed down, shall continue to control. All those cases, or the vast majority of them, as the Senator knows, have been settled on that line. If, now, we are to open them up in order to get a little bit of additional tax by enforcing the Supreme Court decision, it will mean opening up tax settlements in nearly 100,000 cases, and it will set back the administration of the excess-profits tax in the Income Tax Bureau by nearly a year. It will, it is true, bring in a slight amount of additional revenue.

Mr. COUZENS. Is the amount estimated?

Mr. REED of Pennsylvania. Nobody has been able to estimate what the amount would be. It might be 3 per cent additional here, 10 per cent there——

Mr. SMOOT. One per cent here.

Mr. REED of Pennsylvania. One per cent here, and so on. I have tried to get an estimate of what it would mean; but, in substance, the people in the bureau tell me that they think a large part of the tax recovery we would get by opening them all up under this Supreme Court case would be spent in the administrative effort of doing it.

Mr. COUZENS. And this amendment makes the regulations that have been in force retroactive to the beginning?

Mr. REED of Pennsylvania. Exactly. It simply says to the taxpayer: "What you have been thinking was the law through all these years is the law, in spite of these varying court decisions."

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. REED of Pennsylvania. I have one more, Mr. President. I offer the amendment which I send to the desk to be inserted on the same page, and I ask the attention of the Senator from Michigan to it.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. On page 334, after the amendment just agreed to, it is proposed to insert the following:

AMORTIZATION DEDUCTION

SEC. —. The deduction provided by paragraph (9) of subdivision (a) of section 214 or by paragraph (8) of subdivision (a) of section 234 of the revenue act of 1918 may (notwithstanding any provisions of the revenue act of 1921) be allowed for the taxable year 1918, 1919, or 1920 if claim therefor was made before March 3, 1924.

Mr. COUZENS. Mr. President, may I ask why March 3, 1924, was selected?

Mr. REED of Pennsylvania. Because that is the date that has been prevailing in the regulations for some time, and we are simply legalizing them. I will try, in just a nutshell, to explain the matter to the Members of the Senate who are not so familiar as the Senator from Michigan is with this situation.

Amortization was a special allowance provided by Congress for those taxpayers who had made capital outlays for facilities to produce articles needed in the prosecution of the war. It became obvious, when the war ended, that a large part of their capital investment was gone; so Congress decided that they might make a deduction from their taxable income of a reasonable sum to provide for that amortization.

Along came the revenue act of 1921, and in that—by inadvertence, I am sure—Congress put in parenthesis a clause dealing with this amortization section which said, in substance, that the amortization claims should be allowed if claim therefor was filed with the return.

Mr. COUZENS. Mr. President, just at that point, may I ask the Senator what objection there is to that?

Mr. REED of Pennsylvania. The objection to it is that it has been held that no amortization can be allowed unless at the instant of filing the tax return for those past years the taxpayer should have simultaneously filed his claim for amortization. It is perfectly obvious that a taxpayer filing his claim on the 15th of March, 1919, if he was a shipbuilder, for example, did not realize to the slightest extent the degree to which the suspension of the war had taken the substance out of his investment. No taxpayer in that position could intelligently have filed the claim unless he had been gifted with prophecy. The construction that has been placed upon that phrase in parenthesis, requiring the filing of the claim at the same moment as the filing of the return, would operate to deny practically all of the relief that Congress meant to give in enacting that amortization provision.

Mr. KING. Mr. President, will the Senator yield?

Mr. REED of Pennsylvania. I am glad to yield.

Mr. KING. If I may say so to my friend from Michigan, he knows that I am as much opposed to some of these illegal amortization allowances as he is; and when this matter was first brought to my attention I was instantly hostile to it. I have, however, examined it with the best care I could, and, not satisfied with my own examination, I had Mr. Manson—who was, as the Senator knows, our counsel in the investigation—come before the subcommittee, of which the Senator from Pennsylvania and myself are the only members, and he concurred in this amendment. We talked the matter over very fully, and he thought that it was just; and my opinion is, with the information which I possess, that it is just and that this amendment ought to be made.

Mr. COUZENS. Does not the Senator think the date is advanced too far? It seems to me that the date which is stated in the amendment is advanced too far, because the period between 1921 and 1924 is the time when a lot of these vicious claims were made.

Mr. REED of Pennsylvania. I agree with the Senator that we ought to be very careful about the date. The suggestion that was made to us by many persons, and strongly urged, was that we should allow a sort of a period of limitation of five years from the day the return was due. After consultation with the Solicitor for the Bureau of Internal Revenue, Mr. Gregg, and with the counsel for the special committee on examination of the Internal Revenue Bureau, Mr. Manson, and a great deal of discussion pro and con, it was the judgment of everybody—the Senator from Utah [Mr. KING], Mr. Manson, Mr. Gregg, and my own poor self, although I do not profess to be an expert on this subject—that this was a fair compromise. The reason why the date of March 3 was suggested was because, according to Mr. Gregg, that is the date that was fixed in the regulations for a long time, until the Board of Tax Appeals came along and discovered this parenthetical clause that I spoke about, and knocked out the whole thing, and said that the claim had to be filed at the instant of filing the return. What we are doing now is taking the date that the bureau has taken for a long time.

Mr. COUZENS. Mr. President, I want to say in that connection that I think the language of the act of 1921 in parenthesis was wrong. I agree with the Senator from Pennsylvania that to require the amortization claim to be filed at the time of filing the return was obviously an injustice to the taxpayer; but I still have in mind a very definite opposition to extending from the close of the war to March 3, 1924, the period within which to manufacture all sorts of claims against the Government. That has been the result of that extension of time, and in my judgment it has resulted in great injustice to the Government.

I was rather pleased to see that there was an opportunity to open up this matter, although I believe it should not, in justice, go as far as the Board of Tax Appeals went. I still think that there is another point between those dates to which we should not go; and, if it is agreeable to the Senator, I should like to have that amendment go over.

Mr. REED of Pennsylvania. Let it go over to-night.

Mr. KING. Mr. President, I ask unanimous consent to have printed in the RECORD the minority views which I submitted upon the pending tax bill.

The VICE PRESIDENT. Without objection, that order will be made.

The minority views submitted by Mr. KING on the calendar day of January 28, 1926, are as follows:

MINORITY VIEWS

[To accompany H. R. 1]

The Republican members of the Committee on Finance have submitted a report to accompany H. R. 1, a bill to reduce and equalize taxation, to provide revenue, and for other purposes, which passed the House of Representatives in December last.

The report discusses the bill at considerable length and directs attention to the changes which have been made in the bill as it came from the House.

With many of the provisions of the bill as it came from the House, and as reported by the Committee on Finance, I am in accord, but there are a number of provisions of the bill, particularly in the Senate draft, that do not meet my approval, and I am, therefore, submitting a brief minority statement. I shall not attempt to discuss the bill or analyze in detail the provisions to which I am opposed. When the bill is under consideration in the Senate opportunity may be given to elaborate the points of opposition herein specified.

The majority report refers to the estimates submitted by the Secretary of the Treasury wherein it is estimated that the surplus for the fiscal year 1926 will be $262,041,756 and for the fiscal year 1927 $330,307,895.

Apparently it was the purpose of the Ways and Means Committee of the House to make reductions within the limits of the estimated surplus for 1927, and the report of the majority of the Finance Committee estimates that the reductions provided in the bill will total $352,661,000. It is apparently assumed that the bill as reported by the Finance Committee will raise sufficient revenue to meet the expenditures estimated by the Budget and by the Treasury Department. In view of the fact that former estimates of the Treasury Department have not been entirely accurate, and that taxes were collected in excess of the amount as estimated, or required to meet the appropriations made by Congress, it is reasonable to assume that, if the appropriations are within the limits prescribed by the Budget, that there will be a surplus for the fiscal year 1927 and succeeding years.

The science of mathematics does not reign supreme in determining in advance the revenues and expenditures of governments, and there is always a measure of uncertainty in making predictions as to the sources and extent of revenue for the future. But applying the standards which have been accepted, it is reasonably certain that under existing law the revenues for the coming year will exceed those obtained for the calendar year 1925 or the fiscal year 1925–26. In my opinion, if the existing law is continued during the next calendar year the revenue derived therefrom will be more than $100,000,000 in excess of that obtained in the calendar year 1925.

It is thought by some who believe that larger tax reductions should be made than those indicated in the House or Senate bill that it is the purpose of the administration that there shall be a considerable surplus arising from the bill which it is proposed to pass in order that another revenue bill can be offered during the next Congress calling for a further reduction in the income and corporate profits taxes. An examination of the message of the President transmitting the Budget for the service of the fiscal year ending June 30, 1927, will demonstrate that large reductions could be made in the estimated ap-

propriations for many of the departments and agencies of the Government, and that such reductions could be made without impairing the efficiency of the Government or denying appropriations required to meet the legitimate and proper demands of the Government.

In my opinion the appropriations for the next fiscal year should be at least $200,000,000 less than for the fiscal year ending June 30, 1926. Therefore, instead of reductions in taxes amounting to $352,661,000, the estimate stated in the majority report, Congress should enact a law that would reduce taxes at least $500,000,000. It is true that the President in his Budget message under date of December 7, 1925, submits figures indicating that the appropriations for 1927, compared with appropriations for 1926, will be approximately increased $60,000,000. I repeat, however, that without any modification of existing law the revenue for the next calendar year or fiscal year will exceed that obtained for the present fiscal year and the last calendar year, and I reiterate the statement that to increase the appropriations for the next fiscal year over those provided for the fiscal year ending June 30, 1926, conclusively demonstrates the lack of economy and indicates the purpose upon the part of the administration to take no further steps to reduce governmental expenses.

Indeed, when President Coolidge states, as he did in his message, "We have about reached the point when the legitimate business of the Government can not be carried on with less expenditure than at the present time," it is notice to the country that the enormous appropriations now made to meet governmental expenditures are to be continued, and, indeed, increased. Notwithstanding this manifest purpose of the administration to increase the expenses of the Government, I believe that Congress owes it to the people to relieve them from taxes in excess of the amount provided in the bill reported by the Senate Finance Committee. I submit that the Budget estimates and appropriations for the next fiscal year show no spirit of retrenchment and no evidence that proper economies are to be introduced into the administration of governmental affairs.

The estimates of appropriations for the next fiscal year show amounts for various departments in excess of all legitimate and proper demands if economy is to be practiced as it is so often preached. The estimates for the Departments of Agriculture, Commerce, Interior, Labor, Navy, and War negative all claims that economy is to govern in the administration of these departments; and, unfortunately, inordinately large appropriations are to be sought to meet the expenses of the departments and executive agencies. For the War and Navy Departments it is proposed that there shall be appropriated for the next fiscal year nearly $600,000,000. It is proposed that the appropriations for administration of the Bureau of Internal Revenue and the Veterans' Bureau will exceed $90,000,000 per annum.

Instead of economy in the departments of the Government there, there is manifest a determination upon the part of substantially all executive agencies to decrease their personnel, expand their authority and power, and augment their expenditures. If Congress shall refuse to follow the recommendations of the Budget, as it has done in the past, and provide appropriations for sums in the aggregate less than the Budget demands, there can be a reduction below the estimates of the Budget of approximately $200,000,000.

In view of this fact, and the further fact that the revenues for the next calendar year, under the provisions of either the House or Senate bills, will exceed the estimates indicated in the report of the Committee on Ways and Means of the House, or the majority report of the Committee on Finance in the Senate, it is manifest that there should be material modifications in the bill and substantial reductions below the limits fixed by it.

The majority report of the Finance Committee attributes the surplus for the fiscal year past and the estimated surplus for the immediate future largely to the result of the "functioning of the Government through both the legislative and executive branches of the Government on the basis of sound economy." This declaration is made although the report declares that the "present Budget requirements are over three times those prior to the war."

There has been persistent propaganda throughout the country to the effect that great economies have been effectuated in the executive departments; that it has curbed the extravagance of Congress and wrought material reductions in the expenses of the Government; and in support of this propaganda statements have been made as to the expenses of the Government during the war and the expenses during the past three or four years. The fact is that the reductions in appropriations for 1923 were only $97,000,000; in 1924, only $91,000,000; and for 1925 there was an increase of $84,000,000.

The Secretary of the Treasury reports that the total ordinary receipts for the year ended June 30, 1925, amounted to more than $3,780,000,000, and that the expenses chargeable against such receipts were more than $3,529,000,000. In 1914 the appropriations of the Government, less postal revenues, were $812,000,000; in 1915, $905,000,000; in 1916, $800,000,000; and in 1917, though the war had then been entered upon, $1,301,000,000. During the years 1918 and 1919 the expenses of the war, of course, were stupendous, totaling more than $40,000,000,000, including loans made to European nations. But in 1920, $6,000,000,000 covered the expenses of the Government, and in 1921, $4,257,000,000 met all its expenses, less postal revenues. I submit that during the past three years there has not been that measure of economy so loudly proclaimed, and upon the part of many of the executive departments and agencies there has been opposition to a reduction of the personnel or a diminution in the expenditures in their respective departments or agencies.

Prior to the World War the State revenues were approximately 70 per cent and the Federal revenues 30 per cent of all taxes collected. For the year 1925 the Federal revenues were 41 per cent of the entire amount collected for State and Federal taxes. The total of approximately $8,000,000,000 of taxes are a grievous burden to annually impose upon the American people, and every possible effort should be made to reduce this burden. Efforts to protect the Federal Government into activities which belong to the States should be resisted, and the taxing power should be exercised with the utmost caution and taxes taken from the people only when the imperative needs of the Government require. It is unwise to have an overflowing Treasury; indeed, it were better that its vaults should hold no surplus.

Seven years have passed since the World War ended. We should be in a position to determine the general lines to be followed in raising revenues for the Federal Government. So far as possible, the revenue measure which we now frame should possess the important and principal features to be found in future revenue bills. For years there was great opposition to a personal income tax, and many opposed an income or profits tax upon corporate business.

The American people, in my opinion, believe that the principal sources from which national revenues are to be drawn are personal income taxes, corporate profits taxes, customs duties, and internal-revenue taxes upon tobacco in its various forms; and a considerable part of the people regard estate taxes as a legitimate spring from which revenue may be derived even in peace times. Doctor Seligman affirms with great earnestness that an estate tax is the result of the modern democratic movement and that wherever we have democracy there is an income tax and an inheritance tax, and the arguments in favor of the one are as potent as those in favor of the other.

Wealth has generally resisted revenue systems which sought to impose income and estate taxes. Sales taxes have been favored by the rich, though confessedly this system bears oppressively upon the consumer and is unquestionably inequitable in its operations and discriminatingly burdensome to the poor and those of moderate means. Sales taxes may be justified in time of war as excise taxes which comprehend multitudes of articles and commodities important in the lives of the people; but a rational, scientific, and democratic revenue system rejects the proposition to impose a sales tax and it seeks to remove substantially all excise taxes.

In the existing law there are excise taxes upon many commodities. They were laid during the war and should be repealed.

The House bill makes important reductions but does not, in my opinion, go far enough. The bill as it came to the Senate carried taxes on admissions and dues, automobiles, capital stock, customhouse entries, customhouse withdrawals, passenger tickets, and policies of insurance. The repeal of miscellaneous taxes made by the House of Representatives did not, in my opinion, go far enough. Accordingly, on January 7, after the bill came to the Senate, I offered amendments designed to repeal all of the above enumerated taxes. The bill as reported by the Finance Committee repeals all of these taxes except the tax on admissions and dues, the tax on automobiles, and the tax upon policies of insurance. The revenue estimated from the tax on automobiles at the House rate is $69,600,000, and the estimated revenue from the tax on admissions and dues at the House rate is $29,000,000. The total revenues anticipated by the Treasury from these two taxes at the House rates amount to $98,600,000 for the calendar year 1926.

The stamp tax on policies of insurance carried in the bill amounts to 8 cents on each dollar of the premium charged upon any policy which is not signed or countersigned by an officer or agent of the insurer within the United States. The tax was never designed for revenue purposes. The revenue derived from this tax is negligible. The tax applies only to the premium on policies of insurance which are not written by agents or officers in this country. It is a proposition which has no proper place in the revenue act or in any other Federal legislation. If a State government were to pass such a statute, applying it to the contracts of insurance companies which did not maintain agents within the State, the law would be repugnant to the commerce clause of the Constitution. This law interferes with international commerce in a discriminating manner which is not applied to any other international commercial contract. The tax is both useless and improper and ought to be repealed.

The automobile trade and the multitude of people who use automobiles, the theatrical profession, and the patrons of the theater are demanding the repeal of the automobile tax and the tax upon theater tickets. Instead of repealing these taxes, the bill as reported by the majority of the Finance Committee, repeals the Federal tax on estates, from which the revenues are somewhat in excess of those estimated to be derived from the taxes retained on automobiles and theater tickets. I adhere to my view that these taxes upon automobiles,

theater tickets, and policies of insurance ought to be repealed and that the pretermitted revenues should be covered by corresponding economies in expenditure, which I am confident can be made when the appropriation bills are before the Senate. If this be done the Budget will be balanced notwithstanding the repeals.

ESTATE TAX

As I understand, most of the members of the Finance Committee favor the repeal of the Federal estate taxes. I dissent from the position which they have taken. Under existing law the estate taxes will yield approximately $110,000,000 in taxes for the calendar year 1926. The House reduced the maximum rate of the tax on estates of decedents from 40 to 20 per cent. The rates were progressively fixed from 1 per cent on the second $50,000 of the gross estate to 20 per cent on the excess above $10,000,000. The present law allows a credit upon any estate or inheritance tax paid to any State up to 25 per cent of the Federal tax. The House bill increases the credit to 80 per cent of the Federal tax.

The Finance Committee not only recommend the repeal of the law, but also recommend that the rates be fixed by the revenue act of 1924 be repealed retroactively so that the rates provided by the revenue act of 1921 shall apply to the taxes on all estates of decedents who have died since the enactment of the 1921 law and be effective to the date of the repeal of the 1924 act as proposed in the amendment offered by the majority of the Finance Committee. It is conceded that this revision of rates with retroactive application will mean a loss of $20,000,000 of revenue for the calendar year of 1926, and, of course, all revenue derived from estate taxes would soon cease. Moreover, the Finance Committee recommends that the 1921 rates apply to those estates which have already paid taxes under the 1924 law and that refunds be made of payments which exceed the taxes which in these cases would have been paid under the rates prescribed by the revenue act of 1921.

The majority of the Finance Committee bluntly declare that the Federal Government shall no longer regard the estates of decedents as a legitimate source of revenue for the Federal Government. Undoubtedly persuasive reasons may be urged in support of that view, but I do not believe that it is opportune or prudent to repeal the estate tax at the present time, and there are substantial reasons why this form of taxation should, at least under present economic conditions, be retained by the Federal Government. It was urged before the Ways and Means Committee by various persons that the States should have an exclusive right to collect taxes upon the estates of decedents and upon gifts and also upon the distributive shares of estates. It was argued that because States controlled the devolution of property that it was improper for the Federal Government to invade this field for revenue.

Doctor Adams testified before the committee and combated the views of those who insisted that the Federal Government should leave to the States the exclusive right to tax estates. He argued in favor of a Federal tax with a maximum of from 12 to 15 per cent. Doctor Seligman, who is recognized as one of the great political economists of our country and an authority on taxation, opposed the withdrawal of the Federal Government from the field of estate taxation.

Undoubtedly there is a powerful propaganda in favor of the position taken by the Finance Committee. There are those who are opposing a Federal tax upon estates upon the theory that the States alone should possess this field of revenue. But back of this movement to repeal the Federal estate act there is a determined purpose to have the States repeal existing statutes which levy taxes upon estates or distributive shares of estates.

It is claimed that any tax upon the property of decedents is a tax upon capital, and is therefore socialistic. This view is not supported by the best publicists and authorities upon taxation. Technically, every tax upon property is a tax upon capital. Obviously this is true if the property is unproductive. All taxation affects capital accumulation, because a part, at least, of income or taxes would have been saved; that is, converted into capital. The tax on estates is not on property, as such, but a duty imposed on the intestate or testamentary succession of property. Congress has the same power to lay duties on the devolution of property from the dead to the living as it has to lay taxes on the transfer of property by deed to living persons. This point has been settled and is no longer open to controversy.

It appears that 46 of the States of the Union have heretofore imposed taxes in some form or other upon estates of deceased persons as such, or upon the distributive shares of such estates passing by inheritance, distribution, or testament. At the present time it is reported that all of the States have such taxes excepting only the States of Florida, Alabama, and Nevada. There is no local inheritance tax in the District of Columbia, but the estates of decedents domiciled within the District are subject to the existing Federal estate tax, which the pending bill, if passed as reported, will repeal.

There is neither uniformity nor consistency in the general tenor or the specific provisions of the various estate and inheritance taxes in force in the several States of the Union. There is great disparity in the rates. There is marked dissimilarity in the graduations of the tax as imposed upon the value of estates, or as imposed upon distributive shares. Some of the rates are graduated according to the amount of the shares and others according to the direct, remote, or collateral relation of the heirs and distributees who may take parts of the estate. There has been some exploitation of the alleged conflict between the Federal estate tax and the various State inheritance tax laws. But this conflict between the Federal and State laws is not nearly so great, either in substantive difference or in legal effect, as are the conflicts between the State laws themselves.

It is important in the formulation of revenue legislation that constancy and dependability in the revenues be attained if possible and, if impossible, that constancy and dependability be approximated to the greatest attainable degree. The territory comprised with the United States is divided into 48 separate territorial segments, within one of which is the domicile of every decedent whose estate becomes subject to the tax. If the tax be imposed by the domiciliary law as distinguished from the Federal law, the value of the estates subject to the tax will vary greatly from year to year according to the accidents of death and the variation in the value of the estates of those who may die within a particular domiciliary jurisdiction from one year to another.

But when all the inequalities and fluctuations of estate values arising separately in the several States are merged into one aggregate taxable estate value for the whole country and subject to the Federal tax, we may have an approximation to uniformity in the revenue, because the decreased estate-tax values in some States will be offset and averaged by the increased estate-tax values in other States within any given year.

The Federal estate tax is uniform throughout the country. It is applied without discrimination or exception to all estates large enough to come within the operation of the act. It does produce uniformity in operation and equality in the incidence of the tax. There are some who oppose the Federal estate tax upon land because the States have the exclusive power to prescribe the law for the succession of such estates. It is true that the States have a peculiar and exclusive jurisdiction or, rather, sovereignty over the lands within their territorial confines and that the larger part of State revenues are obtained from the taxes upon lands.

It is the taxation of so-called intangibles, or rather of capital and debt securities which exist only in contemplation of law, which are legally attached to the person of the owner, the evidences of which may be transferred from place to place with the owner, and which are legally referred to the domicile of the owner; it is in this field of taxation that a Federal estate tax alone will operate with uniformity, constancy, and equality.

For the fiscal year 1925, which ended on June 30 last, the Commissioner of Internal Revenue reported that there was collected on the value of corporation capital stock taxes to the amount of over $90,000,000. This tax was laid at the rate of $1 per thousand on the value of the corporate capital. It follows that the tax was imposed upon capital values in the sum of $90,000,000,000. There was an exemption of $5,000 allowed each corporation, which for the approximately 400,000 corporations of the country affords an additional capital value of $2,000,000,000. The value of the corporate capital of the country may therefore be taken conservatively at $92,000,000,000, which sum is independent of outstanding corporate shares, the par value of which is greatly in excess of this sum.

This capital value of $92,000,000,000 is also exclusive of outstanding corporate indebtedness whether funded or current. For the year 1923 the Commissioner of Internal Revenue reports that corporations were allowed interest deductions in the sum of $3,277,625,971. We do not have specific figures as to the amount of this capital indebtedness. But if this interest be capitalized at 6 per cent we produce a capital sum of $54,000,000,000, and if this interest be capitalized at 5 per cent we produce a capital sum of $65,000,000,000.

The aggregate value of corporate capital, therefore approaches $157,000,000,000, represented by innumerable shares, bonds, and other securities. The amount of Federal and State bonds, the current income from which is exempt from taxation, amount in the aggregate to $14,000,000,000 at the present time. Corporate and public capital must, therefore, approximate $170,000,000,000, without taking into account the large capital of privately owned mortgages.

A considerable proportion of these great intangible capital values passes each year by succession or distribution in the estates of deceased persons. These tremendous values have no fixed loci within the various States. They move about with the same facility with which the residence of the owner may be transferred from one State to another. The profits and interest which these tremendous capital values produce are derived from the work and consumption of all the inhabitants of the country without respect to State lines. The producing properties which sustain these capital values have their loci in every part of the country. The commerce of this country is not conscious of State lines. It draws its profits from every corner of the country and from every community of the country and, indeed, from every inhabitant. This great wealth is concentrated in certain States, in great cities, in delightful climates, and is gravitating toward the States where there are no duties upon inheritances. Producing

properties are in one State. The securities which drain off the profits of these properties are in other States.

It is impolitic in the highest degree that certain favored financial centers, certain favored climes, and certain favored communities should, by the residence of wealthy persons within them, give the States wherein such centers, communities, and climates exist the exclusive right to death duties upon the transmission of the capital stock and capital securities of which the real producing and profitable wealth of the country is constituted. It is reported that more than $162,000,000 of annual income is received from public stock or securities which is exempt from the Federal income taxes. The only effective way in which the capitalized value of such income may be taxed, the income itself not being taxable, is by the laying of a Federal duty upon such capital property in the estates of deceased persons.

Undoubtedly there are inequalities and some injustices arising out of the manner in which estate and inheritance taxes are now imposed in the United States. There is no uniformity, and a number of the States, as well as the District of Columbia, do not impose inheritance or estate taxes. They become isles of safety and encourage persons of wealth to establish their domiciles within their borders. Some States do not content themselves with taxing property within their territorial limits, but tax the personal and intangible property of decedents whose domiciles are without their borders. Many injustices and hardships undoubtedly exist by reason of the faulty inheritance and estate tax laws found upon the statute books of some of the States of the Union.

It has been suggested that to secure uniformity there should be but one agency employed to lay and collect estate taxes and that such agency should make proper distribution to all the States, based upon population or some other just and rational plan.

But we can not deal in academic or speculative questions now. Undoubtedly reforms in this field of taxation are imperative, but it can not be urged, in my opinion, that it would be a reform for the Federal Government to abandon the field entirely. It may be that when the States adopt a uniform and just system for the taxing of the property of decedents the Federal Government may, with propriety, withdraw from this field of taxation. But so long as enormous assets escape taxation or make wholly inadequate returns for the maintenance of the economic and political life of the country, there will be a strong and valid reason for the Federal Government to assert its power to tax the accumulations of wealthy decedents.

The inheritance tax as a Federal policy is not new. It was adopted in the early days of the Republic. President Roosevelt, in his annual messages to Congress in 1906–07, strongly advocated a Federal inheritance tax. In 1916 an estate tax was passed by Congress and signed by President Wilson. It provided a maximum rate of 10 per cent on estates. Our country was not then at war, and while there are stronger reasons for a Federal estate tax in time of war than in time of peace, nevertheless, it may not be said that it is purely a war tax. Great Britain derives a large part of her revenue from estates. During the past eight years the Federal Government has collected approximately $750,000,000 from estates.

It may be said in passing that the Federal Government has, during the same period, appropriated approximately $600,000,000 to aid the States in the discharge of obligations which rest upon them. It is regrettable, but nevertheless it is true, that the States more and more are appealing to the Federal Government to aid them in performing purely State functions.

There is much criticism because billions of tax-exempt securities are issued, which neither the States nor the Federal Government can reach for tax purposes. Many of these securities belong to the estates of decedents. Only by a Federal estate or inheritance tax can the Federal Government derive revenue from them.

I dissent from the action of the majority of the Finance Committee in recommending the repeal of the estate tax. In my opinion, the rates fixed in the House bill should be adopted, but the large credit in the bill should be reduced. The House bill provides for a possible credit of 80 per cent for the taxes paid to any State. The existing law provides a 25 per cent credit. As an original proposition, I am opposed to allowing any credit for taxes paid to the States. The Federal estate tax should be temperate and so reasonable as not to call for remission of taxes imposed by the States. The provision permitting credits for taxes paid to the States against the Federal estate tax will be regarded as a scheme to compel the States to pass inheritance tax laws. It appears to be an indirect method of coercing the States with respect to their tax policies. Congress should not attempt to dictate to the States with respect to their internal affairs. The integrity of the States should not be attacked or their right to determine their own internal policies infringed upon.

I do not approve of the retroactive provisions of the Senate bill under which the 1921 rates are applied to the estates of those who come within the provisions of the 1924 estate tax law.

GIFT TAX

The gift tax found in the revenue act of 1924 was a proper correlative to the estate tax. In my opinion it should not be repealed. If a suitable provision is enacted which protects against gifts made to evade inheritance or estate taxes, then there would be some justification in the repeal of the gift tax.

SURTAX RATES

I do not approve the surtax rates reported in the bill on incomes between $22,000 and $100,000. I believe that the rates for the brackets comprising these incomes ought to have been revised downward to the amount at least of $44,000,000 in the revenues to be derived from surtaxes on these incomes as estimated for in the House bill. If there is to be real equality in surtax reductions, it is necessary that the reductions be more fairly distributed than was done in the House bill or is proposed to be done in the committee amendment. The Democratic minority of the Finance Committee agreed upon a schedule of rates for these brackets which ought to have been accepted by the committee and which I recommend to the Senate as more acceptable than the rates carried by the committee amendment.

The reductions in the brackets comprising incomes between $22,000 and $100,000, as provided in the House bill, as made by the Republican majority of the Finance Committee, and as proposed by the Democratic minority of the Finance Committee, are set out in the following table:

Surtax payable on specified net incomes ($20,000 earned income)

Net income	1924 rates	House bill	Reduction in per cent from 1924	Committee bill	Reduction in per cent from 1924	Democratic rates	Per cent of reduction of Democratic rates from 1924 tax
$24,000	$440	$385	12½	$385	12½	$365	17
$26,000	580	525	9	525	9	485	16
$28,000	740	685	7	665	10	605	18
$30,000	920	865	6	825	[1]10	745	19
$32,000	1,120	1,065	5	985	12	885	21
$34,000	1,320	1,265	4	1,165	12	1,045	21
$36,000	1,540	1,485	3½	1,345	13	1,205	22
$38,000	1,780	1,725	3	1,545	13	1,385	22
$40,000	2,040	1,985	2¾	1,745	[1]14	1,565	24
$45,000	2,730	2,665	2½	2,305	16	2,075	24
$50,000	3,540	3,405	3¼	2,925	17	2,645	25
$55,000	4,470	4,205	6	3,605	19	3,275	27
$60,000	5,480	5,005	8	4,345	21	3,975	28
$70,000	7,780	6,705	14	6,005	23	5,485	29
$80,000	10,480	8,505	19	7,805	26	7,125	32
$90,000	13,540	10,405	23	9,705	28	8,940	34
$100,000	17,020	12,305	28	11,605	32	10,765	37

[1] Plus.

PUBLICITY OF INCOME TAXES

Section 257 of the revenue act of 1924 makes income-tax returns public records and provides that the Commissioner of Internal Revenue shall in each year prepare and make available for public inspection in each district lists containing the name and post-office address of each person making an income-tax return with a statement of the amount of the income paid by each person on the list. There has been a propaganda carried on against income-tax publicity which has been persistent enough to have induced the House to repeal this provision of the law. No adequate reasons have been advanced for this action.

It does not appear that the public interest is adversely affected by income-tax publicity. I believe that the effect of publication is wholesome; certainly that the advantages of publicity to the Government outweigh the objections which interested persons have urged against it. There has not been sufficient experience in the operation of income-tax publicity to warrant the making of any final conclusions upon the subject. It is unwise in my opinion for Congress to take precipitate action upon this subject upon the false assumption that the clamor of the propagandists is the voice of the people. I am opposed to the repeal of the income-tax publicity provision of the present law.

INCREASE IN THE CORPORATE PROFITS TAX

In my opinion it is unnecessary in order to meet the legitimate expenses of the Government to increase the corporate tax rate to 13½ per cent. The Government actuary estimates that this increase in the tax rate will add $87,000,000 to the revenues. This increase will bear heavily upon many corporations whose income is limited and whose field of activities is narrow. It will particularly be burdensome to the public-service corporations whose charges for services rendered to the public are limited by law or by regulations of public-utility commissions and boards and whose profits are likewise limited by law or by regulation. A 13½ per cent tax upon the profits of many corporations could easily be borne by them. Indeed, by reason of many consolidations of corporations for the purpose of monopoly, and the successful exertion of power by many corporations against competition, the profits derived by them are enormous, and a tax at the per cent indicated could easily be met.

All tax measures must envisage the country as a whole and not segments, and this particular provision must comprehend all corporations and not merely the giant corporations whose earnings are

inordinately large and unjustifiably great. In order to do full justice in the premises it might be wise to attempt differentiation between corporations and provide a fair graduation so that the taxes imposed upon corporations with large earnings might bear a higher rate than those imposed upon corporations which by reason of their small earnings naturally fall into a separate category. In my opinion there is no necessity for increasing the rate to 13½ per cent. It is sometimes necessary to compel economy and it were better to face a lean Treasury by reducing taxes and curtailing expenses than to encourage profligate expenditures by collecting taxes which would produce a surplus.

BOARD OF TAX APPEALS

I am opposed to the continuance of 16 members to sit on the Board of Tax Appeals. Twelve members and even a fewer number ought to be adequate for this board. I am opposed to the increase in the salaries from $7,500 to $10,000 per annum. I am certain that there will be no improvement in the effectiveness or service of the board by increasing their salaries. Out of 16 members now on the board, 11 were formerly employees in the Bureau of Internal Revenue, and all of them at salaries less than they are now receiving. Five members have been taken into the board from available men outside the bureau.

There is evidence tending to show that efforts were made to make this board a permanent adjunct to the revenue department and to give life positions to its members. The Senate greatly improved the provisions of the House bill dealing with this subject. In my opinion, the board should be reduced to 12 members with shorter terms of office and with specific provisions that within a period, not exceeding five years, its membership should be reduced to not exceeding seven members.

I am also opposed to the creation of eight new positions under the title of assistants to the general counsel of internal revenue. This is apparently a scheme to take care of eight men now in the bureau with higher salaries than they are now receiving. The Solicitor of Internal Revenue, even under the new title of general counsel, has no need for eight new assistants. He already has 162 lawyers under him. That ought to be assistants sufficient. If Congress would improve and rectify the definitive provisions of law which govern the income tax and the corporate profits tax, the service of the great legal staff of the bureau, as well as of the appeals board, would be very much curtailed. Conditions will not be rectified by multiplying staffs and benches of lawyers. Augmented appropriations will not cure the evils which are known to exist.

Congress must correct the substantive parts of the law to accomplish real reforms. The pending bill, like its predecessors, is a makeshift in its administrative provisions. This is admitted by the proposal to have a congressional commission to re-form the revenue act.

The bill carries no sufficient provision to correct the evils found and reported by the select committee which has investigated the Bureau of Internal Revenue. The bill perpetuates the structural defects of the present law. The work of re-forming the revenue act will have to begin where this bill ends.

HOUSE BILL REFERRED

The bill (H. R. 2) to amend an act entitled "An act to provide for the consolidation of national banking associations," approved November 7, 1918; to amend section 5136 as amended, section 5137, section 5138 as amended, section 5142, section 5150, section 5155, section 5190, section 5200 as amended, section 5202 as amended, section 5208 as amended, section 5211 as amended, of the Revised Statutes of the United States; and to amend section 9, section 13, section 22, and section 24 of the Federal reserve act, and for other purposes, was read twice by its title and referred to the Committee on Banking and Currency.

THE DAIRY INDUSTRY AND THE TARIFF COMMISSION

Mr. SCHALL. Mr. President, I ask unanimous consent that the resolution which I send to the desk may be received out of order and read.

The VICE PRESIDENT. Is there objection?

Mr. SMOOT. The Senator does not ask consideration of it to-night? He just wants to have it read?

Mr. SCHALL. No; I want to have it read, and I wish to make a very few remarks on it.

The VICE PRESIDENT. Without objection, the resolution will be received and read.

The resolution (S. Res. 142) was read, as follows:

Whereas the President of the United States on or about July 9, 1924, requested the Tariff Commission to investigate the cost of production of butter in the United States and abroad, for the purpose of determining the condition of the dairy industry in relation to its needs for additional tariff protection; and

Whereas the commission has used an unreasonable length of time in which to make such investigation and report its findings to the President, and has wholly failed to make such report to the President: Therefore be it

Resolved, That in view of the grave situation now confronting the dairy industry, and in view of its urgent need for further protection from imports of foreign-made butter and butter substitutes, which imports are used to unduly depress the American market, said Tariff Commission is hereby directed to file forthwith with the President its report.

Resolved further, That Congress shall immediately institute a thorough investigation into the methods and procedure used by the United States Tariff Commission in the conduct of its business.

Mr. SCHALL. Mr. President, the Tariff Commission was created, I take it, for the purpose of prompt action. The action taken in this butter case, if it is any criterion to go by, is anything but prompt.

The President of the United States a year ago last July asked a report. They finished their hearings last April, and still no report has been made. The President has intimated time and again that he would like a report. Congressmen from the Northwestern States time and again have called on the commission and asked when this report would be made, and they have been told "Very shortly," "Very shortly," "Very shortly."

Meanwhile butter has gone down from 35 to 40 per cent. Shiploads of butter from Denmark, from Australia, and from New Zealand are pouring in on our markets. Just the other day a report of 500,000 pounds of butter being shipped into this country from Australia caused the market to drop 3 cents a pound.

It seems that this commission are not very diligent. In the time that this matter has been before the commission they have handed down only 17 reports. The Federal Trade Commission have handed down 1,000, the Supreme Court of the United States have handed down 200, and yet the Tariff Commission are going to send in this report "very promptly"!

It is no wonder that the dairy interests of this country in congress assembled the other day asked that this commission be abolished. It is of no purpose unless it will act. We could pass through the Congress of the United States an act to relieve the dairy interests of this country in less time than it has taken for this commission to act. Their hearings were concluded last April, and still no report has been made.

It seems to me that some action should be taken, either to make the Tariff Commission do business, as it was intended that it should, or else to abolish it.

Mr. JONES of Washington. Mr. President, I understand that the resolution submitted by the Senator from Minnesota will lie on the table.

The VICE PRESIDENT. Without objection, it will lie on the table.

TAX REDUCTION

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 1) to reduce and equalize taxation, to provide revenue, and for other purposes.

Mr. SMOOT obtained the floor.

Mr. COPELAND. Mr. President, I hope the Senator from Utah will not move a recess now. Why do we not go on for two or three hours and get some of the other amendments out of the way?

Mr. SMOOT. We have gotten the amendments brought forward by the Senator from Pennsylvania out of the way, and no Senator is prepared to go on to-night. I did not give notice of a night session. So many Senators had engagements that I felt that it would be impossible to go on longer to-night.

Mr. COPELAND. Is there any more important engagement in the world than getting this tax bill out of the way?

Mr. SMOOT. No; there is not. I wish we could start to-morrow with night sessions; but to-morrow is Saturday, and I gave notice to-day that we would start night sessions on Monday.

Mr. COPELAND. I hope we will go forward now and hold sessions long enough to transact business.

Mr. SMOOT. That is exactly what we are going to do if a majority of the Senate will agree to it.

RECESS

Mr. JONES of Washington. I ask that the order for a recess until 11 o'clock to-morrow be carried out.

The VICE PRESIDENT. The Senator from Washington moves that the Senate take a recess under the previous order.

The motion was agreed to; and (at 6 o'clock and 45 minutes p. m.) the Senate, under the order previously entered, took a recess until to-morrow, Saturday, February 6, 1926, at 11 o'clock a. m.

HOUSE OF REPRESENTATIVES

FRIDAY, *February 5, 1926*

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

O Thou who hast kept and blest us all our days, we would begin this day with an offering of thanksgiving. Words are so helpless to express the fullness and majesty of divine love that will not let us go. But let Thy goodness and mercy, O Lord, continue to be our portion. With Thy guidance every problem will be easier and every burden lighter. Give the interpreting light of Thy spirit unto all of us. Grant Thy peace to all hearts and give relief to any who may be weary. Impress us with our simple duty, namely, to love God, to be kindly to His children, and to keep our souls clean. Amen.

The Journal of the proceedings of yesterday was read and approved.

THE PRIVATE CALENDAR

Mr. TILSON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House for the consideration of the Private Calendar. Pending that motion, I ask unanimous consent that in the consideration of those bills in the Committee of the Whole House general debate be dispensed with.

The SPEAKER. Pending the motion to go into the Committee of the Whole House, the gentleman from Connecticut asks unanimous consent that in the consideration of bills on the Private Calendar in the Committee of the Whole House general debate be dispensed with. Is there objection?

There was no objection.

The SPEAKER. The question is on the motion of the gentleman from Connecticut that the House resolve itself into the Committee of the Whole House for the consideration of bills on the Private Calendar.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House for the consideration of bills on the Private Calendar, with Mr. LEHLBACH in the chair.

The CHAIRMAN. The Clerk will report the first bill on the Private Calendar.

FREDERICK MARSHALL

The first business on the Private Calendar was the bill (H. R. 585) for the relief of Frederick Marshall.

The Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of any laws conferring rights, privileges, and benefits upon honorably discharged sailors Frederick Marshall, who enlisted in the United States Navy October 22, 1862, and served on the *Cyane* and *Lancaster* as an ordinary seaman, shall hereafter be held and considered to have been discharged honorably from the naval service of the United States on the 21st day of October, 1865.

Mr. BEGG. Mr. Chairman, I move to strike out the last word. Practically every bill of this kind that has been passed heretofore has had a proviso that no pension or allowance shall be held to accrue prior to the passage of the act, no back pensions, nor prize money, nor bounties, nor allowances. Would the gentleman from California accept such an amendment?

Mr. BARBOUR. I agree to such an amendment.

Mr. BEGG. Mr. Chairman, then I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. BEGG: Line 9, at the end of the line, strike out the period, insert a colon and the following language: "*Provided*, That no back pay, pension, or allowance, or other emolument shall be held accrued prior to the passage of this act."

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Ohio.

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

LUCY D. KNOX

The next business on the Private Calendar was the bill (H. R. 1110) granting six months' pay to Lucy D. Knox.

The Clerk read the bill, as follows:

Be it enacted, etc., That Lucy B. Knox, widow of the late Lieut. Commander Forney Moore Knox, United States Navy, is hereby allowed an amount equal to six months' pay at the rate said Forney Moore Knox was receiving at the date of his death.

SEC. 2. That the payment of the amount of money hereby allowed and authorized to be paid to said Lucy B. Knox is authorized to be made from the appropriation for beneficiaries of officers who die while in the active service of the United States Navy.

Mr. BEGG. Mr. Chairman, I move to strike out the last word. On the face of this bill a man's sympathy might lead him to let it go by, but I call the attention of the committee to the actual condition in this case. This widow's husband died during the war, when other provisions were made by the Congress for the payment of allowances, and the gratuity of six months' salary which was in vogue in peace times was repealed for all officers. If this bill is passed, it will set up a precedent binding upon Congress to pay the widow of every soldier an equal amount; at least, I think if we can vote it for one widow, we can vote it for every widow, and ought to do so. What are the facts regarding this widow? Is the Government treating her fairly?

The Congress has never conferred any such general gratuity right on widows of officers or men of the Navy and Marine Corps where the death occurred, as in this case, in the World War interim between October 6, 1917, and June 4, 1920, the former being the date of the repeal of legislation which had theretofore authorized such gratuity for widows of the Navy and Marine Corps officers and men, and later the date of such gratuity for widows of regulars and expressly confined such authorization to the widows of regulars. I refer, gentlemen, to the act of March 13, 1908, as amended by the act of August 22, 1912, and again of October 6, 1917, and as amended in December of the same year; and the opinion of the Attorney General is against this kind of legislation. The Comptroller General ruled against it in 1922. During this period of time the death toll of officers and men of the Navy and Marine Corps was necessarily great. There is quite a number of cases of this kind. If you are going to pay one you should pay all. I am not setting up the claim that we should not pay any, but I am setting up the claim that we should not single out one, because, perchance, she happens to have some Member of Congress who is interested in her case and leave those less fortunate to look after their own interests. What is the Government doing to-day for this widow? Because she is the widow of a soldier she gets a pension of $30 a month for life. Because she is the mother of three children she gets an additional $22 a month, making a total pension straight-out of $52 a month as a wife and as a mother. She has a dependent mother living with her and she gets an additional $20 a month, making her pension to-day $72 a month.

Keep in mind, gentlemen, that the widow of an officer, in my judgment, of the late war does not deserve any more consideration than the widow of an officer of the Spanish-American War, and there is not a Spanish-American War veteran who is wholly incapacitated and has a wife and three children but who has a greater responsibility than even a widow——

The CHAIRMAN. The time of the gentleman has expired.

Mr. BEGG. I ask for five minutes more time.

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

Mr. BEGG. I say, if a wounded soldier is wholly incapacitated his financial drain with the same size family is greater than the drain on this woman. Now, the Government pays her $72 a month. What else do we do? During the war we passed an insurance feature of the war.

I was not here when that was done, but I read that which leads me to the conclusion that the Government passed that compulsory insurance so the dependents of the man who was killed or died of disease and wounds would have an income to keep them out of the pauper class. This husband had $10,000 insurance, and therefore adding that to the $72 a month pension she draws she gets $129.50 a month. Now I do not believe that this Congress can go on record of having unreasonable sympathy in a particular case when you have a widow of Spanish War veterans, none of whom get what this woman is now getting. The Spanish War widow, with a family and the same responsibility upon her, draws the munificent sum of $30 a month. Now, Mr. Chairman, that is all I have to say. If the House in its wisdom wants to take this step I think it behooves us to pass general legislation to take care of widows of the Civil War——

Mr. UNDERHILL. Will the gentleman yield?

Mr. BEGG. In one minute; I desire to finish this. It appears in the last analysis to me a soldier is a soldier whether he was in the Civil War, whether he was in the Mexican War, or was in the Spanish War, and I would not make any decided difference. Now I will yield.

Mr. UNDERHILL. I will say for the information of the gentleman from Ohio and the House that the Committee on

Claims has had to consider exactly this same situation lately. Only this morning a bill was referred to me as chairman of the committee, which proposed an additional payment to one who is already under the protection of the compensation law which Congress passed. Now, if we are going to establish a precedent in this respect we must also treat others who are civilians not connected with the Army or Navy in the same way or manner. The establishment of any such precedent as this is going to involve——

Mr. LINTHICUM. Will the gentleman yield?

Mr. UNDERHILL. In a moment. It is going to involve Congress in a maze of legislation and discrimination and injustice and inequity. Now, I will yield.

Mr. LINTHICUM. Does the gentleman know how many other bills like this have been passed?

Mr. UNDERHILL. It has not been brought to my attention.

Mr. LINTHICUM. It ought to be brought to the gentleman's attention.

Mr. BEGG. Mr. Chairman, I want to correct one misstatement I made. I made the misstatement that the widow of a Spanish War Veteran gets $30 a month; she gets $20.

Mr. VINSON of Georgia. Mr. Chairman, usually the gentleman from Ohio [Mr. BEGG] is accurate when he presents his viewpoint on any bill before the House, but unfortunately this morning he is not as accurate as usual. In the first place, he stated that this naval officer died during the war——

Mr. BEGG. Died after the war.

Mr. VINSON of Georgia. As a matter of fact, he died February 16, 1920. No dangerous precedent is set by this special bill granting to this widow six months' gratuity. Under the law of 1908 whenever an officer of the Army or Navy died his widow was entitled to six months' gratuity. In 1917 we enacted what is known as the Veterans' Bureau law, and by the enactment of that law, with no intention on the part of Congress, the law of 1908 was repealed. On June 4, 1920, we reenacted the law that was repealed in 1917, which was the 1908 law. The 1917 law was the Veterans' Bureau law, so therefore you see it never was the intention of Congress to repeal the six months' gratuity. This man, unfortunately, died——

Mr. BLACK of Texas. If the gentleman is correct about that, why does not his committee bring in a general bill? Why single out one individual and bring in a private bill instead of bringing in general legislation?

Mr. VINSON of Georgia. I am glad the gentleman called my attention to that. The Navy Department recommends a general bill to take care of all cases of this kind. The Committee on Naval Affairs, however, prefers that every case should stand on its own merits, and we have reported every bill that has been presented to the committee which fell within this class. The report discloses the fact that Congress has already enacted five or six private bills for persons who died during that period of time, that is, between October 6, 1917, and June 4, 1920. This bill was favorably considered by the House last session and promptly passed.

Mr. BLACK of Texas. The gentleman does not mean to say that Congress has passed a law covering privates?

Mr. VINSON of Georgia. No; no general law. However, private bills have been enacted granting six months' gratuity.

Mr. BLACK of Texas. Then why not pass a bill allowing the widow of every married man who was killed in the World War six months' pay? Why not be just about it?

Mr. VINSON of Georgia. Up to 1917, whenever they died their widows drew it; all those who died between 1908 and 1917 were entitled to draw it. The law was repealed by the Veterans' Bureau act of October 6, 1917.

Mr. BLACK of Texas. The gentleman understands also that the war risk insurance act of 1917 liberalized the compensation very much and carried a specific provision that it should be in lieu of other pay and allowances under the general law?

Mr. VINSON of Georgia. Yes; and Congress came back in 1920 and reenacted the 1908 law, giving the families of these men the right to draw the gratuity after they found out that the veterans' law had repealed the 1908 law.

Mr. BLACK of Texas. That has no reference to the war whatever.

Mr. VINSON of Georgia. In every case which has come before the committee, the committee has been of opinion that these cases should be taken care of as they are presented by individuals. That was done in the case of Harriet B. Castle, and also in the case of Alice P. Dewey, and in the case of Josephine Barin, and that of Ellen McNamara. Those cases have all been enacted into law, and every case of that kind that comes before the committee is favorably reported. I prefer to deal with those things separately rather than under a general law, because by that means you can keep your hand on the purse strings instead of giving the Navy Department the power to pay out money under a general law.

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

Mr. VINSON of Georgia. Yes.

Mr. BEGG. Where does the gentleman differentiate between the man who dies in peace times and the man who dies during a war?

Mr. VINSON of Georgia. You can not make any distinction.

Mr. BEGG. Then, why do you not bring in a bill and give six months' gratuity to the heirs of everyone who died in the war?

Mr. VINSON of Georgia. I think it is far better to do it in this way.

Mr. BEGG. Does the gentleman mean to leave the impression with Congress and the country that he, as a member of the committee, perhaps will favor a six months' gratuity to the dependents of every soldier losing his life in the war?

Mr. VINSON of Georgia. I will cross that bridge when we come to it.

Mr. BLACK of Texas. This is that case.

Mr. VINSON of Georgia. The widow and dependents of every soldier in the Army, Marine Corps, and Navy who dies in the service under the law to-day gets six months' gratuity.

Mr. BEGG. Do they get insurance?

Mr. VINSON of Georgia. Yes; if it has been provided for.

Mr. BEGG. Can they take it to-day?

Mr. VINSON of Georgia. Certainly not.

Mr. BEGG. This gratuity law was enacted to take care of the provisions exacted by the war-risk insurance.

Mr. VINSON of Georgia. The husband of this woman bought and paid for the insurance, but of course she would not get it unless he had applied for it.

Mr. BLACK of Texas. Is not this widow also drawing some compensation from the Government?

Mr. VINSON of Georgia. Certainly; and the widow of any soldier who dies to-day would draw compensation as the widow of a soldier and in addition would get the six months' gratuity.

Mr. BLACK of Texas. The gentleman is mistaken.

Mr. VINSON of Georgia. No; the gentleman is not mistaken.

Mr. BLACK of Texas. The wife of a soldier who died in consequence of injury received in the war would not receive six months' pay. She would receive whatever compensation the Government pays and whatever war-risk insurance her husband had.

Mr. VINSON of Georgia. If the soldier dies in the Army, his widow is entitled to compensation as the widow of a soldier, and in addition she is entitled to six months' gratuity; and that is all this widow is entitled to.

Mr. BLACK of Texas. But she does not receive compensation under the war risk insurance act unless she proves that her husband's death related to the service.

Mr. VINSON of Georgia. If she proves that her husband's death was in line of duty, if he died to-day she would be entitled to a pension and to six months' gratuity.

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

Mr. VINSON of Georgia. Yes.

Mr. SIMMONS. Has the gentleman's committee reported out other bills like this?

Mr. VINSON of Georgia. The committee has never failed up to this time to favorably report such a bill. We have already passed seven cases similar to this.

Mr. SIMMONS. They were passed by the House?

Mr. VINSON of Georgia. Yes; they passed the House and they became laws.

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

Mr. VINSON of Georgia. Yes.

Mr. RANKIN. How much compensation is this widow drawing?

Mr. VINSON of Georgia. Twenty dollars under the pension law, and so much for her dependent children and mother.

Mr. RANKIN. Does not the gentleman think that it was the intention of Congress that this six months' gratuity should take the place of that?

Mr. VINSON of Georgia. No; because to-day under the law they would get identically the same thing. They would be entitled to a pension and allowance for minor children, insurance, and to six months' gratuity.

Mr. RANKIN. The gentleman is wrong. In that case, if they were entitled to it under the law, they would not have to come in here.

Mr. VINSON of Georgia. I mean under the act of 1920. It was only a lapse between the enactment of 1917 and that of 1920. For three years the gratuity law did not apply.

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

Mr. BLACK of Texas. Mr. Chairman, I move to strike out the enacting clause.

Mr. LINTHICUM. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Texas moves to strike out the enacting clause. Does the gentleman desire to be recognized?

Mr. BLACK of Texas. Mr. Chairman, this bill was taken up at the last session of Congress, and under the plan that only bills not objected to should be considered I objected to its consideration at that time.

Mr. VINSON of Georgia. But the bill was passed?

Mr. BLACK of Texas. It passed later on, but the gentleman remembers I objected to it at the time it was first brought up.

Mr. VINSON of Georgia. That is true.

Mr. BLACK of Texas. Why, gentlemen, here is the situation: If we pass bills of this kind, we enter upon a rule of greater liberality to the widow and children of a veteran who died after the war than we bestow upon the widow and dependents of a veteran who died upon the battle field. If we are going to enter upon a policy of this kind, it would be more just to pass a general law and permit every widow of an officer who was killed during the war and every widow of a private who was killed during the war to receive six months' extra pay.

Can any gentleman give any reason why we should not do that, if we are to pass this bill?

Mr. CHALMERS. Will the gentleman yield?

Mr. BLACK of Texas. Yes.

Mr. CHALMERS. Would that also include dependent mothers as well as widows?

Mr. BLACK of Texas. Well, this particular bill, of course, is a bill to grant six months' extra pay to Lucy B. Knox, who was the wife of an officer, but I see no reason in principle why, if we are going to take up a case of this kind for Lucy B. Knox, who is now receiving from the Government $57.50 a month——

Mr. VINSON of Georgia. Paid for, though.

Mr. BLACK of Texas. That is correct. He took that insurance out just the same as any other officer or any other soldier took out insurance. Now, she is drawing that and she is entitled to it. In addition to this insurance money she is drawing compensation from the Government for herself and dependents by reason of the death of her husband; that is all right, and she is entitled to draw that and she ought to have it; but now Congress comes along and undertakes by a private bill to do for this widow of an officer what it has not done for others who are similarly situated. It is an example of favoritism which I am not going to support.

Mr. LINTHICUM. Will the gentleman yield?

Mr. BLACK of Texas. Yes.

Mr. LINTHICUM. Is the gentleman in favor of a general law?

Mr. BLACK of Texas. No. But I certainly would be if I was going to vote for this bill, but I am not going to vote for one private bill. It is illogical and unjust.

Mr. WINGO. Will the gentleman yield?

Mr. BLACK of Texas. Yes.

Mr. WINGO. Is the gentleman in favor of repealing the gratuity act of 1920?

Mr. BLACK of Texas. I do not know that I would be. I do not have the act before me and would not commit myself offhand as to its repeal without having time to study it.

Mr. WINGO. Why not? According to the gentleman's viewpoint, if it is wrong for this woman, why not repeal it as to others?

Mr. BLACK of Texas. Let me ask the gentleman from Arkansas whether he is willing to grant Lucy B. Knox a benefit that he is not willing to grant to others similarly situated? If so, why?

Mr. WINGO. I am not; I am willing to grant it to everyone, but because we have not granted it to all I am not going to deny it to one.

Mr. CHINDBLOM and Mr. BUTLER rose.

The CHAIRMAN. For what purpose does the gentleman from Illinois rise?

Mr. CHINDBLOM. Mr. Chairman, I desire to make a point of order against section 2 of the bill.

Mr. LINTHICUM. Mr. Chairman, does not the point of order come too late?

The CHAIRMAN. The gentleman from Illinois will state his point of order.

Mr. CHINDBLOM. Mr. Chairman, I make the point of order that section 2 is in effect and in fact an appropriation.

Mr. BUTLER. It is not intended to be.

Mr. CHINDBLOM. The language is very ingenious and I will call the Chair's attention to it:

> That the payment of the amount of money hereby allowed and authorized to be paid to said Lucy B. Knox is authorized to be made from the appropriations for beneficiaries of officers who die while in the active service of the United States Navy.

There is such an appropriation, and by the language of this section we are authorizing the payment to be made out of that appropriation; it sets aside a part of the existing appropriation for the purpose of paying the amount under this bill. The language is quite involved, and, as I said, it is ingenious. It is not merely an authorization for an appropriation to be made hereafter, but it is a direction that the payment shall be made out of an existing appropriation. That, under the precedents, constitutes an appropriation.

The CHAIRMAN. The suggestion has been made by the gentleman from Maryland that the point of order comes too late; but that is not the case, because section 5 of Rule XXI provides, among other things:

> A question of order on an appropriation in any such bill, joint resolution, or amendment thereto may be raised at any time.

Therefore the point of order is in order at the present time.

The test whether the language in section 2 is an appropriation or not is this: May the money be paid out by the Navy Department without further action of Congress should this legislation pass? There has been appropriated a certain sum of money to the Navy Department for the beneficiaries of officers who die while in the active service of the United States Navy. If this legislation passes, it would appear to the Chair to be a direction to the Navy Department to pay this claim out of the money thus appropriated. If that is the case, it is in effect an appropriation in this bill for the payment of this gratuity.

If the Chair is under a misapprehension as to the facts, that this money will become payable without further legislative action, by the Navy Department, the Chair would like to be corrected. If, however, the facts are as the Chair understands them, the point of order is well taken and is sustained as to section 2 of the bill.

Mr. BUTLER. Mr. Chairman, I regret very much I can not furnish the Chair with the information the Chair asks for and that I should have. I do not know. I know there was no purpose whatever to provide an appropriation in this bill. I supposed the fund was available and required no further congressional action in order to be paid.

Mr. VINSON of Georgia. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman from Georgia will state it.

Mr. VINSON of Georgia. Mr. Chairman, would it be in order, in view of the ruling of the Chair that section 2 is not in order, to ask that this bill be passed over without prejudice?

The CHAIRMAN. There is an amendment pending offered by the gentleman from Texas [Mr. BLACK] to strike out the enacting clause. The bill may be passed over, however, by unanimous consent; otherwise we must proceed with the disposition of the amendment pending.

Mr. BLACK of Texas. Mr. Chairman, I think we might as well test out the sentiment of the House on this question.

Mr. BUTLER. What about the point of order?

The CHAIRMAN. Section 2 is out of the bill.

Mr. WINGO. Does the Chair rule that the point of order is well taken as to section 2?

The CHAIRMAN. The Chair has so ruled.

Mr. WINGO. Does not the Chair think he ought to take into consideration the whole bill in passing upon any one section? The plain object of the bill is similar to that of a private pension bill. The object of this bill is to include this woman in a particular class, and I do not think it is subject to the point of order. The Chair must consider section 2 in the light of the main purpose of the bill.

The CHAIRMAN. Pension bills coming from the Committee on Invalid Pensions and the Committee on Pensions authorize the payment of pensions or increases of pensions, as indicated by the provisions of the bill, and appropriations are made to cover those cases, and those cases when such appropriations are made are estimated for; but it is manifest that out of the money appropriated for the beneficiaries of officers who die while in the active service no money could have been paid, under the appropriation that has been made creating this fund which is now in the possession of the Navy Department, to Lucy B. Knox without this legislation. If this legislation is passed, it is a new purpose for which this money

can be used, and section 2 clearly appropriates this money to that purpose, and hence is an appropriation.

Mr. WINGO. Mr. Chairman, let us suppose a parallel case, because this is really a pension.

The CHAIRMAN. The Chair wishes the gentleman had raised his point before the Chair had ruled.

Mr. WINGO. Let us assume a parallel case, because this question is liable to come up again. Suppose we passed one of the private pension bills to-day. Suppose we reach such a bill on the calendar, and we give a private pension to Lucy B. Knox when she is not entitled to it under the laws now existing. She goes on the pension rolls. She is paid out of the current appropriation. Next year in making the estimates, of course, they take her into consideration like all the rest of them. The statement of fact and the bill itself show, as well as the history of the law which has been given here, that it is intended to put this woman in the present existing class which she would have been in if the act of 1908 had not been repealed or if the act of 1920 had been passed prior to the time it was enacted.

The CHAIRMAN. The Chair will say in answer to the suggestion of the gentleman from Arkansas that in the judgment of the Chair the cases are not exactly parallel. There are appropriations made for the payment of pensions, and it has been the well-established practice, and it is the intent and purpose of Congress when appropriating for pensions to appropriate for such cases as may be specifically legislated for in these omnibus bills.

Mr. WINGO. I am not talking about omnibus bills.

The CHAIRMAN. The bills themselves do not carry an authorization to pay the money out of the appropriation for pensions, because it is not necessary, and the reason it is not necessary is because the appropriation is made for that purpose, among other purposes. But in this case it is manifest this money could not be paid to Lucy B. Knox out of this fund for the beneficiaries of officers who die in the service without specific authority; otherwise it would not have been incorporated in the bill, and this appropriation of a portion of this fund is made for that purpose. For that reason the Chair does not think the cases are parallel.

Mr. WINGO. So section 2 alone would go out.

Mr. DOWELL. May I call the attention of the Chair to the rule on this question? This is a private bill, and I desire to read from page 372 of the Manual, and this is the rule that provides that a point of order may be raised to appropriations. This rule was adopted June 1, 1920, in the Sixty-sixth Congress:

> A point of order under this rule can not be raised against a motion to suspend the rules * * * and it can not be made against a Senate amendment to an appropriation bill * * * but it may be directed against an item of appropriation in a Senate bill, and in such event takes the form of an amendment. The rule does not apply to private bills, since the committees having jurisdiction of bills for the payment of private claims may report bills making appropriations within the limits of their jurisdiction. (June 24, 1921, 67th Cong., 1st sess.)

The CHAIRMAN. That refers to the Claims Committee; but this bill comes from the Committee on Naval Affairs, and therefore that language is not applicable.

Mr. DOWELL. But it is in the jurisdiction of that committee.

Mr. CHINDBLOM. This is not a claim, I will say to the gentleman.

Mr. DOWELL. If it is not a claim, then it does not come within this rule; but as I understood it, this bill is a claim.

Mr. BUTLER. The Chair has ruled, and for one Member I cheerfully accept the ruling of the Chair. I think the Chair is exactly right. We perhaps did not have the information we should have had, but there was certainly no purpose to take away any rights or privileges from the Committee on Appropriations.

Now, Mr. Chairman, I would like to talk a moment on the motion to strike out the enacting clause. This bill, like all others that are here reported from the committee, passed the House unanimously last term, and there are seven precedents for the action of this one. Our friend from Ohio asked a very pertinent question, why we do not have a general law. I would much prefer to exercise the privilege wisely and consider all of these bills for relief one by one and submit them to this House rather than to pass a general law covering all cases coming within the exception. I much prefer as a Member of the House to have the facts in each case submitted to this subcommittee rather than commit them all to any other tribunal. I speak for them and not for myself. No men working upon such a duty ever performed the work with greater wisdom, with greater care, with greater patience, with greater industry, than the gentleman from Ohio [Mr. STEPHENS] and the gentleman from Georgia [Mr. VINSON] and their colleagues sitting on this subcommittee. They report nothing to you gentlemen that they do not sincerely believe should be passed by the House.

Many bills are referred to them for their scrutiny and decision and are rejected. Now, as I understand, this bill only asks for compensation to which this woman would have been entitled if it had not been that the law was suspended from operation by this Congress. There are at least six precedents, bills passed unanimously for the same purpose.

Mr. BROWNING. Will the gentleman yield?

Mr. BUTLER. Certainly.

Mr. BROWNING. There were 180,000 deaths in the service when the law between 1917 and 1920 was repealed, and does the gentleman from Pennsylvania advocate a special bill for every one?

Mr. BUTLER. No; I am not advocating any more work for myself than I have to do now. But we will pass on the cases when they come to us.

Mr. BROWNING. Does not the gentleman think they all have an equal claim?

Mr. BUTLER. They might have, but I would not suggest going around and hunting them all up.

Mr. BLACK of Texas. The gentleman would not advocate that only seven ought to be paid?

Mr. BUTLER. No; this bill was reported under similar circumstances and I would not discriminate against anyone. The world was made for all.

Mr. WINGO. The gentleman from Pennsylvania knows human nature better than I do.

Mr. BUTLER. Oh, no; I do not.

Mr. WINGO. Why should the watchdog of the Treasury object to one of these bills and let others go through that are on the same calendar?

Mr. LINTHICUM. Mr. Chairman, there has been a great deal of talk about this bill. I happen to know these people and I introduced this bill. Lieut. Commander Forney Knox was one of the men who served during the entire war in the North Sea. He was one of the men who helped to lay the great barrages across the North Sea. He was taken sick and apparently became well, came back to Annapolis, and there he performed his duties to the entire satisfaction of the Naval Academy. As a result of his exposure in the North Sea he was taken sick with influenza and died about the 23d of February, 1920.

The law which created the insurance in 1917 was construed as having repealed the law passed in 1908, which gave to all men six months' pay. So that between the years of 1917 and the 4th of June, 1920, there was no law in existence which gave them the six months' pay. Forney Knox died on the 16th day of February, 1920. If he had lived until the 4th day of June, 1920, four months longer, Congress would have taken care of him under that general law.

The general law at the present time is identical with what we are asking for under this bill; that is, that his widow shall have six months' pay, which amounts to about $2,370. Mrs. Knox—I do not know her age, and I am not a good judge of the age of ladies—has three little children, one of them born after Lieutenant Knox died of influenza. They are now about 6, 9, and 11 years old, respectively. For her care and for these little children the insignificant sum of $52 is given by the National Government. And then she draws what every widow whose husband carried $10,000 insurance draws, to wit, $57.50 monthly, which gives her approximately $109 to take care of herself and three little children.

The gentleman from Massachusetts [Mr. UNDERHILL] spoke about creating a precedent. This is not any precedent; every bill that came before the Naval Committee asking for this identical relief has been reported favorably and passed unanimously by the House. For example: Harriet B. Castle, private law 2735, Sixty-eighth Congress; Alice P. Dewey, private law, 255, Sixty-seventh Congress; Josephine Barin, private law 242, Sixty-seventh Congress; Ellen McNamara, private law 222, Sixty-seventh Congress. We have those four cases which were passed by the Sixty-seventh Congress, and in the last session of the Sixty-eighth Congress we passed three bills identically like this, to wit, Flora M. Herrick, private bill 190, Sixty-eighth Congress; Maude M. Fechuteler, private bill 149, Sixty-eighth Congress; Emma Zembsch, private bill 214, Sixty-eighth Congress, all of which became laws, and the present bill, which was passed by the House, but was too late for the Senate. So that in the last Congress we passed four bills identically like this, and about four bills prior to that, making a total of eight.

Mr. ABERNETHY. Do I understand the gentleman to say that there have been widows whose husbands died a few months after this man died who have received the six months' pay?

Mr. LINTHICUM. Certainly. In the last Congress we passed several such bills, and every widow that came before the committee asking for this relief has gotten it. The Navy Department is not ignorant of this. Captain Leigh was before the committee, and said that they preferred general legislation, but they had no objection to this individual legislation, and have never raised any objection to it. Then, of course, since June 4, 1920, all such cases are taken care of by that general legislation mentioned.

Mr. UPDIKE. And is it not a fact that if this man had lived four months longer he would have come in under the general law?

Mr. LINTHICUM. Absolutely. It so happens that he died four months before we enacted the law. The truth is that Congress never intended to repeal the act of 1908 in the act of 1917, but it was construed to have been repealed.

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

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

The CHAIRMAN. Is there objection?

There was no objection.

Mr. LINTHICUM. Summarizing, there are just a few points I wish Members to bear in mind. The striking out of the second section of this bill does not prohibit the relief under the bill. It will be effective without the second section. All that will have to be done is to amend this bill or get the appropriation in a deficiency appropriation bill. Do not let the idea of striking out the second section interfere. By construction of the act of 1917 the act of 1908 was repealed, but just as soon as Congress could get back to it, on the 4th of June, 1920, it reenacted the law, and, lastly, this widow is asking for exactly the same thing that any service man's widow would get if he died to-day, and, as for precedents, there are 8 or 10 previous cases which have been passed under unanimous consent, and the gentleman from Texas [Mr. BLACK] and the gentleman from Ohio [Mr. BEGG] were both here.

Mr. BEGG. Mr. Chairman, I move to strike out the last word. I do not want to consume any unnecessary time, but I think this case is important, and I think the House ought to have the facts accurately. My genial friend from Georgia [Mr. VINSON] took me to task for making a misstatement as to the date of the death. This man died February 20, 1920. The gentleman from Georgia, who as a rule is accurate, made an absolute misstatement of fact, as did the gentleman from Maryland [Mr. LINTHICUM] just now, when he said that any soldier similar to this man dying to-day would get this gratuity of six months' pay. I challenge these gentlemen to read the law which was reenacted in 1920 which specifically prevented this class of men from getting the gratuity. It specifically excludes this kind of men. This man was a temporary officer; and if a temporary officer dies to-day, he gets nothing, save the compensation and the widow's pension.

Mr. VINSON of Georgia. Assume for the sake of argument that he was a temporary officer, yet he was assigned to active duty. Therefore he has the status of an active officer.

Mr. BEGG. He was not on active duty. He was on temporary duty when he died.

Mr. ABERNETHY. He was on duty, was he not?

Mr. BEGG. I refuse to yield. Here is the case, and let us state it fairly, and I shall be happy with whatever the majority votes. When the gratuity provision of six months' pay was originally passed, why was it passed? It was to provide immediate care for the widow and the family of the deceased. That was prior to the war. They gave the widow six months' gratuity, thinking that would tide her and the family over the period of suffering and sorrow when no pay was coming in. Along came the war, and we passed the war risk insurance act, and we gave allotments and allowances in addition to pay and repealed the gratuities, and when the gentleman says that it was not intended I challenge him to show a line in any statute which says that it was not the intent of Congress to repeal that. Following the war we reenacted that, and we specifically provide in the law that only shall the widows of Regular Army officers and marines get this gratuity of six months' pay, and these same people must show, if they want some of the gratuities that are provided for, that the cause of death is chargeable directly to their service; and I, as well as gentlemen before me, have repeatedly taken cases down to the War Department and have been denied relief because we could not prove the service contact for the deceased.

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

Mr. BEGG. Mr. Chairman, I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. Is there objection?

Mr. ABERNETHY. Mr. Chairman, reserving the right to object, I think when a gentleman asks the privilege of proceeding further he ought to yield to an interruption, though I shall not object.

Mr. BEGG. I think the gentlemen ought to grant a speaker the right to complete a statement. I yield to the gentleman.

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

Mr. WINGO. Mr. Chairman, reserving the right to object, I have no desire to shut off my friend. He has spoken twice, and I think he has covered the case fully. I think the case has been fully presented by the committee. Debate is exhausted on the pending motion, is it not?

The CHAIRMAN. The gentleman is correct.

Mr. WINGO. If the gentleman from Ohio had not already spoken about 15 minutes I would not object, but I think we ought to get on to the other bills on this calendar, and I say that without having a bill on the calendar. I object.

Mr. BUTLER. Mr. Chairman, is debate exhausted? I would like to have something to say about these temporary officers being put on the retired list.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. BLACK] to strike out the enacting clause.

The question was taken; and on a division (demanded by Mr. BLACK of Texas) there were—ayes 27, noes 63.

So the amendment was rejected.

Mr. LINTHICUM. Mr. Chairman, I have an amendment to offer.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment by Mr. LINTHICUM: Strike out all after the enacting clause and insert: "There is hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated, such sum as may be necessary to pay to Lucy D. Knox, widow of the late Lieut. Commander Forney Moore Knox, United States Navy, an amount equal to six months' pay at the rate said Forney Moore Knox was receiving at the date of his death."

The question was taken, and the amendment was agreed to.

The CHAIRMAN. Without objection, the bill as amended will be laid aside with a favorable report.

There was no objection.

The CHAIRMAN. The Clerk will report the next bill on the calendar.

CHARLES WALL

The next business on the Private Calendar was the bill (H. R. 1944) for the relief of Charles Wall.

The Clerk read as follows:

Be it enacted, etc., That the President is authorized to appoint Charles Wall a lieutenant commander in the United States Naval Reserve Force, class 3 (in which grade and force he served honorably during the World War), and to retire him and place him upon the retired list of the Navy with the retired pay and emoluments of that grade.

The committee amendment was read, as follows:

Page 1, line 8, after the word "grade," insert a semicolon and the following proviso: "*Provided*, That no back pay, allowances, or emoluments shall become due because of the passage of this act."

Mr. RANKIN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. RANKIN. The author of this bill—Mr. LEA of California—is unavoidably absent attending the funeral of his colleague [Mr. RAKER]. There is going to be a fight on the proposition, as I understand it, and I was just wondering if it would be in order to ask unanimous consent that it be passed over without prejudice to a subsequent day.

The CHAIRMAN. That request is in order. Does the gentleman make it?

Mr. RANKIN. I do.

The CHAIRMAN. The gentleman from Mississippi asks unanimous consent that the bill H. R. 1944 be passed without prejudice and retain its place on the calendar. Is there objection? [After a pause.] The Chair hears none.

ARTHUR L. HECYKELL

The next business on the Private Calendar was the bill (H. R. 2537) for the relief of Arthur L. Hecykell.

The Clerk read as follows:

Be it enacted, etc., That the President is authorized to appoint Arthur L. Hecykell, formerly lieutenant in the United States Navy, a lieutenant in the United States Navy and place him upon the retired list or the Navy, with the retired pay and allowance of that grade: *Provided*, That no back pay, allowance, or emoluments shall become due as a result of the passage of this act.

The CHAIRMAN. Without objection the bill will be laid aside with a favorable recommendation.

There was no objection.

CLAUDE F. BETTS

The next business on the Private Calendar was the bill (H. R. 2636) for the relief of Claude F. Betts.

The Clerk read as follows:

Be it enacted, etc., That Claude S. Betts, late ensign (pilot) Naval Air Service, be made an ensign on the retired list of the United States Navy: *Provided*, That no back pay, pension, or allowance shall be held accrued prior to the passage of this act.

The CHAIRMAN. Without objection the bill will be laid aside with a favorable recommendation.

There was no objection.

Mr. BANKHEAD. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BANKHEAD. I assume that the Chair has fortified himself with precedents for the statement just made. It occurs to me in order to preserve regularity of precedents and integrity of the record the Journal at least ought to show that the bill was considered under the routine form by unanimous consent. The Chair merely stated, without objection.

The CHAIRMAN. This is the usual form in which private bills are considered in the Committee of the Whole House. Of course, if anyone desires to make an amendment to a bill that is always in order, and the reporting will be held in abeyance until any amendment is considered and disposed of. The motion that the bill be reported to the House with the recommendation that the bill do pass is presumed to be made when a bill comes up in the Committee of the Whole House. Unless there is an amendment or some other motion desired to be made that course is assumed to be taken. That has been the invariable practice of the House in the Committee of the Whole House.

Mr. BLANTON. Mr. Chairman, I move to strike out the last word. Mr. Chairman, I want to call the attention of the committee to the report of the Secretary of the Navy on this bill, and I want to ask the gentleman from Virginia, Governor MONTAGUE, a question. The Secretary of the Navy, the Hon. Curtis D. Wilbur, under date of December 14, 1925, after discussing the case, in a communication says this:

In view of the foregoing, and as the enactment of this proposed law would furnish an undesirable precedent, it being legislation intended for the benefit of an individual and not for the general good of the naval service, this department recommends, in accordance with its consistent practice, disapproval of the bill H. R. 2636.

However, the department would look with favor upon the enactment of any general legislation which would provide for the retirement of former reserve and temporary officers who may have suffered disability as the result of an incident of the service during the period from April 6, 1917, to March 3, 1921.

Now, I understand from the gentleman from Virginia that this is a most meritorious bill considered from its own statement, and I want to ask the gentleman, as there are so many others in the same position, that since the department recommends there be general legislation, what steps are to be taken now to relieve the others who are in identically the same situation?

Mr. MONTAGUE. I will say that I suspect if you should secure a committee of 100 and divide it in equal portions of five each to scour the United States of America you would not find a similar case to this.

Mr. BLANTON. I am not raising opposition to this bill, because the gentleman in the last Congress convinced me this bill was meritorious. But what about the unfavorable recommendation of the Secretary of the Navy, wherein he recommends that there be general legislation? This Committee on Naval Affairs should bring in general legislation that would cover all similar cases that may be equally meritorious.

Mr. BUTLER. Mr. Chairman, will the gentleman from Texas [Mr. BLANTON], my friend, be satisfied with my explanation? I am the author of the bill originally, to provide for the retirement of reserve officers the same as Regular officers in the Navy. I am also responsible for the passage of the law which limited the time in which they could retire.

This is an exceptional case, I will say to my friend. We do not desire any general law. We desire all these cases to be submitted to the committee, in order that we may know why these officers did not apply in time. I want my friend to know that whenever a man comes here and asks to be put on the retired list as a reserve officer he must come with clean hands and must show to the satisfaction of the committee that he was not guilty of any laches or negligence in not applying in time.

Mr. STEPHENS. This bill passed the Sixty-eighth Congress on February 24, 1925, but failed to go through in the Senate.

Mr. MONTAGUE. They did not reach it in the Senate?

Mr. STEPHENS. No.

The bill was ordered to be laid aside with a favorable recommendation.

The CHAIRMAN. The Clerk will report the next one.

HERBERT ELLIOTT STEVENS

The next business on the Private Calendar was the bill (H. R. 2808) for the relief of Paymaster Herbert Elliott Stevens, United States Navy.

The Clerk read the bill, as follows:

Be it enacted, etc., That hereafter Paymaster Herbert Elliott Stevens, United States Navy, shall be regarded as having been promoted to a pay inspector in the United States Navy on the 11th day of January, 1918, with rank as such immediately after Pay Inspector McGill R. Goldsborough, United States Navy: *Provided*, That the said Paymaster Herbert Elliott Stevens shall establish to the satisfaction of the Secretary of the Navy, by examination, his mental, moral, physical, and professional qualifications to perform all the duties of said grade: *Provided further*, That nothing herein shall be construed to entitle Paymaster Herbert Elliott Stevens, United States Navy, to any back pay, allowance, or other emoluments in this permanent rank.

Mr. ANDREW. Mr. Chairman, this bill passed the House last year and was lost in the jam in the Senate. It costs the Government not one cent. It only rectifies an injustice done to a man who has served in the Navy Pay Corps for 27 years. He was eligible to come before an examining board in January, 1918, during the World War, for promotion, but he was not called before such a board because of the exigencies of the war. He was in another part of the world at that time.

As I say, this involves no charge on the Government, as this man now receives a salary as of one grade above that to which this bill would promote him. It only rectifies the situation that occurred in 1918, during the war, which estopped him from coming before an examining board. This makes him eligible to come before such a board for examination.

The bill was ordered to be laid aside with a favorable recommendation.

The CHAIRMAN. The Clerk will report the next one.

FREDERICK S. EASTER

The next business on the Private Calendar was the bill (H. R. 3431) for the relief of Frederick S. Easter.

The Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of any laws conferring rights, privileges, or benefits upon honorably discharged soldiers Frederick S. Easter, late of One hundred and forty-fifth Company, Third Replacement Battalion, United States Marine Corps, World War, shall hereafter be held and considered to have been honorably discharged from the marine service of the United States.

With a committee amendment, as follows:

After the word "States," page 1, line 9, insert "*Provided, however*, That no pension shall accrue prior to the passage of this act."

The CHAIRMAN. The question is on agreeing to the committee amendment.

Mr. CHINDBLOM. Mr. Chairman, with reference to the committee amendment, of course, technically, we have no pensions for veterans of the World War. I would like to ask the gentleman if it would not be better to insert the words "no such rights, privileges, or benefits shall accrue prior to the passage of this act"? "Pension" does not mean anything with reference to the World War. You are conferring certain rights, privileges, and benefits on the soldier. It is the intention that no such rights, privileges, or benefits shall accrue prior to the passage of this act. Why not change the language?

Mr. STEPHENS. Well, he might be entitled to benefits for services which he performed in the late war. He rendered a very capable and meritorious service.

Mr. CHINDBLOM. Then you do not want an amendment at all?

Mr. STEPHENS. We put it in providing that no pension shall accrue prior to the passage of this act.

Mr. CHINDBLOM. There is no pension involved in the case.

Mr. STEVENSON. There is no pension and no compensation.

Mr. CHINDBLOM. It is proposed by this act to confer on this man certain rights, privileges, and benefits under existing law. But the committee brings in a proviso "that no pension shall accrue prior to the passage of this act." Why not change the word "pension" so as to make it refer directly to the rights, privileges, and benefits that you seek to confer upon him?

Mr. VINSON of Georgia. The reason for that language is to clear up his record in the department, and with the clearing up of the record he might be entitled to some gratuity in the way of a pension, so that, in order to keep him from having some benefit for prior service, we put that in. You are clearing up his record. You will see, if the gentleman will read the bill, that it provides—

That in the administration of any laws conferring rights, privileges, or benefits upon honorably discharged soldiers, Frederick S. Easter * * * shall hereafter be held and considered to have been honorably discharged from the Marine service of the United States.

An examination of the facts, no doubt, will disclose that he has not an honorable-discharge record. You will find that he has something beside that.

Mr. CHINDBLOM. That was a discharge from the service in the World War. Therefore, it must refer to rights, privileges, and benefits accruing by service in the World War.

Mr. VINSON of Georgia. No. If he had a dishonorable discharge before, and that record is cleared away, he might be eligible to a pension.

Mr. BUTLER. The man did well in the big war.

Mr. CHINDBLOM. I am not opposed to the bill, understand; but——

Mr. VINSON of Georgia. It is the intention that no pension shall accrue to him prior to the passage of this act.

Mr. CHINDBLOM. Why not make it clear by saying, "*Provided, however*, That no such rights, privileges, or benefits shall accrue prior to the passage of this act"? You make it clear that he would have certain rights, privileges, and benefits that you now confer on him; but when you use the word "pension" you must remember that the World War carries no pension.

Mr. VINSON of Georgia. What are the facts? This man enlisted in the Marine Corps from Cincinnati, Ohio, in 1918.

He served as a member of the One hundred and fifty-fifth Company and was discharged in 1919 with a bad-conduct discharge. Now, this is to clear up his record; and when you clear his record he would be entitled, probably, to some benefit, as would a soldier with a clear record, in the form of a pension.

Mr. CHINDBLOM. What form of pension is there that a veteran of the World War may get to-day?

Mr. VINSON of Georgia. Well, I do not know.

Mr. CHINDBLOM. There is none.

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

Mr. CHINDBLOM. Mr. Chairman, I offer an amendment. In lieu of the word "pension," in line 10, insert the words "no such rights, privileges, or benefits."

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

The Clerk read as follows:

Amendment offered by Mr. CHINDBLOM: Strike out the word "pension," in line 10, and insert in lieu thereof the words "such rights, privileges, or benefits," so that as amended it will read: "*Provided, however*, That no such rights, privileges, or benefits shall accrue prior to the passage of this act."

Mr. VINSON of Georgia. Mr. Chairman, I rise in opposition to the amendment. I am satisfied that if the gentleman from Illinois had read the record he would not offer this amendment. The very purpose of his amendment would deny this boy the right to file a claim in the Veterans' Bureau for any wound or disability he may have received in battle during the World War.

Now, what are the facts? He was wounded on June 10, 1918, at Belleau Woods. He came back to this country; he was court-martialed and he was given a bad-conduct discharge. Now, all this bill seeks to do is to remove the bad-conduct discharge record and treat his case as if he had an honorable discharge, but under the amendment offered by the gentleman from Illinois [Mr. CHINDBLOM] he would have no right to file a claim for disability incurred in the discharge of his duty at Belleau Woods or any other place, because he has a dishonorable discharge.

Mr. DENISON. The gentleman is wrong. He could file a claim but he could not collect back pay, and that is the only effect of the amendment offered by the gentleman from Illinois.

Mr. VINSON of Georgia. But it might be that he was drawing something to-day. The mere fact that he has a bad-conduct discharge does preclude him from the right of filing a claim.

Mr. DENISON. If he is drawing it to-day, then he is collecting it and this amendment would not effect that at all.

Mr. VINSON of Georgia. Under the amendment it would probably be charged up to him and he would be cut off.

Mr. CHINDBLOM. What, then, is the purpose of the proviso recommended by the committee?

Mr. VINSON of Georgia. Its purpose is to protect the Government. Whenever you clear up a man's record certain rights might accrue to him, and this proviso is offered so that there will be no chance for him to get a back pension. That is the only reason of it. It is for the protection of the Government.

Mr. CHINDBLOM. What pension could a World War veteran get to-day?

Mr. VINSON of Georgia. I do not know, as I said to the gentleman a while ago.

Mr. CHINDBLOM. There is none, I will say to the gentleman.

Mr. ANTHONY. Will the gentleman yield?

Mr. VINSON of Georgia. Yes.

Mr. ANTHONY. I would like to have a little information. What is the purpose of the passage of this bill?

Mr. VINSON of Georgia. The purpose is to clear up the record of this brave marine. He rendered good service at Belleau Woods.

Mr. ANTHONY. Why does the committee want to clear his record? What is he charged with?

Mr. HILL of Maryland. He is charged with having been asleep on duty. He enlisted at the age of 16, was gassed in 1918, and when he was found asleep on duty he was given a bad-conduct discharge. Now, if his record is to be cleared up why should you attach a string to it by having this amendment adopted? If there are any rights which should accrue to him after his record is cleared up, why not let him have them?

Mr. VINSON of Georgia. We are simply wiping out the bad-conduct discharge that is now against him.

Mr. HILL of Maryland. But if you clear up his record, why do you put any provision on it? If he is entitled to an honorable discharge, why not give it to him, as well as the privileges that go with an honorable discharge?

Mr. STEPHENS. We are giving him his privileges.

Mr. HILL of Maryland. But you certainly do not if you include that last provision.

Mr. CHINDBLOM. Mr. Chairman, I do not seem to be able to make myself understood to the members of the committee. Therefore I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Without objection, the amendment is withdrawn.

Mr. STEPHENS. Mr. Chairman, I ask unanimous consent to strike out the proviso reading as follows:

Provided, however, That no pension shall accrue prior to the passage of this act.

The CHAIRMAN. It is not necessary to secure unanimous consent to do that. All that is necessary is to vote the amendment down. The question is on agreeing to the committee amendment.

The committee amendment was rejected.

The CHAIRMAN. The question is on laying the bill aside with a favorable recommendation.

Mr. ANTHONY. Mr. Chairman, I have been trying to get some information. I would like to have the gentleman in charge of the bill explain to me just what reasons and what grounds the committee has for setting aside the verdict of a court-martial. I understood the gentleman to state that this man was court-martialed, and I do not think the House ought to proceed in this manner until it has all the facts in the case before it.

Mr. STEPHENS. We had before the committee a full statement of the facts. The fact is that this boy enlisted when he was 16 years of age; he fought at Belleau Woods and other places; he was wounded; he was gassed; he came back to this country and was located at Hampton Roads in a condition that

was deplorable. He was in the hospital; they took him out of the hospital before he was recovered and they put him on picket duty, and the boy, whose foot was injured, sat down to rest himself on account of the pain in his foot and he dropped off to sleep. He was court-martialed and given a bad-conduct discharge, $90 of his pay was taken from him, and he was kicked out. He went home on freight trains to his mother in Cincinnati, and she did not know her own son when he came into the room. It is up to the Members of this House to set such summary courts-martial aside when a boy has fought for his country.

Mr. ANTHONY. Was this offense committed in this country after the war, or was it committed in France?

Mr. STEPHENS. It was committed after the war.

Mr. VINSON of Georgia. At Norfolk, Va.

Mr. ANTHONY. Then the offense committed has nothing to do with his war service?

Mr. STEPHENS. Nothing at all.

Mr. ANTHONY. Does the committee take the position that this court-martial did not do its duty?

Mr. STEPHENS. It did its duty as courts-martial generally do their duty.

Mr. VINSON of Georgia. By finding everybody guilty.

Mr. STEPHENS. Sometimes they are right and sometimes they are wrong. I have no doubt they did their duty as they saw it.

Mr. ANTHONY. It used to be the custom of this House to go very slowly in going behind decisions of courts whether they were military or civil courts, and I think there ought to be a very plain showing in this case that the decision of the court-martial was wrong.

Mr. STEPHENS. Yes; and that is the reason we have given such a very plain showing in this case to the House. We have given the details of this man's service and the slight offense committed and have stated the conditions under which this duty was performed. He was court-martialed and sent on home after his money had been taken away from him and I think the boy got the worst of it all the way through.

Mr. ANTHONY. The presumption is that the court-martial did its duty unless you can show by evidence that is preponderant that it did not.

Mr. STEPHENS. I will say to the gentleman from Kansas if I had been a member of that court-martial I would have investigated the record of this man. I would have investigated the case thoroughly. I would have known his condition. I would have known his service.

I would have known his disability and I would have summed the matter up, and the chances are 100 to 1 if I had been on the court-martial he would not have been sentenced in this way, but would have been sent to a hospital and treated not only for the injury to his body but the injury to his mind, because the boy's mind, even, was not in good condition.

Mr. HILL of Maryland. Will the gentleman from Ohio yield?

Mr. CHINDBLOM. The gentleman from Kansas has the floor, and will the gentleman yield to me?

Mr. ANTHONY. I have yielded the floor.

Mr. CHINDBLOM. As a matter of fact, this bill will not set aside that court-martial.

Mr. VINSON of Georgia. Of course not.

Mr. CHINDBLOM. It merely provides that in the administration of certain laws this ex-soldier shall hereafter be held and considered to have been honorably discharged from the Marine Corps service of the United States.

Mr. VINSON of Georgia. That is all.

Mr. CHINDBLOM. It does not set aside the court-martial at all.

Mr. HILL of Maryland. I would like to ask the gentleman if he knows whether the Committee on Naval Affairs went over the court-martial record?

Mr. STEPHENS. We did not.

Mr. ANTHONY. Then the bill ought not to pass if that is the case.

Mr. STEPHENS. Why not?

Mr. ANTHONY. If you did not go into the record of the court-martial to ascertain whether the court-martial did its duty or not, I do not think the committee has a right to make a recommendation of this kind.

Mr. STEPHENS. We did not go over the court-martial record itself, but we had a statement of what the court-martial did.

Mr. HILL of Maryland. If the gentleman will permit, the committee of which I am a member has a great many of these cases coming from the War Department. I took the position a while ago that if this man is to get this discharge it ought to be given him as a clean, honorable discharge with full benefits.

Mr. STEPHENS. That is what is done by this bill.

Mr. HILL of Maryland. Of course, his previous service and everything else of that sort was considered by the court-martial, and I think the committee should have looked into the court-martial record.

Mr. VINSON of Georgia. I will state to the gentleman from Maryland that the reason we did not look at the record was due to the fact that there were about 45,000 courts-martial in the Navy during these years, and it would be a great task on the part of the Navy to find this particular court-martial record.

Mr. HILL of Maryland. I will say to the gentleman that the Navy Department can give him the record of any general court-martial promptly. This was not a petty court-martial.

Mr. VINSON of Georgia. I understand that.

Mr. HILL of Maryland. Every one of them is in the Navy Department.

Mr. STEPHENS. I will say to the gentleman we had a report as to the court-martial, and we knew the action that had been taken and the other general features.

Mr. HILL of Maryland. Did the Navy Department recommend the passage of this bill?

Mr. STEPHENS. No.

Mr. HILL of Maryland. Of course not.

Mr. BLANTON. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, since our friend the gentleman from Kansas is so insistent on objecting to the passage of this bill, which would do justice not to an Army officer but to a private in the Marine service, I must say a word in behalf of this man.

Whenever you attack an Army officer you will always find one of our higher-up military friends in Congress, for whom we have great affection, rising to defend him, for fear some injury will be done to his reputation, and so it is with a naval officer; but when it is a mere private there is a chance of his rights being subjected to opposition and a bill of this nature not being passed.

This bill does do away with that court-martial. It ought to do away with it. And that is why I am in favor of passing it.

Mr. HILL of Maryland. Will the gentleman yield there?

Mr. BLANTON. A man who has fought bravely for his country at Belleau Wood and has come back here after the war and has remained in the service when he was sick, and perhaps when he was decrepit and when he was not able to do picket duty, because, forsooth, he falls asleep during peace time, when there is no war, he is tried by a general court-martial and his rights taken away from him; and it is the Congress that is now restoring those rights, and I am glad to have a chance to vote for this private in the service.

Mr. HILL of Maryland. Will the gentleman from Texas yield?

Mr. BLANTON. I yield.

Mr. HILL of Maryland. I agree entirely with the gentleman about the attitude of a court-martial in a case such as this appears on its face, but the gentleman has been too good a judge to be in favor of reversing the decision of any court on opinion.

Mr. BLANTON. No; I am not too good a judge to reverse the decision of this court-martial in peace time. It ought to be reversed, and that is exactly what this Congress is going to do in passing this bill.

Mr. HILL of Maryland. Would you reverse it without reading the record?

Mr. VINSON of Georgia. Will the gentleman yield?

Mr. BLANTON. I can not yield for just a moment. The committee reports to us what the substantial facts in the record are.

I want to say there are entirely too many of these peace-time courts-martial of privates in the Army and the Navy, and it ought to stop. Too great an injustice is being done them. There is injustice done in nine cases out of ten when privates are tried. Their rights are not given them; they are brought before the court-martial scared to death, do not know what is going to happen to them; they are forced to plead guilty because of pressure, because of intimidation, and I am glad that this Congress is following the recommendation made by this committee and is going to do justice to this man, and the Navy Department ought to understand that its court-martial is set aside.

Mr. HILL of Maryland. Mr. Chairman and gentlemen of the committee, this is a matter of extreme seriousness. It is all right for the gentleman from Texas to talk about the rights of the enlisted man. That has nothing to do with this case. It is all right for the gentleman to inveigh against court-martial—that has nothing to do with this case. I have seen a great many court-martial records and have sometimes disapproved them in the name of a division or a corps commander.

We ought not to do this without looking at the record. Let this case go back to the committee, let the committee examine the record of the court-martial, and if it shows that any unjust or drastic things were done, as suggested by the gentleman, they can bring it in here and we will do our duty with reference to it. I say it is improper for the House of Representatives to reverse a court-martial without at least having read the court-martial record.

Mr. STEPHENS. Let me say to the gentleman that we have investigated, and we know what the court-martial proceedings were; we know what the real substance of it was. We did not read over every item in detail, but we knew what the general action of the court-martial was and the proceedings of what was generally done. We did not take the time to go into all the details.

Mr. HILL of Maryland. When I was chairman of the subcommittee on desertions of the Military Affairs Committee I recommended, and the committee recommended, the reversal of a number of court-martial proceedings, and never hesitated to do it when we thought we were right; but we never came in here and recommended the reversal of a general court-martial proceedings without having seen the record itself.

Mr. STEPHENS. We did see the record.

Mr. HILL of Maryland. I thought the gentleman said they did not have the record of the court-martial. The gentleman from Georgia [Mr. VINSON] so stated. He said the Navy Department could not find the record.

Mr. ANTHONY. The gentleman stated that he had not seen the record of the court-martial.

Mr. STEPHENS. Oh, we had the record; but, as I say, we did not read the evidence wholly, but we had the record.

Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

The CHAIRMAN. The gentleman from Ohio moves that the bill be laid aside with a favorable recommendation.

The motion was agreed to.

RUSSELL H. LINDSAY

The next bill on the Private Calendar was the bill (H. R. 3572) for the relief of Russell H. Lindsay.

The Clerk read the bill, as follows:

Be it enacted, etc., That the President of the United States be, and he is hereby, authorized to appoint Russell H. Lindsay, former ensign, United States Navy, in which grade he served honorably during the World War, an ensign in the United States Navy, and to retire him and place him on the retired list of the Navy as an ensign, with retired pay of that grade, as provided by law for officers retired by reason of physical disability incident to service.

Mr. BLACK of Texas. Mr. Chairman, I would like to ask the gentleman from Colorado if this man is drawing any pension from the Veterans' Bureau at the present time?

Mr. TIMBERLAKE. No; he is not.

Mr. BLACK of Texas. Then I have no objection; but I wish to offer an amendment.

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

The Clerk read as follows:

Page 1, line 10, after the word "service," strike out the period and insert a colon and the following language: "*Provided*, That no back pay, allowance, or emoluments shall become due because of the passage of this act."

Mr. BLACK of Texas. That amendment is in line with the usual amendments that are adopted in cases of this kind.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas.

The amendment was agreed to.

The bill as amended was laid aside with a favorable recommendation.

CHARLES RITZEL

The next business on the Private Calendar was the bill (H. R. 5858) for the relief of Charles Ritzel.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of $2,500 to Charles Ritzel, on account of the death of his son, Charles Ritzel, jr., who was scalded to death on December 15, 1904, while employed as boiler maker on board the U. S. S. *Massachusetts*, at League Island Navy Yard, Philadelphia, Pa.

The bill was laid aside with a favorable recommendation.

FAYETTE L. FROEMKE

The next business on the Private Calendar was the bill (H. R. 787) for the relief of Fayette L. Froemke.

The Clerk read the bill, as follows:

Be it enacted, etc., That so much of section 6 of the naval appropriation act approved July 12, 1921, as provided that the application for retirement of officers of the Naval Reserve Force and temporary officers of the Navy who have heretofore incurred, or who may hereafter incur, physical disability in the line of duty in time of war shall be filed with the Secretary of the Navy not later than October 1, 1921, be, and hereby is, waived in the case of Ensign Fayette L. Froemke, Pay Corps, United States Naval Reserve Force, inactive, and his case is hereby authorized to be considered and acted upon under the remaining provisions of said section if his application for retirement is filed not later than 60 days from the approval of this act.

Mr. BLACK of Texas. Mr. Chairman, I would like to ask the gentleman from North Dakota if this claimant, Froemke, draws a pension from the Veterans' Bureau at the present time.

Mr. BURTNESS. He has a disability pension; I do not know what the percentage of the compensation is now. The last time they checked up he had a rating of permanent disability.

Mr. BLACK of Texas. In that case he is receiving $100 a month. Mr. Chairman, I move to strike out the enacting clause. My view on these cases is this: Where the veteran is not drawing any compensation from the Veterans' Bureau at all there might be some excuse for passing a bill of this kind. But where he is now being compensated by the Veterans' Bureau at the maximum rate, there is no excuse whatever for the passage of a bill of this kind. If we are going to adopt the policy of passing a special law and retiring these emergency officers of the Navy, then Congress owes it to itself to report favorably the Fitzgerald bill, which will permit all disabled emergency officers in the Army who served in the World War to be retired and draw retirement pay instead of drawing compensation under the general law.

Mr. WAINWRIGHT. Will the gentleman yield?

Mr. BLACK of Texas. Yes.

Mr. WAINWRIGHT. Is not that what we did with the reserve and temporary officers in the Navy, and did we not give them an unqualified right to retirement for disability?

Mr. BLACK of Texas. It did if they filed the application within a limited time, but that was of limited operation, and it has already expired. All applications under it were required to be filed prior to October, 1921. I was against that bill. I have opposed steadfastly any discrimination in the payment of compensation in favor of the officer and against the enlisted man. Let those who defend that practice come out and say so.

Mr. WAINWRIGHT. Mr. Chairman, will the gentleman yield further?

Mr. BLACK of Texas. Yes.

Mr. WAINWRIGHT. It will recognize the principle.

Mr. BLACK of Texas. Yes; but if we are going to take up cases of this kind by special bills for officers of the Navy, does not the gentleman think we ought to bring in the Fitzgerald bill and pass it and permit the same privilege to emergency officers of the Army? Why make fish of one and fowl of the other?

Mr. WAINWRIGHT. I am very favorably inclined toward the Fitzgerald bill.

Mr. BLACK of Texas. Here is the situation that exists now. I do not suppose that anybody will contend that the naval officers rendered more gallant service than those in the Army, and yet the Committee on Military Affairs has not reported out a single bill in favor of an officer who is on the compensation rolls of the Veterans' Bureau, to put him on the retired list of the Army and pay him retirement pay. But we do not ever have a private calendar day here that it is not loaded down with bills of this kind from the Naval Committee in behalf of emergency naval officers. I protest against it. It is not right. It is not fair. We had the Bursum bill at the last session of Congress providing for the retirement of emergency officers of the Army. It was not passed. We have now pending before the Committee on Military Affairs the Fitzgerald bill for the same purpose. It has not been passed, and I protest against the enactment of these bills where the officers are already drawing compensation from the Veterans' Bureau, as is the case in this instance. This man draws $100 per month. Why is that officer entitled to be put on the retired list of the Navy and draw more than a private soldier suffering from the same injury? What better reason is there to take this ensign who is now receiving $100 a month from the Veterans' Bureau and put him on the retired list, when thousands of private soldiers with identically the same sort of disability are not granted that privilege?

Mr. HILL of Alabama. Does not the gentleman think that the whole retirement law of this country ought to be rewritten?

Mr. BLACK of Texas. I do.

Mr. HILL of Alabama. Does not the gentleman think it is a mistake to pass these special bills until we do rewrite it?

Mr. BLACK of Texas. I do. I realize that my protest is not reaching very far. But I know my duty, and I am going to discharge it as best I can.

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

Mr. BLACK of Texas. Mr. Chairman, I ask unanimous consent for two minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

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

Mr. BLACK of Texas. Yes.

Mr. CHINDBLOM. Does not the gentleman think there is a little flaw in his reasoning, inasmuch as the compensation from the Veterans' Bureau is likely to be cut off or changed at any moment?

Mr. BLACK of Texas. Why so?

Mr. CHINDBLOM. It is not permanent.

Mr. BLACK of Texas. The gentleman from North Dakota [Mr. BURTNESS] said that he was rated as permanent.

Mr. CHINDBLOM. But that rating can be changed tomorrow.

Mr. BLACK of Texas. Why so?

Mr. CHINDBLOM. It is frequently changed.

Mr. BLACK of Texas. Any rating could be changed, no doubt, but it would be soon enough then to come in with a private bill in his behalf and not anticipate that he will be cut off in this way. I do not intend to debate the proposition any further. I simply want to protest against this flagrant discrimination which the House has practiced session after session. If we are going to put on the retired list men who served as emergency officers in the Navy, if we are going to put on the retired list men who served as emergency officers in the Marine Corps, then there is no reason in the world, except a gross and base discrimination, for not granting the same privilege to the emergency officers of the Army.

Let those who support this bill be consistent and demand the same treatment for emergency officers of the Army, who in many cases suffered much more severe injuries than some emergency naval officers who have been put on the retired list and given retirement pay.

Mr. BURTNESS. Mr. Chairman, the argument made by the gentleman from Texas [Mr. BLACK], of course, applies particularly to the merits of the so-called Fitzgerald bill and other bills that have been pending in Congress, the object of which has been to place the emergency officers of the United States Army on the same basis as the temporary officers of the Navy and the Naval Reserve Force, but it has absolutely nothing to do with this particular case.

What does this bill do? This bill does not retire anybody. This bill does not retire Mr. Froemke. What rights does it give to him? It gives him 60 days to do that which the law passed by this Congress on July 12, 1921, gave him and other like naval officers the right to do. Why did he fail to do that between July 12 and October 1, 1921, as required by the act? The evidence was submitted to the committee which reports this bill. He failed to file his application for retirement at that time because he knew nothing about the exact provisions in the law, or, rather acted under a misapprehension with reference to what the provisions were, and during most of that time he was flat on his back in the hospitals of this country. That is all this bill does. Mr. Froemke enlisted in the Navy in June, 1917. In 1918 he was commissioned as an ensign. In August, 1918, he had gone into training and received a commission later. He was discharged in January, 1919. Just where was he during this time when under the act of July 12, 1921, he could have filed his application for retirement? If the gentlemen will read the report they can find out. In May, 1921, there was a diagnosis of high fever, chill, heavy cold in the chest. In June, 1921, there was a diagnosis of the sputum found positive for tuberculosis, increasing cough, stomach disorder, and general weakness. On June 20, 1921, the case was diagnosed as tuberculosis, pulmonary, by Dr. Samuel Boggs, of Baltimore, Md. On June 27, 1921, he entered Cragmore Sanatorium, Colorado Springs, Colo. In August, 1921, he suffered a hemorrage of the lungs, and so on.

The affidavits and statements of doctors are found in the report, and the following is the affidavit of the physician in charge at Cragmore Sanatorium, one of the hospitals in which this man received treatment during the time the law permitted him to file an application.

Mr. BLACK of Texas. It is not the contention of anyone that this man is not disabled, but the gentleman's own admission is that he is now receiving compensation from the Veterans' Bureau and that his rating is permanent total.

Mr. BURTNESS. That was his rating when his affidavit dated April 3, 1924, was made. Since that time I have a letter advising that his compensation has since been materially reduced, but not stating what it is; he has some disability rating now, but it is partial and not total. The exact amount of that rating, in my judgment, is not material one way or the other.

Of course, if he is given the privilege to file his application for retirement and is actually retired any compensation he now receives from the Veterans' Bureau will be entirely set aside. He will not get both. What I have submitted as to his condition is to show the reason why he did not file his application during the time provided by the general law rather than to show his exact disability.

Mr. MONTGOMERY. Will the gentleman yield?

Mr. BURTNESS. I will.

Mr. MONTGOMERY. The real purpose of this is to get retirement pay in lieu of the compensation which applies to enlisted men?

Mr. BURTNESS. The real purpose is to get 60 days' time in which to file his application, the same kind of application which he could have filed under the general law in 1921 and which he failed to do because of his illness and lack of knowledge of what the law was at that time.

Mr. MONTGOMERY. This man would get retirement pay?

Mr. BURTNESS. If his application is favorably passed upon he would get retired pay.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BURTNESS. I ask unanimous consent to proceed for three minutes more.

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

Mr. MONTGOMERY. Does not the gentleman think that allowing these officers who now get a higher rate of compensation than enlisted men is a discrimination against the enlisted men who served during the war?

Mr. BURTNESS. I think that is true, but that is an argument that should have been made here in July, 1921, when this general act in reference to the naval officers was considered and a discrimination now exists against Ensign Froemke, and in favor of the ensigns and other naval officers who actually filed their applications under the general law and obtained what Congress granted.

Mr. MONTGOMERY. Does not the gentleman think that law should be corrected rather than add another error to it?

Mr. BURTNESS. The general law passed was passed in July, 1921, and can not now be changed. The exact proposition now before us is to get the discrimination removed which affects not a general class but an individual.

Mr. BLACK of Texas. Will the gentleman yield?

Mr. BURTNESS. Yes.

Mr. BLACK of Texas. Let us not forget the law was only for a temporary length of time, and this man is simply in the same situation as the emergency officers of the Army who have not been allowed this.

Mr. BURTNESS. He is in the same position now as reserve officers of the Army, but the discrimination is between himself and others of his class.

I want to read from the affidavit which he made in 1924 as to the reason for not filing. He says, among other things:

> That in February, 1924, although he had then become totally disabled, he learned for the first time that the act in question did not provide that the disability must be total and permanent, and consideration of his application was declined for the reason that it was not made prior to October 1, 1921.
>
> That the reason why such application was not made prior to that date was, first, that this affiant was very ill and confined to his room during most of the time and physically unable to look after or attend to his own affairs; and, second, that the information given to him, and which was the only information he had upon the subject, and which came from sources which caused him to believe it to be correct, was that only a total permanent disability entitled him to be considered for retirement under the act. That he did not discover this error until January, 1924, otherwise application would have been sooner made.

The CHAIRMAN (during the reading of the foregoing quotation). The time of the gentleman has again expired.

Mr. BURTNESS. I ask for two additional minutes.

The CHAIRMAN. Is there objection?

Mr. REECE. Mr. Chairman, reserving the right to object, I am for the gentleman's bill, and I am going to vote for it, and I have no doubt the House will, but we have a long calen-

dar here and there are other bills to pass, and I think that too much time is being taken on one particular bill. [Cries of "Regular order!"]

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

Mr. BURTNESS. This is the contention made by Mr. Froemke in this affidavit, and same in detail is substantiated by written evidence, which I filed before the committee, coming from the authorities at the hospital at which he was receiving treatment at that time. I bespeak your favorable consideration.

Mr. BLANTON. I offer a substitute to strike out the last word. Mr. Chairman, my colleague from Texas [Mr. BLACK] is absolutely consistent in his position. He is merely contending for equal treatment both of officers and enlisted men in our service. I do not know whether some of you remember it or not, but when the original war risk insurance act was brought before this House in 1917 it provided that the widow of a general, for instance, could be paid $17,000 insurance, if such were applied for by the general, while the widow of a private could be paid only $3,000, as that was the maximum a private could take out. And had it not been for the action of our distinguished and able colleague from Texas [Mr. BLACK], that would have been the law—$3,000 insurance to the widow of a private and $17,000 insurance to the widow of a general.

I remember the gallant fight that our colleague from Texas [Mr. BLACK] made on this floor at that time, contending that the life of a private was just as precious and just as valuable to his widow as is the life of a general to a general's widow. He insisted that each one of them, when they gave their lives to their country, gave to it their all, and should be treated alike when death ensued. He offered an amendment from the floor to the war risk insurance act, with the formidable Interstate and Foreign Commerce Committee against him; he stood on the floor and made a winning fight and got his amendment passed, allowing each one, general and private alike, to take out $10,000 insurance, the general, the private, and the gob all treated alike. His action now is consistent with his action then, and he asks now that no discrimination be shown. You would show discrimination if you passed this bill.

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

Mr. BLANTON. In a moment. Here is an ensign drawing a compensation from the Veterans' Bureau. If he were totally disabled, he would be drawing $100. If he is not totally disabled, he is drawing the maximum amount allowed for his disability, whatever it is, the same as private ex-service men. They ought to be treated alike.

I believe in the amendment offered by my colleague from Texas [Mr. BLACK], that we should treat them alike. They are entitled to the same treatment. The compensation that we pay them is the compensation that their families receive, and we would be paying the family of the officer much more than the family of the private if we passed this bill.

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

Mr. BLANTON. Yes.

Mr. BURTNESS. Does not the gentleman think that the man involved in this bill should be treated the same as other officers of the same class connected with the same service to which he belonged during the war?

Mr. BLANTON. I think we should show no discrimination whatever between members of our services, between those who happen to be officers and those who happen to be privates.

Mr. BURTNESS. Do you think there should be discrimination in favor of one officer against other officers in the same branch?

Mr. BLANTON. I am standing with the gentleman from Texas [Mr. BLACK], who has watched this matter from its incipiency in the attempt to give the privates and all other ex-service men alike a fair, square deal. Every single one of the 4,000,000 men who entered the World War who have been insured for $10,000 owes a debt of gratitude to the gentleman from Texas [Mr. BLACK]. If it had not been for the fight that he made on this floor, when he convinced the membership of this House that his fight was just, most of these men would be insured now for only $3,000 instead of $10,000. [Applause.]

Mr. MONTGOMERY. Mr. Chairman and gentlemen of the committee, if I know the law, although I do not know the exact figures, and if this man is drawing the total compensation to which he is entitled, he is receiving within $25 as much as he would receive if he be retired as a disabled ensign.

I say this in order to show what I am about to say is not personal and has no great economic reason behind it. I want to show the committee the underlying principle inherent in this act and other acts of similar character. In the first place, I think Congress made a mistake when it allowed the temporary officer, the provisional officer, and the emergency officer to draw more compensation than it allowed the enlisted man. I do not think from personal experience—and I do not believe the War Department records will contradict me—that the temporary officer of a low rank offered more to his country or did one whit more for his country than the buck private. I may be wrong; I may be contradicted in this statement by Members of the House, for I know that there are now in Congress ex-service men who were, most of them, officers, while I was but a buck private, and I look at laws affecting the ex-service man through a buck private's eyes. I will say that in my eyes there was nothing greater nor grander than the immortal buck private that fought the battles of the war. [Applause.]

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

Mr. MONTGOMERY. Yes.

Mr. WAINWRIGHT. I take my hat off to the gentleman as a buck private, but I would like to ask him if he thinks it fair that the young lieutenants who led their platoons over the top and received almost mortal wounds, from which they are almost entirely disabled, should have any different treatment from the Government than some of the young men who happened to be in the Regular Establishment.

Mr. MONTGOMERY. Yes, sir; I think so.

Mr. WAINWRIGHT. I would like to ask the gentleman where he draws the distinction? I have been trying to do so for some time and have found it very difficult.

Mr. MONTGOMERY. If the gentleman will permit me, I will not touch on that feature at the present time, because it is complex and complicated. With his permission I would rather discuss this phase at another hour, as it is alien and not germane to the subject now considered.

The question here is whether you can right one wrong by adding another. Two wrongs do not make a right. Congress has discriminated in favor of the officers and against the enlisted men, and I do not think the Congress in this instance should make another such unconscionable discrimination. The Fitzgerald measure brings up this proposition in a general law, and I am going to oppose it with all the power that I have, and I go further than that when I declare that if the law that permits this discrimination were to be brought up for repeal I would vote to repeal it this moment. I do not believe that Almighty God made any distinction between the private soldier and the officer. If the fortunes of war should destine that two men—one an enlisted man, another an officer—die on the field of battle, I believe that they would go to the same heaven or to the same hell. I think that where God Almighty makes no distinction, Congress should certainly make none. [Applause.] Therefore I am against this bill, because the principle inherent therein is unjust, inequitable, and discriminates between soldiers where certainly no distinction should be made or discrimination practiced.

Mr. BURTNESS. Will the gentleman yield?

Mr. MONTGOMERY. Yes.

Mr. BURTNESS. As I understand, the gentleman's position then is that he is opposed, in the first place, to the act of July 12, 1921, which gave certain privileges to temporary and reserve officers in the Navy and Marine Corps?

Mr. MONTGOMERY. Yes; I think it wrong.

Mr. BURTNESS. Being against that general law the gentleman is now opposed to allowing an individual, who was ill at the time and who did not know what the terms of that law were, the same opportunities that others had who knew about the law and who were not in as bad shape at that time, and because they did know about the law, did file their applications, and did become retired under the act of Congress.

Mr. MONTGOMERY. I am opposed to adding wrong to wrong, and I am opposed to adding discriminations to discriminations that I think now are unjust and unfair.

Mr. BURTNESS. Does not the gentleman recognize that this one man is therefore discriminated against in favor of a class?

The CHAIRMAN. The time of the gentleman from Oklahoma has expired. The question is on agreeing to the amendment offered by the gentleman from Texas [Mr. BLACK] to strike out the enacting clause.

The question was taken; and on a division (demanded by Mr. BLACK of Texas) there were—ayes 8, noes 65.

Mr. BLACK of Texas. Mr. Chairman, I make the point of no quorum and object to the vote on that ground.

The CHAIRMAN. The Chair will count. [After counting.] One hundred and twenty gentlemen are present, a quorum.

So the amendment to strike out the enacting clause was rejected.

Mr. BLACK of Texas. Mr. Chairman, I offer an amendment. At the end of the bill strike out the period and add the following language:

Provided, That no back pay, pension, allowance, or emoluments shall become due as a result of the passage of this act.

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

The Clerk read as follows:

Amendment offered by Mr. BLACK of Texas: Page 2, line 3, after the word "act," strike out the period, insert a colon, and add the following: "*Provided*, That no back pay, pension, allowance, or emoluments shall become due as a result of the passage of this act."

The amendment was agreed to.

The bill was ordered to be laid aside with a favorable recommendation.

RELIEF OF EDWARD A. GRIMES

The next business on the Private Calendar was the bill (H. R. 1840) for the relief of Edward A. Grimes.

The Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of the compensation laws and laws conferring rights and privileges upon honorably discharged soldiers, sailors, marines, etc., their widows and dependent relatives, Edward A. Grimes shall hereafter be held and considered to have been discharged honorably from the United States Navy as a seaman March 25, 1919.

Mr. BLACK of Texas. Mr. Chairman, I offer an amendment. At the end of the bill strike out the period, insert a colon, and add the following:

Provided, That no back pay, pension, or allowance shall be held accrued prior to the passage of this act.

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

The Clerk read as follows:

Amendment offered by Mr. BLACK of Texas: At the end of the bill, in line 9, strike out the period, insert a colon, and add the following: "*Provided*, That no back pay, pension, or allowance shall be held accrued prior to the passage of this act."

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. BEGG. Mr. Chairman, I simply want to comment on the amendment indirectly. I realize that regardless of what the facts are in the case the House will pass the bill, but I want to call attention to the fact that the Veterans' Bureau has refused to accept the fact that this man was insane while in the Navy or that his insanity was a result of his service in the Navy, and that by the passage of this act we are merely substituting the judgment of Congress, on a technical question, for the judgment of the medical officers in the Veterans' Bureau whom we employ. Now, of course, so far as I am concerned, I am perfectly willing to admit that on a question of insanity my judgment is far superior to the judgment of the medical staff in the Veterans' Bureau, yet that is what we are doing through the passage of this bill.

Mr. VINSON of Georgia. Will the gentleman yield?

Mr. BEGG. Certainly.

Mr. VINSON of Georgia. Is it not a fact, under the Veterans' Bureau law, that when a man becomes insane within three years after his discharge from the service that that insanity is presumed by the department to have existed prior to his discharge?

Mr. BEGG. I can not answer the gentleman as to that.

Mr. VINSON of Georgia. That is correct.

Mr. BEGG. Then I will take that to be the fact.

Mr. VINSON of Georgia. And the law has been amended so as to make it six years?

Mr. BEGG. And I will accept that as a fact. Then why does not the gentleman's patient get relief under the law? I would like to ask the gentleman that question. Why does he not get relief under the law, if the gentleman has stated the law accurately?

Mr. HAWES. May I state to the gentleman from Ohio that this young man enlisted——

Mr. BEGG. I do not care about the history of the case. I am just calling attention to the fact that the reason why the gentleman's patient has not had recourse to the Veterans' Bureau under the law is because the medical staff at the Veterans' Bureau has refused to accept the claim made, namely, that his insanity was due to his service.

Mr. HAWES. No.

Mr. BEGG. Now, then, we are simply substituting our judgment for their judgment, and I would like to know why the gentleman's patient does not get relief under the law if it is as stated by the gentleman from Georgia.

Mr. HAWES. I do not understand that to be the situation; and if the gentleman will permit, I would like to state that this young man enlisted in the Army when he was under age, he served throughout the war, and in the year 1919 he absented himself from duty and was discharged. Within 20 days after that time the man was declared insane; he was placed in private insane asylums, and is now in a public insane asylum.

Mr. BEGG. I grant all of that; but the point upon which I can not satisfy myself is: Why does he not get relief under the law at the Veterans' Bureau if the law is as it has been stated by the gentleman from Georgia?

Mr. HAWES. Because he was discharged, and the military court that discharged him did not review these facts, and he is not eligible to secure the benefits of the veterans' act, as I understand it.

Mr. BEGG. I do not want to be discourteous, and I do not know whether I now have the floor or whether the gentleman from Missouri has the floor, but I think the gentleman's own argument proves what I have stated, that we are substituting the judgment of Congress for the judgment of the medical officers of the department. As I said a moment ago, I have no hesitancy in saying my judgment, from a medical standpoint, is far superior to any physician in the department. I think that is a tenable position for us to take.

Mr. HAWES. This man could not claim benefits under the Veterans' Bureau act because he had been dishonorably discharged from the service, which automatically disbarred him from any benefits under that act.

Mr. BEGG. Let me ask the gentleman a pointed question. Had his insanity been proven prior to his discharge?

Mr. HAWES. No.

Mr. BEGG. By any doctor or any surgeon or any mental specialist?

Mr. HAWES. No.

Mr. BEGG. Then we are substituting our judgment as being superior to theirs?

Mr. HAWES. But within 20 days after his discharge he was declared insane by competent medical authority.

Mr. BEGG. Then why does he not get relief?

Mr. VINSON of Georgia. The reason he can not get relief under the Veterans' Bureau act is because he has a dishonorable record and the Veterans' Bureau can only grant relief or compensation to honorably discharged soldiers. Now, immediately his record is cleared up he can go before the Veterans' Bureau and, under the law that Congress passed whereby the presumption is in favor of his insanity having existed prior thereto, he can get relief.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas.

The amendment was agreed to.

The bill was ordered reported to the House with a favorable recommendation.

JAMES J. MEEHAN

The next business on the Private Calendar was the bill (H. R. 2267) for the relief of James J. Meehan.

The Clerk read the bill, as follows:

Be it enacted, etc., That James J. Meehan, who, while serving as an ensign, United States Naval Reserve Force, was found by a naval retiring board to be permanently incapacitated for active service by reason of physical disability incurred in the line of duty as the result of an incident of the service, but not in time of war, shall be eligible for retirement as if his physical disability was incurred in time of war; and the Secretary of the Navy is hereby authorized to place him upon the retired list with three-fourths pay of the grade held by him at the time such physical disability was incurred.

Mr. BLACK of Texas. Mr. Chairman, I offer the following amendment: At the end of the bill strike out the period, insert a colon, and add the following language:

Provided, That no back pay, pension, allowance or emolument shall become due as a result of the passage of this act.

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

The Clerk read as follows:

Amendment offered by Mr. BLACK of Texas: At the end of line 13, after the word "incurred," strike out the period, insert a colon and the following: "*Provided*, That no back pay, pension, allowance, or emolument shall become due as a result of the passage of this act."

The amendment was agreed to.

The bill was ordered reported to the House with a favorable recommendation.

CHIEF PAY CLERK R. E. AMES, UNITED STATES NAVY

The next business on the Private Calendar was the bill (H. R. 2356) to change the retired status of Chief Pay Clerk R. E. Ames, United States Navy, retired.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Navy be, and he is hereby, authorized and empowered to transfer Chief Pay Clerk R. E. Ames, United States Navy, retired, from the furlough pay list to the 75 per cent pay list of the retired officers of the Navy, from the date of his retirement, and the said Chief Pay Clerk R. E. Ames, United States Navy, retired, is hereby granted all the rights, privileges, and benefits now or hereafter provided for an officer retired under section 1453, Revised Statutes of the United States: *Provided*, That the said Chief Pay Clerk R. E. Ames shall not, by the passage of this act, be entitled to any back pay or allowances.

Mr. WOODRUFF. Mr. Chairman, I ask unanimous consent to strike this bill from the calendar inasmuch as Mr. R. E. Ames, the individual for whom the bill was drawn, is now dead.

The CHAIRMAN. That motion is not in order in Committee of the Whole House. Without objection, the bill will be ordered reported to the House with the recommendation that it lie on the table.

There was no objection.

The bill was ordered reported to the House with the recommendation that it lie on the table.

JOHN P. HOLLAND

The next bill on the Private Calendar was the bill (H. R. 4172) to place John P. Holland on the retired list of the United States Navy.

The Clerk read the bill, as follows:

Be it enacted, etc., That the President of the United States is hereby authorized to place John P. Holland, formerly a lieutenant (junior grade), United States Navy, on the retired list of the Navy with the rank and retired pay of a lieutenant (junior grade) of the Navy: *Provided*, That in computing his pay credit shall be given for all his continuous service in the Navy.

Mr. BLACK of Texas. Mr. Chairman, I offer the same amendment I offered to these other bills.

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

The Clerk read as follows:

Amendment offered by Mr. BLACK of Texas: In line 8, after the word "Navy," strike out the period, insert a colon, and the following: "*Provided*, That no back pay, pension, allowance, or emolument shall become due as a result of the passage of this act."

The amendment was agreed to.

The bill was ordered reported to the House with a favorable recommendation.

CHARLES JAMES ANDERSON

The next business on the Private Calendar was the bill (H. R. 5263) for the relief of Charles James Anderson, former commander United States Naval Reserve Force.

The Clerk read the bill, as follows:

Be it enacted, etc., That the President is authorized to appoint Charles James Anderson, formerly a commander in the United States Naval Reserve Force, a commander in the United States Naval Reserves and place him upon the retired list of the Navy with the retired pay and allowances of that grade: *Provided*, That a duly constituted naval retiring board finds that the said Charles James Anderson incurred physical disability incident to the service in time of war: *Provided further*, That no back pay, allowances, or emoluments shall become due as a result of the passage of this act.

Mr. BEGG. Mr. Chairman, I offer an amendment. After the word "Anderson," in line 4, insert the following:

And all other officers in the same class.

The CHAIRMAN (Mr. TILSON). It seems to the Chair that that amendment is not in order.

Mr. BEGG. Will not the Chair submit the amendment to the House?

The CHAIRMAN. The present occupant of the chair is a Member of the House and can exercise his rights as a Member of the House.

Mr. VINSON of Georgia. Mr. Chairman, I make the point of order against the amendment.

The CHAIRMAN. The gentleman from Georgia makes the point of order, and the Chair sustains the point of order.

The bill was laid aside to be reported to the House with a favorable recommendation.

HERBERT T. JAMES

The next business on the Private Calendar was the bill (H. R. 3646) for the relief of Herbert T. James.

The Clerk read the bill, as follows:

Be it enacted, etc., That the President be, and he hereby is, authorized to order Herbert T. James, United States Naval Reserve Force, to appear before a naval retiring board for the purpose of determining whether or not the disability complained of in his case originated in the line of duty in time of war, as required by the provisions of the act of July 12, 1921, volume 42, Statutes at Large, page 140: *Provided*, That if said naval retirement board finds that Mr. James is now suffering from a disability incurred in the line of duty in time of war which rendered him unfit to perform all the duties of the grade of ensign, United States Naval Reserve Force, in time of war, the President be, and he is hereby, authorized to nominate and, by and with the advice and consent of the Senate, appoint Herbert T. James as ensign, United States Naval Reserve Force, and to place him upon the retired list with three-fourths of the pay of his grade: *Provided further*, That he shall not be entitled to any back pay or allowances by the passage of this act.

Mr. BLACK of Texas. Can the gentleman from New York give us any information as to whether this man is drawing compensation from the Veterans' Bureau?

Mr. WAINWRIGHT. At one time he was drawing pretty nearly permanent-disability compensation, but at the present time I am not able to state the percentage. But in listening to the Froemke case, and the debate on it, it seems to me that it is about on all fours with that case.

Mr. BLACK of Texas. I think in the consideration of these bills, Mr. Chairman, we ought to have a quorum, and I make the point of no quorum.

The CHAIRMAN. The gentleman from Texas makes the point of no quorum, and the Chair will count. [After counting.] One hundred and two Members present, a quorum.

The bill was laid aside, to be reported to the House with a favorable recommendation.

FREDERICK D. W. BALDWIN

The next business on the Private Calendar was the bill (H. R. 4600) for the relief of Frederick D. W. Baldwin.

The Clerk read the bill, as follows:

Be it enacted, etc., That the President be, and he hereby is, authorized to order Frederick D. W. Baldwin, ex-ensign United States Naval Reserve Force, to appear before a naval retiring board for the purpose of determining whether or not the disability complained of in his case originated in the line of duty in time of war, as required by the provisions of the act of July 12, 1921, volume 42, Statutes at Large, page 140: *Provided*, That if the said naval retiring board finds that Frederick D. W. Baldwin is now suffering from a disability incurred in the line of duty in time of war which renders him unfit to perform all the duties of the grade of ensign, United States Naval Reserve Force, in time of war, the President be, and he is hereby, authorized to nominate and, by and with the advice and consent of the Senate, appoint Frederick D. W. Baldwin an ensign, United States Naval Reserve Force, and place him upon the retired list with three-fourths of the pay of his grade: *Provided further*, That he shall not be entitled to any back pay or allowance by the passage of this act.

The bill was laid aside to be reported to the House with a favorable recommendation.

WILLIAM C. GRAY

The next business on the Private Calendar was the bill (H. R. 5059) for the relief of William C. Gray.

The Clerk read the bill, as follows:

Be it enacted, etc., That the President is hereby authorized, by and with the advice and consent of the Senate, to appoint Chief Machinist William C. Gray, United States Navy, a lieutenant on the active list of the Navy, to date from August 3, 1920, and to take rank next after Lieut. James Madison Ober, United States Navy: *Provided*, That he shall be considered as having been appointed in the grade of lieutenant in accordance with the provisions of section 4 of the act of Congress approved June 4, 1920 (U. S. Stats. L., vol. 41, ch. 228, p. 835): *Provided further*, That the said Chief Machinist William C. Gray shall not be entitled to any increase in pay or emoluments prior to the passage of this act.

Mr. BEEDY. Mr. Chairman, we are considering Calendar No. 18, the case of William C. Gray. I want to call attention to the fact that there is a distinct disapproval by the Navy Department of this class of legislation. It seeks to advance a man in his rank, and the Secretary of the Navy in his letter to the Committee on Naval Affairs dated December 17, 1925, says that the department has always been opposed to legislation seeking to advance an officer in rank except for highly meritorious conduct in battle, and because Mr. Gray

does not fall in that category and because of the fact that this proposed legislation is not for the general good of the naval service the department recommends that this bill be not enacted.

If it has been the policy of past Congresses and of the Navy Department not to advance men in rank except for distinguished service on the field of battle, and if we are now going to establish this precedent, well and good, but let us understand what we are now about to do.

Mr. STEPHENS. Mr. Chairman, this bill passed the House in the Sixty-eighth Congress on January 22, 1925. It did not get through the Senate. We have investigated the case. The gentleman from Pennsylvania [Mr. DARROW], who introduced the bill, is not here because of the sickness of his son. I think this is a meritorious bill.

Mr. BEGG. Does the gentleman think, and he is a military man, there is any danger to the service in having Congress go here, there, and the other place and pick out a man and promote him over the recommendation of the officers?

Mr. STEPHENS. I think there is danger in promiscuous picking out of men, but at the same time I feel there are exceptions to all laws. I have never seen a law where there should not be some exception to it. These are exceptional cases, which do not come directly under the law. Therefore, they are taken up and considered as special cases that are meritorious.

Mr. BEEDY. If the gentleman will permit! Does he favor a policy under which we shall proceed to promote these officers for other than meritorious service on the battle field? These promotions have hitherto been limited to such instances. I think we should continue a policy indicating that we appreciate that promotions mean something, and not go out at random and pick out some one and promote him when there are no particular facts which it seems to me would justify such action. I do not want to object, but I suggest to the gentleman, as long as the author of the bill is not here to explain to us, as perhaps he may be able to, that there are some exceptional circumstances differentiating this case from others, that he ask unanimous consent that the bill be passed over without prejudice for the time being.

Mr. STEPHENS. Mr. Chairman, I agree to that. I think it would be fair to the gentleman from Pennsylvania [Mr. DARROW]. I ask unanimous consent that the bill be passed over without prejudice, retaining its place on the calendar.

The CHAIRMAN. The gentleman from Ohio asks unanimous consent that the bill H. R. 5059 be passed over without prejudice, to retain its place on the calendar. Is there objection?

There was no objection.

CONSTANCE D. LATHROP

The next bill on the Private Calendar was the bill (H. R. 6136) granting six months' pay to Constance D. Lathrop.

The Clerk read the bill, as follows:

Be it enacted, etc., That Constance D. Lathrop, widow of the late Commander Patrick Theodore Moore Lathrop, United States Navy, is hereby allowed an amount equal to six months' pay at the rate said Patrick Theodore Moore Lathrop was receiving at the date of his death.

SEC. 2. That the payment of the amount of money hereby allowed and authorized to be paid to said Constance D. Lathrop is authorized to be made from the appropriations for beneficiaries of officers who die while in the active service of the United States Navy.

Mr. CHINDBLOM. Mr. Chairman, I make the same point of order as to section 2 that I made a while ago to the bill H. R. 110, with reference to relief of Lucy B. Knox. Section 2 is an appropriation. It sets aside and appropriates a specific sum of money.

The CHAIRMAN. The point of order is sustained.

Mr. DREWRY. Mr. Chairman, I offer the following amendment which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. DREWRY: Strike out all after the enacting clause and insert in lieu thereof the following:

"There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sum as may be necessary to pay to Constance D. Lathrop, widow of the late Commander Patrick Theodore Moore Lathrop, United States Navy, an amount equal to six months' pay at the rate said Patrick Theodore Moore Lathrop was receiving at the date of his death."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia.

The amendment was agreed to.

The bill was ordered to be laid aside with a favorable recommendation.

THOMAS VINCENT COREY

The next business on the Private Calendar was the bill (H. R. 6202) for the relief of Thomas Vincent Corey.

The Clerk read the bill, as follows:

Be it enacted, etc., That so much of section 6 of the naval appropriation act approved July 12, 1921, as provided that the application for retirement of officers of the Naval Reserve Force and temporary officers of the Navy who have heretofore incurred, or who may hereafter incur, physical disability in line of duty in time of war, shall be filed with the Secretary of the Navy not later than October 1, 1921, be, and hereby is, waived in the case of Ensign (temporary) Thomas Vincent Corey, United States Navy, inactive, and his case is hereby authorized to be considered and acted upon under the remaining provisions of said section if his application for retirement is filed not later than 60 days from the approval of this act.

Mr. BLACK of Texas. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Page 2, line 3, after the word "act," strike out the period, insert a colon and the following: "*Provided*, That no back pay, allowance, or emolument shall become due as the result of the passage of this act."

Mr. BEEDY. Mr. Chairman, is the author of the bill present? In reading this report I find there was never any evidence of any disability suffered by Mr. Corey, except his own statement that while he was in the Army he had stomach trouble. It seems to me this is rather a slim case.

Mr. VINSON of Georgia. Mr. Chairman, this bill was introduced by the gentleman from New York [Mr. PRALL]. I reported it for him. With reference to the gentleman's statement, is not the statement of Mr. Corey sufficient to justify retirement? Is it necessary to have evidence from the Navy Department? However, I make the same request as was made in respect to the bill we considered a moment ago by the gentleman from Ohio [Mr. STEPHENS]. I ask unanimous consent that this bill be passed over without prejudice to its position on the calendar.

The CHAIRMAN. The gentleman from Georgia asks unanimous consent that the bill H. R. 6202 be passed over without prejudice to retain its place on the calendar. Is there objection?

There was no objection.

WILLARD THOMPSON, DECEASED

The next business on the Private Calendar was the bill (H. R. 6674) to correct the military record of Willard Thompson, deceased.

The Clerk read as follows:

Be it enacted, etc., That in the administration of any laws conferring rights, privileges, and benefits upon honorably discharged soldiers, Willard Thompson, deceased, who was a member of Company E, Fifty-third Regiment Ohio Volunteer Infantry, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as a private of that organization on the 11th day of August, 1865: *Provided*, That no bounty, back pay, pension, or allowance shall be held to have accrued prior to the passage of this act.

The CHAIRMAN. Without objection, the bill will be laid aside with a favorable recommendation.

Mr. BEEDY. Is the author of the bill here?

Mr. PURNELL. Mr. Chairman, I do not want to prejudice the favorable consideration by the House nor take up the time of the House with a speech, but I do want to make a little reference to this bill. The soldier, Willard Thompson, whose record is sought to be corrected, is now deceased, and the principal purpose in asking that this record be corrected is to assist the companion of his youth and the one who took care of him during the later years of his life, his aged wife. Willard Thompson lived in my home county, and I have known him almost since my boyhood. The ambition of his life was to have his military record corrected. It has never been done. I have introduced the bill several times, but owing to a single objection it has gone out.

Mr. BEEDY. I have no objection. I do not want to take up the time of the House, but we are proceeding at such a speed here—there is no objection to the bill as far as I am able to determine.

Mr. CHINDBLOM. It is a very meritorious bill.

Mr. PURNELL. Let me make just this further statement. I have seen a great many private bills go through this House, and I have never known of a more meritorious bill than this. Willard Thompson had three separate enlistments. He enlisted in Company D, Twenty-second Ohio Infantry, April 22, 1861, for a period of three months. At the expiration of this enlistment he was enrolled September 25, 1861, for three years as a

private in Company E, Fifty-third Ohio Volunteer Infantry. Upon the expiration of this enlistment he reenlisted as a veteran volunteer in the same organization, being enrolled January 1, 1865. He had a long and honorable service and was a faithful soldier. While attending a celebration on the 4th of July, 1865, three months after the war was over, he, with others, resisted the authority of some first lieutenant who tried to arrest them and send them back to camp.

He was tried and convicted, and the sentence was approved August 2, 1865. Willard Thompson really committed no wrong and did only that which almost any normal boy would have done under like circumstances. Yet he has gone to his grave without a removal of this stigma by the Government for which he offered his life. I believe this Congress will correct his record in order that his widow may have the relief which was denied him. My great regret is that he is not alive to witness the vindication which was the supreme desire of his life.

The CHAIRMAN. Without objection the bill will be laid aside with a favorable recommendation.

There was no objection.

WILLIAM J. DUNLAP

The next business on the Private Calendar was the bill (H. R. 4835) to remove the charge of desertion from the records of the War Department standing against William J. Dunlap.

Mr. BLACK of Texas. Mr. Chairman, I make the point of order there is no quorum present.

Mr. GREEN of Iowa. Will the gentleman from Texas withhold that for a moment? I have been waiting to——

Mr. BLACK of Texas. We seemed to have reached a point in the bill dealing with charges of desertion.

Mr. GREEN of Iowa. I am sure my friend will not have any objection to this bill.

Mr. WINGO. Why not withhold that point until just before adjourning?

The CHAIRMAN. The Chair will count. [After counting.] One hundred and eighteen gentlemen are present, a quorum. The Clerk will proceed.

The Clerk read as follows:

Be it enacted, etc., That in the administration of the pension laws and the laws conferring rights, privileges, and benefits upon honorably discharged soldiers, William J. Dunlap, formerly a member of Company F, Tenth Regiment United States Infantry, shall be held and considered to have been honorably discharged from the military service of the United States on May 26, 1902: *Provided*, That no back pay, pension, or allowance shall be held to have accrued prior to the passage of this act.

The CHAIRMAN. Without objection, the bill will be laid aside with a favorable recommendation.

There was no objection.

ANTON KUNZ

The next business on the Private Calendar was the bill (H. R. 2703) granting six months' pay to Anton Kunz, father of Joseph Anthony Kunz, deceased, machinist's mate, first class, United States Navy, in active service.

The Clerk read as follows:

Be it enacted, etc., That Anton Kunz, father of Joseph Anthony Kunz, machinist's mate, first class, submarine *A–7*, United States Navy, who was killed by an explosion on board the vessel July 25, 1917, is hereby allowed an amount equal to six months' pay at the rate said Joseph Anthony Kunz was receiving at the date of his death, to wit, the sum of $445.92.

SEC. 2. That said Anton Kunz, father of said Joseph Anthony Kunz, deceased, aforesaid, be paid out of the Treasury of the United States a sum of money or an amount equal to six months' pay at the rate said Joseph Anthony Kunz was receiving at the time of his death.

SEC. 3. The payment of the amount of money hereby allowed and authorized to be paid is authorized to be made from the appropriations for beneficiaries of deceased members of the naval service who die while in active service of the United States Navy.

Mr. CHINDBLOM. Mr. Chairman, I make a point of order to section 2 and section 3. First, in reference to section 2 I call attention to the language of the section:

That said Anton Kunz, father of Joseph Anthony Kunz, deceased, aforesaid, be paid out of the Treasury of the United States a sum of money or an amount equal to six months' pay—

And so forth. It is clearly an appropriation.

The CHAIRMAN. No Member desiring to be heard on the point of order as to section 2——

Mr. CHINDBLOM. If that point is good, I will offer an amendment.

The CHAIRMAN (continuing). The Chair sustains the point of order to both sections 2 and 3 of the bill on the ground that it makes an appropriation.

Mr. JOHNSON of Texas. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Strike out all after the enacting clause and insert:

"There is hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated such sum as may be necessary to be paid to Anton Kunz, father of Joseph Anthony Kunz, machinist's mate, first class, submarine *A–7*, United States Navy, who was killed by an explosion on board the vessel July 25, 1917, an amount equal to six months' pay at the rate said Joseph Anthony Kunz was receiving at the date of his death."

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Texas.

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

The CHAIRMAN. The Clerk will report the next one.

HEIRS OF J. B. BAUDREAU

The next business on the Private Calendar was the bill (S. 1423) to relinquish the title of the United States to the land in the donation claim of the heirs of J. B. Baudreau, situated in the county of Jackson, State of Mississippi.

The Clerk read the bill, as follows:

Be it enacted, etc., That all the right, title, and interest of the United States in and to the south one-half of the south one-half of sections 2 and 3; lot 12 of section 4; sections 9, 10, and 11, all in township 8 south, range 8 west of St. Stephens meridian, containing 1,238.55 acres as shown on a plat of survey approved on June 30, 1832, by Gideon Fitz, surveyor of public lands south of Tennessee, and segregated thereon as the donation claim of the heirs of J. B. Baudreau, be, and the same is hereby, released, relinquished, and confirmed by the United States to the equitable owners of the equitable titles thereto and to their respective heirs and assigns forever, as fully and completely, in every respect whatever, as could be done by patents issued according to law: *Provided*, That this act shall amount only to a relinquishment of any title that the United States has, or is supposed to have, in and to any of said lands, and shall not be construed to abridge, impair, injure, prejudice, or divest in any manner any valid right, title, or interest of any person or body corporate whatever, the true intent of this act being to concede and abandon all right, title, and interest of the United States to those persons, estates, firms, or corporations who would be the true and lawful owners of said lands under the laws of Mississippi, including the laws of prescription and limitation, in the absence of the said interest, title, and estate of the United States.

The bill was ordered to be laid aside with a favorable recommendation.

The CHAIRMAN. The Clerk will report the next one.

JOHN H. COWLEY

The next business on the Private Calendar was the bill (H. R. 949) for the relief of John H. Cowley.

The title of the bill was read.

Mr. MAPES. Mr. Chairman, at the request of my colleague [Mr. HUDSON], who is absent for the day on account of illness, I ask unanimous consent that this bill be passed over without prejudice, and that it retain its place on the calendar.

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

There was no objection.

The CHAIRMAN. It is so ordered. The Clerk will report the next bill.

ALONZO C. SHEKELL

The next business on the Private Calendar was the bill (H. R. 1717) for the relief of Alonzo C. Shekell.

The Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of any laws conferring rights, privileges, and benefits upon honorably discharged soldiers Alonzo C. Shekell, who was a member of Company H, First Regiment Michigan Volunteer Sharpshooters, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as a member of that organization on the 22d day of November, 1864: *Provided*, That no back pay, pension, bounty, or other emoluments shall accrue prior to the passage of this act.

The bill was ordered to be laid aside with a favorable recommendation.

The CHAIRMAN. The Clerk will report the next one.

FRANK RECTOR

The next business on the Private Calendar was the bill (H. R. 1827) for the relief of Frank Rector.

The Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of any laws conferring rights, privileges, and benefits upon honorably discharged soldiers Frank Rector, who was a private of Company F, Thirty-second Regiment Kentucky Volunteer Infantry, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as a member of said company and regiment on the date of the expiration of his service: *Provided*, That no bounty, pay, or allowance shall be held to have accrued prior to the passage of the act, except the regulation service pay while he was under arms.

Mr. BLACK of Texas. Mr. Chairman, on page 1, line 12, after the word "act," I move to strike out the language "except the regulation service pay while he was under arms."

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Texas.

The Clerk read as follows:

Amendment offered by Mr. BLACK of Texas: In line 12, after the word "act," strike out the comma and insert a period, and strike out the following language: "except the regulation service pay while he was under arms."

Mr. BLACK of Texas. Will the gentleman from Oklahoma [Mr. GARBER], who introduced this bill, give us some information? As I understand, the principal purpose of this is to place upon the roll of the Army the name of a soldier who served during the Civil War and give him a pensionable status. Under the present records of the War Department there is nothing to show that he served in the Army at all. Would not the gentleman just agree, as a matter of equity, that we will be doing all for this veteran that we ought to do if we give him a pensionable status, without the right to recover nine months' service pay, where there is nothing in the department to show that he rendered service?

Mr. GARBER. The record of service is supported by an affidavit of nine witnesses who served with him.

Mr. BLACK of Texas. But there is nothing in the records of the War Department to show that he rendered service in the Army. It seems to me that Congress would be exercising all reasonable generosity by giving him a pensionable status without giving him the right to recover nine months' service pay.

Mr. GARBER. I have no objection to the gentleman's suggestion, but the language sought to be stricken out has been approved by two different committees and approved by the House, and also by the Secretary of War.

Mr. BLACK of Texas. As I understand it, the Secretary of War has not recommended the passage of this bill.

Mr. GARBER. No.

Mr. BLANTON. Mr. Chairman, I rise in opposition, to ask the gentleman from Oklahoma [Mr. GARBER] a question.

Following the suggestion made by my colleague [Mr. BLACK], I want to state this to the gentleman: I have a constituent who has a pension claim filed in the Bureau of Pensions, very much in the same status as the gentleman's case. The Pension Bureau has within the last two days furnished me with information that it has finally been able to dig up from the War Department to the effect that my constituent did not serve in the Army, as he claims, but that during all that period he was employed as a blacksmith's assistant and received $30 a month from the Government during all the time he claimed to have been in the service as an employee, and that he never enlisted.

Now, you will find, if the War Department could dig up the evidence in all cases as it has been able to do in this particular case, that my colleague's suggestion is a good one; that otherwise, possibly, we would be paying for a service that did not accrue and was not actually rendered to this Government. I think we would be doing all that ought to be done if we were to do as suggested by the gentleman from Texas [Mr. BLACK], and I think the gentleman from Oklahoma ought to be satisfied with that.

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

The CHAIRMAN. The Clerk will report the next one.

FREDERICK SPARKS

The next business on the Private Calendar was the bill (H. R. 3380) for the relief of Frederick Sparks.

The Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of the pension laws and the laws governing the National Home for Disabled Volunteer Soldiers or any branch thereof Frederick Sparks shall hereafter be held and considered to have been honorably discharged from the military service of the United States as a private of Company E, Forty-third Regiment Indiana Volunteer Infantry: *Provided*, That no pension shall accrue prior to the passage of this act.

Mr. BLACK of Texas. Mr. Chairman, I want to offer a substitute for the proviso, because I do not think it goes far enough. I offer this language as a substitute. Strike out the proviso in the bill and add:

Provided, That no back pay, pension, allowance, or emoluments shall become due as a result of the passage of this act.

Mr. PURNELL. Mr. Chairman, I have no objection to that proviso being included in the bill.

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

The Clerk read as follows:

Amendment offered by Mr. BLACK of Texas: Page 1, line 9, strike out the proviso and insert in lieu thereof the following: "*Provided*, That no back pay, pension, allowance, or emoluments shall become due as a result of the passage of this act.

The amendment was agreed to.

The bill was ordered to be laid aside with a favorable recommendation.

RELIEF OF WILLIAM H. ARMSTRONG

The next business on the Private Calendar was the bill (H. R. 3546) for the relief of William H. Armstrong.

The Clerk read the bill, as follows:

Be it enacted, etc., That the President of the United States be, and he is hereby, authorized to appoint William H. Armstrong, by and with the advice and consent of the Senate, formerly a captain of Infantry, a captain of Infantry in the Army of the United States, to take rank at the foot of the list of captains of Infantry, and that no back pay or allowances shall accrue as a result of the passage of this act.

The bill was ordered to be laid aside with a favorable recommendation.

RELIEF OF THOMAS H. BURGESS

The next business on the Private Calendar was the bill (H. R. 4252) for the relief of Thomas H. Burgess.

The Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of the pension laws Thomas H. Burgess shall hereafter be held and considered to have been honorably discharged from the military service of the United States as a private in Company E, Fifth Regiment Ohio Volunteer Infantry: *Provided*, That no back pay, pension, or allowance shall be held to have accrued prior to the passage of this act.

Mr. BEGG. Mr. Chairman, I want to again call the attention of the committee to the fact that there is no positive evidence here that this man was injured in the service, and that we are again substituting our judgment for the judgment of the officials whom we elect to decide those cases.

Mr. BLANTON. Mr. Chairman, I move to strike out the last word. The gentleman from Ohio [Mr. BEGG] should have gone further and given the real information to the House and committee about this desertion. This was a case of desertion, pure and simple. The man was taken sick in June, 1862, and sent to a hospital; he recovered and was released from the hospital, and deserted on July 2, 1862. The Adjutant General of the War Department reports to the committee that this man's company remained in service from July, 1862, when he deserted, on to the close of the war, and during all the balance of 1862, 1863, 1864, and on to the close of the war this man never showed up, but was in desertion all the time.

Mr. BEGG. Will the gentleman yield?

Mr. BLANTON. I yield.

Mr. BEGG. But it is just like all the rest of them we have been passing. He claims to have been injured in the spine. Of course, that is his claim, but it is not established definitely; and that is what I want to call to the attention of the House, that this is no different from all the rest we have been passing, and that we are substituting our judgment for the judgment of those whom we have elected to decide such cases, and are holding that his claim is correct—that as the result of his war service he was injured and could not return.

Mr. BLANTON. I agree with the gentleman from Ohio, and I was going to say that this is not the kind of a case that ought to appeal to the committee or incite sympathy. It is a case of pure desertion; it is not a case of desertion for a few months or a year or at the close of the war, but it is a case of desertion at practically the beginning of the war and

all through the war, from July on through all of 1862, all of 1863, all of 1864, and to the end of the war, in 1865. I do not think it is the kind of a case that ought to appeal to the sympathy of the House.

Mr. BOYLAN. Mr. Chairman, I move to strike out the last two words. I do not think it is fair that when we have a bill before us that has been introduced by our illustrious Speaker that the gentleman from Ohio [Mr. BEGG], from his own State and his own colleague, and the gentleman from Texas [Mr. BLANTON] should get up and object to it.

Mr. BEGG. Will the gentleman yield?

Mr. BOYLAN. Yes.

Mr. BEGG. The "gentleman from Ohio" did not object to it. The gentleman must have just come in, because "the gentleman from Ohio" did not object to it at all.

Mr. BOYLAN. May I ask what was the nature of the gentleman's remarks, then?

Mr. BEGG. If the gentleman had been here he would have heard them.

Mr. BOYLAN. I was here. If they were not intended as an objection, I would like to know what they were.

Mr. BEGG. They were not intended as an objection.

Mr. BOYLAN. The bill would have been passed by this time if the gentleman had not raised his melodious voice against it.

Mr. BEGG. Let me say to the gentleman from New York that, in the first place, it would be foolish to object. You can not object, because there is nothing to object to.

Mr. BOYLAN. If there was nothing to object to, why did the gentleman rise?

Mr. BEGG. Because I wanted to make an observation, I will advise the gentleman.

Mr. BOYLAN. I thought maybe it was to be consistent. I do not think we should take any undue advantage of our distinguished Speaker, who has his troubles as we have, and I think we should help him along with this little bill, as we have to have help ourselves. Therefore I trust the gentlemen will not vote against the bill.

Mr. BLANTON. Will the gentleman yield?

Mr. BOYLAN. Yes.

Mr. BLANTON. Does the gentleman believe that a bill which happens to be introduced by our distinguished Speaker, for whom we all have high respect and high regard, should stand upon any different footing than a bill of similar nature that was introduced by the humblest Member of this body? Should they not all be considered alike and according to their merits and not because of the Member who happens to have introduced them?

Mr. BOYLAN. Not necessarily. But attached to it is the element of humanity. There is not enough humanity in government. Every day we get many letters from the different departments and from the Veterans' Bureau regretting that because of a certain construction of such a section nothing can be done. It seems as though the men in some of the departments simply take advantage of their opportunity to disallow claims. There ought to be more humanity in government; there ought to be more humanity in the conduct of the departments, and the people employed there should not hew so close to the line, as they seem to be doing and as we are apprised in the answers we receive to communications concerning meritorious claims. I think the same measure of tolerance should be afforded the distinguished Speaker of this House as is afforded every other humble Member, such as the gentleman from Texas and myself. [Laughter.]

Mr. BEEDY. Mr. Chairman, I do not think the committee wants to pass over this hurriedly. I appreciate the position the gentleman from Texas [Mr. BLANTON] has taken, but for the benefit of those who have not read the report let me state that it seems to me there is evidence here of a service of 14 months before this man fell and was severely wounded in the chest. He suffered a chest wound, and went back to his home town, as I understand it, of Cincinnati, where he remained, suffering as a result of this wound, and at any time he could have been apprehended and arrested as a deserter, but he never was.

It seems to me there is no question but what the man served 14 months, was wounded, and returned home because of his wound; and inasmuch as this bill does not propose to give him any rights to pensions or allowances I do not think it would be any injustice to anybody if we corrected his record.

Mr. CHINDBLOM. Will the gentleman from Maine permit an observation?

Mr. BEEDY. Certainly.

Mr. CHINDBLOM. Of course, if the case was perfectly clear to the War Department, the bill would not be here.

Mr. BEEDY. That is true. That is why we are called upon to act in such cases. I hope nobody will object to it.

Mr. HOWARD. Mr. Chairman, the statement has been made by the gentleman from Ohio and by the gentleman from Texas that this bill is on a par with several other like bills which have met the favor of the committee. I do not know but I take it for granted it is true; and if it be true, then it would seem to me it would be hardly the fair thing to treat our distinguished Speaker in any other manner than we have treated other Members who have offered bills which the two gentlemen say are exactly on a par with this bill. So I hope the House will not discriminate against my Speaker.

The bill was ordered reported to the House with a favorable recommendation.

ANDREW CULLIN

The next business on the Private Calendar was the bill (H. R. 4585) for the relief of Andrew Cullin.

The Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of the pension laws Andrew Cullin, alias Daniel J. Doyle, alias Daniel Harney, shall be hereafter held and considered to have been honorably discharged from the military service of the United States as a private of Troop K, Second Regiment United States Cavalry, as private, Company B, Fourteenth Regiment, and Company A, Thirteenth Regiment, United States Infantry: *Provided*, That no back pension, back pay, or back allowance shall accrue by virtue of the passage of this act.

The bill was ordered reported to the House with a favorable recommendation.

JAMES MADISON BROWN

The next business on the Private Calendar was the bill (H. R. 6874) for the relief of James Madison Brown.

The Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of any laws conferring rights, privileges, and benefits upon honorably discharged soldiers James Madison Brown, who was a member of Company G, Thirty-fourth Regiment Indiana Volunteer Infantry, Civil War, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as a member of that organization on the 4th day of May, 1862: *Provided*, That no bounty, back pay, pension, or allowance shall be held to have accrued prior to the passage of this act.

Mr. BEEDY. Mr. Chairman, is the author of the bill present?

Mr. MANLOVE. Yes.

Mr. BEEDY. How long did this man serve before he was allowed to go home because of illness?

Mr. MANLOVE. He served from October 10, 1861, until March 31, 1862.

Mr. BEEDY. About five months?

Mr. MANLOVE. Yes. This gentleman, Madison Brown, is a man whom I have known for many years, a patriotic soldier of the Civil War. The evidence was first presented to Congress and I think a bill passed through this House, which did not get through the Senate, some 25 or 30 years ago. If the gentleman will read the evidence he will see that this soldier had a most wonderful record. He was stationed in the swamps near Saxton, Mo., on the Mississippi River. He was afflicted with rheumatism; was taken home on a stretcher. He came back to his company on crutches, assisted by three or four people. His command had gone on, and the doctor told him to go on back home. In ignorance of the procedure he should have followed he went home, and I think the gentleman will find even in the terse report accompanying the bill that these facts are verified. I would ask the gentleman to read the latter part of the report.

Mr. BEEDY. I have read that. I would like to ask the gentleman why it has been impossible to show during all this time that this man ever received any medical treatment. It seems they have never been able to find in all this time, although he was away on account of illness, whether he received any medical treatment or not. It seems to me that this man himself, or some one who knew about the circumstances, could have supplied that information.

Mr. MANLOVE. This was over 60 years ago, and I am quite satisfied, if there had been some one who was well versed in these matters and well able to take care of his case at the time and follow it up, it would have been easy to have secured the affidavit. If the gentleman will look at the close of this report at the survey of the evidence in the case and the multiplicity of affidavits that were offered, the gentleman will see that the committee has reported as follows:

It seems to be a very clear case of failure of the regimental officers to properly report the case of absence of a faithful soldier.

Mr. BEEDY. I shall not object to it, I will say to the gentleman.

Mr. MANLOVE. Let me say further that this man has been able to wear only large soft shoes since that day, and is now a cripple. I thank you. A most worthy, faithful soldier, who should have been taken care of years ago.

The bill was ordered reported to the House with a favorable recommendation.

JOHN R. ANDERSON

The next business on the Private Calendar was the bill (H. R. 7036) for the relief of John R. Anderson.

The Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of any laws conferring rights and privileges upon honorably discharged soldiers, their widows, and dependent relatives, John R. Anderson shall be held and considered to have been honorably discharged from the military service of the United States as a member of Company L, Twenty-fourth Regiment United States Infantry, on the 31st day of December, 1898: *Provided*, That no back pay, pension, bounty, or other emolument shall accrue prior to the passage of this act.

The bill was ordered reported to the House with a favorable recommendation.

HENRY SIMONS

The next business on the Private Calendar was the bill (H. R. 533) for the relief of Henry Simons.

The Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of the pension laws Henry Simons, late of Company G, Forty-eighth Illinois Volunteer Infantry, shall hereafter be held and considered to have been honorably discharged from the military service of the United States as a private of said company and regiment: *Provided*, That no pay, bounty, or pension shall be held to have accrued prior to the passage of this act.

The bill was laid aside to be reported to the House with a favorable recommendation.

BENJAMIN S. M'HENRY

The next business on the Private Calendar was the bill (H. R. 534) to remove the charge of desertion from the record of Benjamin S. McHenry.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of War be, and he is hereby, authorized and directed to remove the charge of desertion now standing against Benjamin S. McHenry, late of Company K, Third Regiment United States Cavalry, and to grant and issue to said Benjamin S. McHenry an honorable discharge from said service and restore his proper name of Benjamin S. McHenry in lieu of the name under which he was erroneously enlisted, Henry Benjamin: *Provided*, That no back pay, bounty, or pension shall held to have accrued prior to the passage of this act.

Mr. BEGG. Mr. Chairman, according to the argument for the passage of this bill in the report it shows no sickness, no excuse, nor any disability.

Mr. ARNOLD. Mr. Chairman, this is a case where, as I understand it, the soldier served three years and seven months. At the time of his enlistment the contract of enlistment was for five years, but about that time an order was in vogue limiting the term to three years. This man, together with those with whom he enlisted, understood at the time that he was enlisting only for three years. He was told by his superior officer that the term of enlistment was for three years, and that when his term was up his services would cease. It seems that the officer was transferred to some other field of action, and when the term of three years was up, after he had served three years and seven months, the officer in charge did not want to and did not give him a discharge.

The CHAIRMAN. The Chair calls attention to the fact that in line 11, page 1, of the bill, the word "be" is omitted.

Mr. ARNOLD. Mr. Chairman, I move that the word "be" be inserted after the word "shall" in line 11.

The amendment was agreed to.

The bill was laid aside to be reported to the House with a favorable recommendation.

WILLIAM A. GLASSON

The next business on the Private Calendar was the bill (H. R. 818) for the relief of William A. Glasson.

The Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of the pension laws and the laws governing the National Home for Disabled Volunteer Soldiers, or any branch thereof, William A. Glasson shall hereafter be held and considered to have been honorably discharged from the military service of the United States as a private of Troop B, Seventh Regiment United States Cavalry: *Provided*, That no pension shall accrue prior to the passage of this act.

Mr. BLACK of Texas. Mr. Chairman, I move to strike out the proviso and substitute the following:

Provided, That no back pay, pension, bounty, or other emolument shall accrue prior to the passage of this act.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment by Mr. BLACK of Texas: Strike out the proviso and substitute the following: "*Provided*, That no back pay, pension, bounty, or other emolument shall accrue prior to the passage of this act."

Mr. BEEDY. Will the gentleman explain what there is in this case except that of the baldest kind of desertion?

Mr. FRENCH. On the contrary I think there is nothing in the record to show that there was desertion.

Mr. BEEDY. The record shows a desertion.

Mr. FRENCH. The records of the War Department, true enough, show that this man was absent from his company, but on the other hand the records of the War Department do not show the causes that led to the separation. As a matter of fact, this man—a young man then about 23 years of age—with several others was sent on detached duty under one who had been acting as sergeant in the company. The small detachment became separated from the company, but whether or not the sergeant or person acting as sergeant deliberately separated himself and his associates from the company we have no knowledge. Some 10 days later young Glasson was released by the acting sergeant, and as soon as he could do so reported through the chief of police of Denver to the commanding officer of the company his whereabouts and offered himself as at their service. The reply was that Glasson, on account of his disability, shortly was to be discharged and for that reason he was not wanted.

Following this information Glasson tried repeatedly to obtain his discharge. The records of the War Department indicate that a dishonorable discharge was issued.

I should say that very shortly after his separation, Glasson entered the National Guard of the State of Colorado and for seven years continued in the service of that organization, seeing active service in the Ute uprising. The whereabouts of Glasson were constantly known to the War Department, or could have been because of his repeated correspondence, and no action was taken looking to any prosecution on account of the alleged desertion. Perhaps I should further say that this man had a hospital record prior to his separation. He was in such physical condition on account of injuries received that he must have been discharged on account of physical disability within a short time.

Under the circumstances it seems unreasonable that he would have been a member of a group attempting desertion, even though desertion were to lie against the acting sergeant and others associated with that group.

Mr. BEEDY. Mr. Chairman, there seems to be a difference as to the understanding of the facts here. As I understand this case, this man entered the Army in September, 1876, to serve five years. The next June he deserted, or, rather he was wounded, and treated for an injury to his thumb and sent to a hospital at Fort Abraham Lincoln for one month. He was released there on May 1 and the record shows that he deserted on June 29, 1877, that he never thereafter returned to his command, that he never thereafter reported his whereabouts or the cause of his absence to the military authorities. Those are the facts.

Mr. FRENCH. So far as the records of the War Department are concerned those are the facts, but I submit there is no way by which a man under the circumstances here presented could prove the contrary to any better advantage than Glasson has proven it by affidavits that he has submitted. He had a hospital record and that the records of the War Department show. He was wounded and in such shape that in all probability he would have been discharged on account of disability. It seems not sound to say that he would have deserted under all the circumstances.

The CHAIRMAN. The time of the gentleman from Idaho has expired. The question is on the amendment offered by the gentleman from Texas.

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

WILLIAM LENTZ

The next business on the Private Calendar was the bill (H. R. 1459) for the relief of William Lentz.

The Clerk read the bill as follows:

Be it enacted, etc., That in the administration of the pension laws and the laws conferring rights, privileges, and benefits upon honorably discharged soldiers, William Lentz, formerly a member of Company E,

One hundred and fifty-eighth Regiment Indiana Volunteer Infantry, war with Spain; Company M, Nineteenth Regiment United States Infantry; and who served honorably in the World War, shall be held and considered to have been honorably discharged from the military service of the United States as a member of Company M, Nineteenth Regiment United States Infantry.

SEC. 2. No back pay, bounty, or other emoluments shall accrue prior to the passage of this act.

Mr. BLACK of Texas. Mr. Chairman, on line 8, page 2, after the word "pay," I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. BLACK of Texas: Page 2, line 3, after the word "pay," insert the word "pension."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

ROBERT E. A. LANDAUER

The next business on the Private Calendar was the bill (H. R. 1598) for the relief of Robert E. A. Landauer.

The Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of any laws conferring rights, privileges, and benefits upon honorably discharged soldiers Robert E. A. Landauer, who was a private of Company I, Twelfth Regiment New York Infantry, shall hereafter be held and considered to have been discharged honorably from the military service of the United States, as a private of that organization, on September 17, 1898: *Provided*, That no back pay, pension, or allowance shall be held to have accrued prior to the passage of this act.

The bill was ordered to be laid aside with a favorable recommendation.

FRANCIS FORBES

The next business on the Private Calendar was the bill (H. R. 1721) for the relief of Francis Forbes.

The Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of the pension laws Francis Forbes, late of Company I, Tenth Regiment New York Volunteer Cavalry, or Company I, First Regiment New York Volunteer Provisional Cavalry, Civil War, shall be held and considered to have been honorably discharged: *Provided*, That no back pay, pension, bounty, or other emolument shall accrue prior to the passage of this act.

The bill was ordered to be laid aside with a favorable recommendation.

CHARLES F. GETCHELL

The next business on the Private Calendar was the bill (H. R. 1962), for the relief of Charles F. Getchell.

The Clerk read the bill as follows:

Be it enacted, etc., That in the administration of the pension laws or of any laws conferring rights, privileges, or benefits upon honorably discharged soldiers, Charles F. Getchell, who served in Company B, Forty-seventh Regiment New York Volunteer Infantry, shall hereafter be held and considered to have been honorably discharged from the military service of the United States.

With the following committee amendment:

Line 9, after the word "States" strike out the period and insert a colon and the words: "*Provided*, That no back pay, pension or allowance shall be held to have accrued prior to the passage of this act."

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to and the bill as amended was ordered to be laid aside with a favorable recommendation.

JOSEPH A. CHOATE

The next business on the Private Calendar was the bill (H. R. 2172), for the relief of Joseph A. Choate.

The Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of any laws conferring rights, privileges, and benefits upon honorably discharged soldiers, Joseph A. Choate, who served under the name of Alexander Choat as a private of Company K, Fourth Regiment Tennessee Volunteer Cavalry, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as a private of said company and regiment on the 25th day of November, 1864: *Provided*, That no back pay, pension, or allowance shall be held to have accrued prior to the passage of this act.

Mr. BEGG. Mr. Chairman, I move to strike out the last word. Is the gentleman in charge of the bill here?

Mr. ALLGOOD. I am here.

Mr. BEGG. Does not the gentleman believe that before we pass a bill granting relief from desertion there should be at least some evidence besides the affidavit of the man himself? I once had a soldier two years ago sign an affidavit that he was in the service and had never drawn a pension. I checked him up and found that the man whose name he had taken was a Connecticut soldier who had died 40 years before, yet he had no hesitancy in filing an affidavit. I think it is going pretty loosely to take the affidavit of any man in support of a desertion charge, with no other evidence.

Mr. ALLGOOD. This man is dead now. It is 65 years since the service. He was only 15 years old.

Mr. BEGG. Is there nobody living who knows anything about this? Why is this being introduced? It is to give a pension to some one, is it not?

Mr. ALLGOOD. He was living at the time it was introduced. His widow is living yet.

Mr. BEGG. If we are going to pension widows of people not entitled to pensions, well and good. If we are going to pass a law to remove a disability solely on the affidavit of the man who is to be benefited, it seems to me that we are acting in a very slipshod way.

Mr. ALLGOOD. We have some evidence here in the War Department.

Mr. BEGG. What is the evidence? The evidence is all against the case.

Mr. ALLGOOD. I do not see that it is. I refer the gentleman to the second page of the report:

That he with others was sent over the river from Edgefield into Nashville, and at camp below Nashville or between Nashville and Franklin, Tenn., claimant says he, with others, got lost from the men who were sent out from Edgefield and was thrown in company with New York troops, and an officer by name of B. B. Griggs placed claimant in a pioneer corps of Second Division, was sent to east North Carolina, and was kept in this service until in latter part of May, 1865, and was sent from New Bern, N. C.

Also:

A report in this case was furnished to the Committee on Military Affairs, House of Representatives, in connection with H. R. 8394, Fifty-seventh Congress, first session, on April 4, 1902. Following is a copy:

It is shown by the records that Alexander Choate was enrolled and mustered into service May 21, 1864, as a private in Company K, Fourth Tennessee Cavalry Volunteers, to serve three years. He appears to have been present with his company until November 25, 1864, when he absented himself without leave, and his name was dropped as a deserter January 11, 1865. He never rejoined his command or reported his whereabouts or the cause of his absence to the military authorities, although his company remained in service until December 12, 1865.

Nothing has been found of record to show that he was sick or that he received medical treatment at any time during the period of his service in this organization.

Upon inquiry at the Quartermaster General's office it has been ascertained that Alexander Choate was employed as a civilian carpenter at New Bern, N. C., from February 1 to March 31, 1865, at the rate of $2.50 per day, and as a civilian teamster at $2.50 per day from April 1 to May 10, 1865, when discharged, and that B. B. Griggs was reported by Capt. F. T. Starkweather, acting quartermaster, at New Bern, N. C., as having been employed as a foreman.

Mr. BEGG. Now, will the gentleman yield right there?

Mr. ALLGOOD. Yes.

Mr. BEGG. That is the man's own affidavit. There is no evidence at all, only the man's own affidavit.

Mr. ALLGOOD. No; it says:

Upon inquiry at the Quartermaster General's office it has been ascertained that Alexander Choate was employed as a civilian carpenter at New Bern, N. C., from February 1 to March 31, 1865, at the rate of $2.50 per day, and as a civilian teamster at $2.50 per day from April 1 to May 10, 1865, when discharged.

That is from the Quartermaster's department.

Mr. BEGG. That is in his own affidavit. The committee has not furnished any evidence from the War Department or anybody else.

Mr. ALLGOOD. That is in his statement.

Mr. BEGG. That is the point I am making that there is not a bit of information available except what he has furnished.

Mr. ALLGOOD. That has gone before the committee.

Mr. CHINDBLOM. If the gentleman will permit, that is from the report of the committee in the Fifty-seventh Congress.

Mr. BEGG. If the gentleman will permit, I would like to call attention to the fact that this man has repeatedly made application for the removal of the charge of desertion and could not furnish the evidence, and it was denied. Now, I do not like to single out this case or any other case, although perhaps it is useless to try to do it, I do think this will let down the bars and we legislate in a slipshod manner when we pass desertion removal cases on the evidence of the man himself and no other evidence.

Mr. ALLGOOD. Well, does the gentleman question his service?

Mr. BEGG. No; it is a question of desertion, not a question of service, that is a War Department record, and he is the only man who says he tried to find his way back to the company and he could not do so.

Mr. ALLGOOD. He went right in with the construction corps. Remember he was only 15 years old, and at the present time he would be tried in a juvenile court.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BEGG. Mr. Chairman, I offer an amendment to strike out the enacting clause just to see if the House is willing to pass desertion exemption bills on the evidence alone of the man.

The CHAIRMAN. The gentleman from Ohio moves to strike out the enacting clause.

The question was taken, and the Chair announced the noes appeared to have it.

Mr. BEGG. Let us have a division, Mr. Chairman.

The committee divided; and there were—yeas 6, noes 16.

Mr. BEGG. Mr. Chairman, I object to the vote and make a point of no quorum.

The CHAIRMAN. The gentleman from Ohio makes the point that there is no quorum present. The Chair will count. [After a pause.] Ninety-three gentlemen are present, not a quorum.

Mr. TILSON. Mr. Chairman, I move that the committee do now rise, and on that I demand tellers.

Tellers were ordered.

The House again divided; and the tellers (Mr. TILSON and Mr. BEGG) reported that there were—ayes 10, noes 92.

So the motion to rise was rejected.

The CHAIRMAN. A quorum is present and the question is on the amendment offered by the gentleman from Ohio.

The question was taken, and the amendment was rejected.

The CHAIRMAN. Without objection, the bill be laid aside with a favorable recommendation.

Mr. BEGG. Mr. Chairman, I object.

The CHAIRMAN. The question is on the motion to report the bill to the House with the recommendation that it do pass.

The committee again divided.

The CHAIRMAN. The Chair is in doubt.

The committee again divided; and there were—ayes 29, noes 37.

Mr. BEGG. Mr. Chairman, I ask for tellers.

Tellers were ordered.

The House again divided; and the tellers (Mr. BEGG and Mr. ALLGOOD) reported that there were—ayes 35, noes 34.

Mr. BEGG. Mr. Chairman, I object to the vote on the ground that there is no quorum present.

The CHAIRMAN. The gentleman from Ohio makes the point of order that there is no quorum present. The Chair will count. [After counting.] One hundred and twenty gentlemen are present, a quorum.

So the motion was agreed to.

The CHAIRMAN. The Clerk will report the next bill on the calendar.

J. W. LA BARE

The next business on the Private Calendar was the bill (H. R. 2315) for the relief of J. W. La Bare.

The Clerk read as follows:

Be it enacted, etc., That in the administration of any laws conferring rights, privileges, or benefits upon honorably discharged soldiers J. W. La Bare, late of Company B, Forty-third Regiment Ohio Volunteer Infantry, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as a member of said company and regiment on the 23d day of February, 1865: *Provided*, That no bounty, pay, or allowance shall accrue prior to the passage of this act.

The CHAIRMAN. Without objection, the bill will be laid aside with a favorable recommendation.

There was no objection.

TENNESSEE M'CLOUD

The next business on the Private Calendar was the bill (H. R. 2745) to correct the military record of Tennessee McCloud.

The Clerk read as follows:

Be it enacted, etc., That in the administration of any laws conferring rights, privileges, and benefits upon honorably discharged soldiers Tennessee McCloud, who was a private in Company I, Thirteenth Regiment Tennessee Volunteer Cavalry, shall be held and considered to have been discharged honorably from the military service of the United States as a private of said company and regiment on September 6, 1865: *Provided*, That no bounty, pay, or allowances shall be held as accrued prior to the passage of this act.

The CHAIRMAN. Without objection, the bill will be laid aside with a favorable recommendation.

There was no objection.

The CHAIRMAN. The Clerk will report the next bill.

JOHN T. O'NEIL

The next business on the Private Calendar was the bill (H. R. 2787) for the relief of John T. O'Neil.

The Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of all laws conferring rights, privileges, or benefits upon honorably discharged soldiers, John T. O'Neil, late of Battery C, First Regiment Connecticut Volunteer Artillery, Spanish-American War, shall be held to have been discharged honorably from the military service of the United States on December 1, 1899: *Provided*, That no back pay, pension, or allowance shall be held to have accrued prior to the passage of this act.

The bill was ordered to be laid aside with a favorable recommendation.

The CHAIRMAN. The Clerk will report the next one.

SAMUEL T. HUBBARD, JR.

The next business on the Private Calendar was the bill (H. R. 2987) for the relief of Samuel T. Hubbard, jr.

The Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of any laws conferring rights, privileges, and benefits upon honorably discharged soldiers, Samuel T. Hubbard, jr., Signal Corps Officers' Reserve Corps, shall hereafter be held and considered to have been commissioned as a captain in the American Expeditionary Forces on May 27, 1917: *Provided*, That no pay, pension, or allowance shall be held to have accrued prior to the passage of this act.

The bill was ordered to be laid aside with a favorable recommendation.

The CHAIRMAN. The Clerk will report the next bill.

ESTLE DAVID

The next business on the Private Calendar was the bill (H. R. 3107) for the relief of Estle David.

The Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of any laws conferring rights, privileges, and benefits upon honorably discharged soldiers, Estle David, who was a member of Company D, Sixth Regiment United States Infantry, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as a member of that organization on the 8th day of May, 1903.

With a committee amendment as follows:

Page 1, line 9, after the figures "1903," insert a colon and the following: "*Provided*, That no bounty, back pay, pension, or allowance shall be held to have accrued prior to the passage of this act."

The CHAIRMAN. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JOHN SOLEN

The next business on the Private Calendar was the bill (H. R. 3448) for the relief of John Solen.

The Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of any laws conferring rights, privileges, and benefits upon honorably discharged soldiers, John Solen, who served with Company B, First Regiment Massachusetts Volunteer Cavalry, Civil War, shall hereafter be held and considered to have been mustered in on August 14, 1862, and discharged honorably from the military service of the United States as a private of said company and regiment on June 30, 1864: *Provided*, That no bounty, pay, or allowances shall be held as accrued prior to the passage of this act.

Mr. BLACK of Texas. Mr. Chairman, I move to amend the bill on line 10, after the word "bounty," by inserting the word "pension."

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Texas.

The Clerk read as follows:

Amendment offered by Mr. BLACK of Texas: Line 10, after the word "bounty," insert the word "pension."

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Texas.

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

The CHAIRMAN. The Clerk will report the next one.

HANNAH PARKER

The next business on the Private Calendar was the bill (H. R. 3624) for the relief of Hannah Parker.

The Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of the pension laws and the laws conferring rights and privileges upon honorably discharged soldiers of the Volunteer Army, their widows and dependent children, Leander Parker, deceased, shall be held and considered to have been honorably discharged from the military service of the United States as a member of Company C, Seventieth Regiment Ohio Volunteer Infantry, on the 19th day of May, 1864: *Provided*, That no back pay, bounty, pension, or other emolument shall accrue prior to the passage of this act.

The bill was ordered to be laid aside with a favorable recommendation.

The CHAIRMAN. The Clerk will report the next bill.

JACOB F. WEBB

The next business on the Private Calendar was the bill (H. R. 4287) for the relief of Jacob F. Webb.

The Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of any laws conferring rights, privileges, and benefits upon honorably discharged soldiers, Jacob F. Webb, late of Company H, Eleventh Regiment Missouri State Militia Cavalry, and Company L, Second Regiment Missouri State Militia Cavalry, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as a member of the latter company and regiment on the 18th day of December, 1862: *Provided*, That no bounty, pay, or allowances shall be held as accrued prior to the passage of this act.

Mr. BLACK of Texas. Mr. Chairman, I move to amend the bill on line 11, after the word "bounty," by inserting the word "pension."

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Texas.

The Clerk read as follows:

Amendment offered by Mr. BLACK of Texas: On line 11, after the word "bounty," insert the word "pension."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

The CHAIRMAN. The Clerk will report the next one.

JAMES A. HUGHES

The next business on the Private Calendar was the bill (H. R. 4576) for the relief of James A. Hughes.

The Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of any laws conferring rights, privileges, and benefits upon honorably discharged soldiers, James A. Hughes, One hundred and sixty-seventh Company, Coast Artillery Corps, shall hereafter be held and considered to have been honorably discharged from the military service of said company: *Provided*, That no pay, pension, or allowance shall be held to have accrued prior to the passage of this act.

The bill was ordered to be laid aside with a favorable recommendation.

The CHAIRMAN. The Clerk will report the next bill.

WALTER L. WATKINS, ALIAS HARRY AUSTIN

The next business on the Private Calendar was the bill (H. R. 4884) for the relief of Walter L. Watkins, alias Harry Austin.

The Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of the pension laws and all other laws conferring rights, privileges, and benefits upon persons honorably discharged from the military service of the United States, Walter L. Watkins, alias Harry Austin, late of Battery I, First Regiment United States Artillery, Company A, Thirteenth Regiment United States Infantry, and Company I, Twentieth Regiment United States Infantry, shall be held and considered not to have deserted, and not to have been dishonorably discharged from such military service: *Provided*, That no back pay, pension, or allowance shall be held to have accrued prior to the passage of this act.

The bill was ordered to be laid aside with a favorable recommendation.

The CHAIRMAN. The Clerk will report the next one.

HENRY SHULL

The next business on the Private Calendar was the bill (H. R. 5126) for the relief of Henry Shull.

The title of the bill was read.

Mr. TILSON. Mr. Chairman, it will take considerable time to pass these bills in the House, I fear, and it is now past 4 o'clock, so I suggest that we stop here.

Mr. Chairman, I move that the committee do now rise and report the bills back to the House for such action as has been recommended by the committee.

Mr. GARRETT of Tennessee. Why not finish the pending bill?

Mr. OLDFIELD. Why not finish the calendar?

Mr. TILSON. We have only a little more than half finished the calendar. We do not have to do it all in one day.

Mr. OLDFIELD. Other bills will be added to this calendar every day.

Mr. GARRETT of Tennessee. Is the gentleman preparing for roll calls on some of the bills?

Mr. TILSON. I have been warned that there might be some roll calls asked for, coming from the gentleman's side. For that reason I am preparing for it.

Mr. BLACK of Texas. I will say to the gentleman from Connecticut that, so far as I am concerned, I do not expect to demand a roll call.

Mr. BEGG. I will say to the gentleman that I do expect to demand a roll call.

Mr. GARRETT of Tennessee. Why does not the gentleman from Connecticut go ahead with the calendar?

Mr. TILSON. I shall withdraw the motion if it is, as it seems to be, the general desire of the committee to go on. It seemed to me that we had about done a good day's work, but I am not going to try to press my views upon the committee. If Members wish to work a little longer, I shall withdraw the motion for the present.

The CHAIRMAN. The gentleman from Connecticut withdraws his motion that the committee do now rise, and the Clerk will report the next bill on the Private Calendar.

The Clerk read as follows:

Be it enacted, etc., That in the administration of any laws conferring rights, privileges, and benefits upon honorably discharged soldiers, Henry Shull, who was a private in Company F, Eighth Regiment Missouri State Militia, Civil War, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as a private of said company and regiment on the 1st day of February, 1864: *Provided*, That no bounty, pay, or allowances shall be held as accrued prior to the passage of this act.

Mr. BLACK of Texas. Mr. Chairman, I move to amend the bill in line 10, after the word "bounty," by adding the word "pension."

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

The Clerk read as follows:

Amendment offered by Mr. BLACK of Texas: In line 10, after the word "bounty," insert the word "pension."

The amendment was agreed to.

Mr. BEEDY. Mr. Chairman, I call the attention of the committee to the fact that here is the case of a man who served three months; he was sick with the mumps, and as soon as he was able he went home, and that ended it. Now he wants his record cleared up. I do not think I have ever objected to a private bill, but the result of the way we are going with these bills is that we are cleaning everybody's dirty linen, and without any consideration at all. I call attention to the fact that we ought to be careful about proceeding with such haste.

I do not know who the author of this bill is, but it is similar to a bill we had up a moment ago and which I opposed.

I hope the committee will not pass upon this bill with favor.

Mr. MAJOR. I do not think the gentleman from Maine read far enough. This gentleman belonged to the Mounted Missouri Militia. They were going through Springfield, in Greene County, and he was given leave by reason of sickness. He could not come back to his company, because he could not ride. When the disease of mumps takes a certain course it prevents riding, horseback riding at least. He corresponded with his company, and there was no intention of deserting. I think this is a just case and instead of being marked as a deserter this charge should be removed.

Mr. BEEDY. If the gentleman pleases, is there any evidence that his absence from the service and his failure to serve further with his company was due to his disability? The record does not disclose it.

Mr. MAJOR. Yes; there are doctors' certificates, and he kept up a correspondence with the officers of his company during the whole time.

Mr. BEEDY. His company was in the service until 1865 but he did not show up again. Now, does the gentleman give us to understand that mumps, incurred two or three years prior, so incapacitated this man that he was never able to continue service with his company three years later?

Mr. MAJOR. I will state to the gentleman from Maine that the record shows, by affidavits, that he corresponded with his company, and the certificates of physicians were to the effect that he was unable to join his company. This bill was favorably reported before by the commitee.

Mr. BEEDY. I am unable to find any record anywhere to the effect that this man was ever treated by any physician for any disability or for any disease.

Mr. MAJOR. If the gentleman will read the certificates of the physicians in the record he can find that out.

Mr. BEEDY. Those are the military certificates, but, as I say, there is no record showing that any physician ever treated him?

Mr. MAJOR. There is such a record in the report accompanying the bill.

Mr. BEEDY. Will the gentleman call my specific attention to it?

Mr. MAJOR. On page 3 of the committee's report, the gentleman will find a certificate from A. C. Curl, M. D., a resident of Cross Timbers, Mo., who examined this man; also on page 4 the evidence of Dr. S. M. Breece.

Mr. BEEDY. Yes; but if the gentleman will read that carefully he will see that the physician makes the statement but does not state it as of his own knowledge. He states, "So the soldier claims." There is no military record of hospitalization or treatment. I submit that we should proceed with greater deliberation in clearing up the records of these men who deserted. I do not want to take any more time of the House, but I hope the committee gets my viewpoint.

Mr. MAJOR. I would like to state the facts in this case briefly. I do not desire to take the time of this committee unduly. This case is one of an old gentleman over 90 years of age. He is simply asking this House to clear his name of the charge of desertion. I introduced this bill at the last session of Congress, went before the proper committee, and it was reported favorably. I introduced the bill again at this session and it was reported favorably by the committee, and from a careful reading of the record I think every Member will become convinced that this gentleman who joined the mounted militia became disabled by reason of a severe case of mumps and could not rejoin his company. He kept up a correspondence with various members of his company during the entire war or until they disbanded. There was no evidence of any intention to desert and I do not think this record should be permitted to remain in this status when there is no evidence to sustain it. All that I want is that justice be accorded this old soldier.

Mr. BEEDY. I understand that.

Mr. MAJOR. I simply do this in justice to one of my constituents, and I feel the House should take this action unless there is a reason for not doing so.

Mr. BEEDY. The gentleman is doing his duty as we all try to, but I call his attention to the fact that there is no evidence that after this man left he ever returned to his commander or ever reported his whereabouts to his commanding officer. If we are going to establish the precedent of granting honorable discharges to such men, all well and good. It is within the province of the House to do so, but I feel it is my duty to call attention to these facts; and to get the sentiment of the House I move to strike out the enacting clause, Mr. Chairman.

The question was taken, and the motion to strike out the enacting clause was rejected.

The bill was ordered reported to the House with a favorable recommendation.

EDWARD N. MOORE

The next business on the Private Calendar was the bill (H. R. 6226) for the relief of Edward N. Moore.

The Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of any law conferring rights, privileges, or benefits upon honorably discharged soldiers, Edward N. Moore shall hereafter be held and considered to have been honorably discharged from the military service of the United States as a private of Company A, Fifty-first Regiment New York Volunteer Infantry, and Battery A, Fifth Regiment United States Volunteer Artillery, on the 19th day of August, 1865: *Provided*, That no pension shall accrue prior to the passage of this act.

Mr. BLACK of Texas. Mr. Chairman, I move to strike out the proviso and insert the following language:

Provided, That no pay, pension, allowance, or emolument shall become due as a result of the passage of this act.

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

The Clerk read as follows:

Amendment offered by Mr. BLACK of Texas: In line 101 strike out the proviso and insert in lieu thereof the following: "*Provided*, That no back pay, pension, allowance, or emolument shall become due as a result of the passage of this act."

The amendment was agreed to.

The bill was ordered reported to the House with a favorable recommendation.

THORNTON JACKSON

The next business on the Private Calendar was the bill (H. R. 6847) to correct the military record of Thornton Jackson.

The Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of the pension laws governing Civil War soldiers, Thornton Jackson, now a resident of Indiana, shall hereafter be held and considered to have been honorably discharged from the military service of the United States as a private of Company K, One hundred and forty-ninth Regiment Indiana Volunteer Infantry, on the 27th day of September, 1865: *Provided*, That no back pay, pension, or allowance shall be held to have accrued prior to the passage of this act.

The bill was ordered reported to the House with a favorable recommendation.

JOSEPH F. BECKER

The next business on the Private Calendar was the bill (H. R. 7348) for the relief of Joseph F. Becker.

The Clerk read the bill, as follows:

Be it enacted, etc., That the President of the United States is hereby authorized to appoint Joseph F. Becker, who while serving as a lieutenant commander, United States Naval Reserve Force, was found by a naval retiring board to be permanently incapacitated for active service by reason of physical disability incurred in the line of duty as the result of an incident of the service, a chief boatswain on the retired list of the Navy with such retired pay as is now or may hereafter be allowed a commissioned warrant officer whose record has been certified as creditable after the completion of 12 years' commissioned service: *Provided*, That the said Joseph F. Becker shall not be entitled to such retired pay prior to the date of the enactment of this act.

The bill was ordered reported to the House with a favorable recommendation.

Mr. TILSON. Mr. Chairman, I move that the committee do now rise and report the several bills to the House for such action as the committee has recommended.

The CHAIRMAN. The gentleman from Connecticut moves that the committee do now rise and report the bills that have been under consideration to the House with such recommendations as were adopted at the time.

The motion was agreed to.

Accordingly, the committee rose; and the Speaker having resumed the chair, Mr. LEHLBACH, Chairman of the Committee of the Whole House, reported that the committee had had under consideration bills on the Private Calendar and had directed him to report H. R. 2537, H. R. 2636, H. R. 2808, H. R. 3431, H. R. 5858, H. R. 5263, H. R. 3646, H. R. 4600, H. R. 6674, H. R. 4835, S. 1423, H. R. 1717, H. R. 3546, H. R. 4252, H. R. 4585, H. R. 6874, H. R. 7036, H. R. 533, H. R. 1598, H. R. 1721, H. R. 2172, H. R. 2315, H. R. 2745, H. R. 2787, H. R. 2987, H. R. 3624, H. R. 4576, H. R. 4884, H. R. 5126, H. R. 6847, H. R. 7348, with the recommendation that the same do pass; that the committee had further directed him to report H. R. 585, H. R. 1110, H. R. 3572, H. R. 787, H. R. 1840, H. R. 2267, H. R. 4172, H. R. 6136, H. R. 2703, H. R. 1827, H. R. 3380, H. R. 534, H. R. 818, H. R. 1459, H. R. 1962, H. R. 3107, H. R. 3448, H. R. 4287, H. R. 6226, with certain amendments, with the recommendation that the amendments be agreed to and that the bills as amended do pass; and that the committee had further directed to report the bill H. R. 2356, with the recommendation that the same be laid on the table.

The SPEAKER. Unless a separate vote is demanded on any bill, the Chair will put the question adopting the recommendations of the committee in gross.

Mr. BEGG. Mr. Speaker, I object and ask for a separate vote on the following bills: Private Calendar Nos. 2, 3, 11, 32, and 41.

The SPEAKER. Is a separate vote demanded on any other bill?

Mr. DOWELL. Mr. Speaker, I make the point of order that no quorum is present.

Mr. BLACK of Texas. Will the gentleman withhold that a moment? I would call the attention of the gentleman from Ohio [Mr. BEGG] to the fact that Calendar No. 3 was laid aside.

Mr. BEGG. Then I withdraw my request as to No. 3, of course, if it was laid aside.

The SPEAKER. Does the gentleman insist upon his point of no quorum?

Mr. DOWELL. Yes.

The SPEAKER. The gentleman from Iowa makes the point of no quorum. Evidently there is no quorum present.

Mr. TILSON. Mr. Speaker, I move a call of the House.

The motion was agreed to.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 28]

Anthony	Fredericks	Lea, Calif.	Rathbone
Aswell	Freeman	Lee, Ga.	Reed, Ark.
Bacharach	Frothingham	Lindsay	Reid, Ill
Bankhead	Fuller	Lineberger	Robsion
Barkley	Funk	Lowrey	Sabath
Bixler	Gallivan	Luce	Sandlin
Black, N. Y.	Gifford	McKeown	Schneider
Britten	Gilbert	McSwain	Scott
Buchanan	Golder	Madden	Sears, Fla.
Bulwinkle	Graham	Martin, La.	Sears, Nebr.
Byrns	Hadley	Merritt	Snell
Campbell	Hale	Michaelson	Spearing
Carew	Hammer	Milligan	Strong, Pa.
Carss	Hastings	Morin	Sullivan
Carter, Calif.	Hawes	Nelson, Wis.	Summers, Wash.
Carter, Okla.	Hawley	Newton, Minn.	Sumners, Tex.
Celler	Hersey	Newton, Mo.	Swartz
Connery	Hudson	O'Connor, La.	Swoope
Corning	Hull, Morton D.	O'Connor, N. Y.	Taylor, Colo.
Cox	Hull, William E.	Oliver, Ala.	Tincher
Cramton	Johnson, Wash.	Parker	Vare
Cullen	Kahn	Peavey	Volgt
Darrow	Keller	Perkins	Weller
Davey	Kelly	Perlman	Williams, Ill.
Denison	Kendall	Phillips	Wingo
Dickstein	Kiess	Porter	Wood
Drane	Kincheloe	Pou	Woodruff
Fenn	Kindred	Prall	Yates
Fitzgerald, Roy G.	Kunz	Pratt	Zihlman
Flaherty	LaGuardia	Quayle	
Fort	Lampert	Ramseyer	
Frear	Lanham	Ransley	

The SPEAKER. Three hundred and six Members have answered to their names. A quorum is present.

Mr. TILSON. Mr. Speaker, I move to dispense with further proceedings under the call.

The motion was agreed to.

Mr. TILSON. Mr. Speaker, I ask unanimous consent that the previous question may be considered as ordered on all bills and amendments thereto, reported from the Committee of the Whole House.

The SPEAKER. The gentleman from Connecticut asks unanimous consent that the previous question may be considered as ordered on all bills and amendments thereto. Is there objection?

Mr. WEFALD. Reserving the right to object, I think there are a good many Members here that were not here when the bills were discussed.

Mr. GARRETT of Tennessee. The gentleman from Connecticut means all bills reported from the Committee of the Whole House?

Mr. TILSON. All bills reported to the House from the Committee of the Whole.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. Is a separate vote demanded on any other bill?

Mr. BEEDY. I ask for a separate vote on the bill (H. R. 787) for the relief of Fayette I. Froemke.

The SPEAKER. Without objection the Clerk will announce the bills on which a separate vote is demanded.

The Clerk read as follows:

Calendar Nos. 2, 10, 11, 32, and 41.

Mr. BEGG. And I withdraw my request for a separate vote on No. 10.

Mr. BLACK of Texas. And I renew the request for a separate vote on No. 10.

The SPEAKER. Without objection as to all the other bills reported from the Committee of the Whole, the amendments will be considered as agreed to, the bills engrossed and read a third time, and passed, and a motion to reconsider laid on the table. Is there objection?

There was no objection.

The SPEAKER. The Clerk will report the first bill on which a separate vote is demanded.

The Clerk read as follows:

A bill (H. R. 1110) granting six months' pay to Lucy B. Knox.

The SPEAKER. The question is on the amendment.

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken, and on a division (demanded by Mr. BEGG) there were 230 ayes and 8 noes.

So the bill was passed.

The SPEAKER. The Clerk will report the next bill on which a separate vote is demanded.

The Clerk read as follows:

A bill (H. R. 787) for the relief of Fayette L. Froemke.

The amendment was agreed to.

The bill was ordered to be engrossed and read the third time, was read the third time, and passed.

The SPEAKER. The Clerk will report the next bill on which a separate vote is demanded.

The Clerk read as follows:

A bill (H. R. 1840) for the relief of Edward A. Grimes.

The SPEAKER. The question is on the amendment.

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

The SPEAKER. The Clerk will report the next bill on which a separate vote is demanded.

The Clerk read as follows:

A bill (H. R. 6874) for the relief of James Madison Brown.

The bill was ordered to be engrossed and read the third time, was read the third time, and passed.

The SPEAKER. The Clerk will report the next bill on which a separate vote is demanded.

The Clerk read as follows:

A bill (H. R. 2172) for the relief of Joseph A. Choate.

The bill was ordered to be engrossed and read the third time, was read the third time, and passed.

The SPEAKER. Without objection, the bill (H. R. 2356) to change the retired status of Chief Pay Clerk R. E. Ames, United States Navy, retired, will be laid on the table.

There was no objection.

On motion of Mr. TILSON, a motion to reconsider the vote whereby the five bills on which a separate vote was demanded were passed was laid on the table.

COLUMBIA INSTITUTION FOR THE DEAF

The SPEAKER announced the appointment of Mr. BLOOM, of New York, as a director of the Columbia Institution for the Deaf, to fill the vacancy caused by the death of Mr. Raker, of California.

LEAVE OF ABSENCE

By unanimous consent leave of absence was granted—

To Mr. CRAMTON, at the request of Mr. MAPES, on account of illness.

To Mr. HUDSON, at the request of Mr. MAPES, on account of illness.

To Mr. FUNK, for two days, at the request of Mr. CHINDBLOM, on account of illness.

ORDER OF BUSINESS

Mr. TILSON. Mr. Speaker, I call the attention of the membership to the fact that to-morrow morning, immediately after the reading of the Journal, our venerable and much-esteemed friend, Major STEDMAN, is going to address the House. [Applause.]

ADJOURNMENT

Mr. TILSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; and accordingly (at 4 o'clock and 52 minutes p. m.) the House adjourned until to-morrow, Saturday, February 6, 1926, at 12 o'clock noon.

COMMITTEE HEARINGS

Mr. TILSON submitted the following tentative list of committee hearings scheduled for February 6, 1926, as reported to the floor leader by clerks of the several committees:

APPROPRIATIONS COMMITTEE

(10.30 a. m.)

Appropriations for independent offices (subcommittee).

CIVIL SERVICE COMMITTEE

(10.30 a. m.)

Providing for the placing of Government employees engaged in the enforcement of national prohibition under the civil service (H. R. 3978).

To place under the civil service act the personnel of the Treasury Department authorized by section 38 of the national prohibition act (H. R. 3821).

DISTRICT OF COLUMBIA COMMITTEE

(10.30 a. m.)

To repeal a part of section 12, chapter 353, Thirty-first United States Statutes at Large, as heretofore amended. Commonly known as the highway bridge tax bill (H. R. 7380).

To establish a board of public welfare in and for the District of Columbia, to determine its functions, and for other purposes (H. R. 346 and H. R. 5045).

INDIAN AFFAIRS COMMITTEE

(2 p. m.)

A proposed bill to amend an act of March 3, 1885, entitled "An act for an allotment of lands in severalty to the Indians residing upon the Umatilla Reservation in the State of Oregon."

NAVAL AFFAIRS COMMITTEE

(10.30 a. m.)

To consider a five-year program for the Bureau of Aeronautics, Navy Department.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII,

Mr. PERKINS: Committee on Coinage, Weights, and Measures. H. R. 264. A bill to amend an act to provide for the appointment of a commission to standardize screw threads; without amendment (Rept. No. 198). Referred to the Committee of the Whole House on the state of the Union.

Mr. GRAHAM: Committee on the Judiciary. H. R. 8034. A bill to authorize the destruction of paid United States checks; without amendment (Rept. No. 199). Referred to the Committee of the Whole House on the state of the Union.

Mr. GRAHAM: Committee on the Judiciary. S. 2464. An act to amend section 95 of the Judicial Code, as amended; without amendment (Rept. No. 200). Referred to the House Calendar.

Mr. GRAHAM: Committee on the Judiciary. H. R. 6536. A bill to amend section 129 of the Judicial Code, relating to appeals in admiralty cases; without amendment (Rept. No. 201). Referred to the House Calendar.

Mr. McCLINTIC: Committee on Naval Affairs. H. R. 8911. A bill authorizing an appropriation of $11,000 for the purpose of aiding in the repair of damage done to roads, water systems, schools, and other public buildings in American Samoa; without amendment (Rept. No. 203). Referred to the Committee of the Whole House on the state of the Union.

Mr. GIBSON: Committee on the District of Columbia. H. R. 8830. A bill amending the act entitled "An act providing for a comprehensive development of the park and playground system of the National Capital," approved June 6, 1924; without amendment (Rept. No. 204). Referred to the Committee of the Whole House on the state of the Union.

Mr. HAUGEN: Committee on Agriculture. H. R. 7818. A bill to amend section 304 of an act entitled "An act to regulate interstate and foreign commerce in livestock, livestock products, dairy products, poultry, poultry products, and eggs, and for other purposes," approved August 15, 1921; without amendment (Rept. No. 205). Referred to the Committee of the Whole House on the state of the Union.

Mr. UNDERHILL: Committee on Claims. H. R. 8651. A bill to provide for the settlement of claims against the United States on account of property damage, personal injury, or death; without amendment (Rept. No. 206). Referred to the Committee of the Whole House on the state of the Union.

Mr. WELSH: Committee on Industrial Arts and Expositions. H. J. Res. 153. A joint resolution providing for the participation of the United States of America in the sesquicentennial celebration in the city of Philadelphia, Pa., and authorizing an appropriation therefor, and for other purposes; without amendment (Rept. No. 207). Referred to the Committee of the Whole House on the state of the Union.

Mr. LEAVITT: Committee on the Public Lands. H. R. 6261. A bill to authorize the exportation from the State or Territory of timber lawfully cut on any national forest or on the public lands in Alaska; with amendments (Rept. No. 208). Referred to the Committee of the Whole House on the state of the Union.

Mr. GRAHAM: Committee on the Judiciary. H. R. 3833. A bill to amend section 204 of an act entitled "An act to establish a code of law for the District of Columbia," approved March 3, 1901, and the acts amendatory thereof and supplementary thereto; with an amendment (Rept. No. 209). Referred to the Committee of the Whole House on the state of the Union.

Mr. GRAHAM: Committee on the Judiciary. H. R. 3834. A bill to amend section 65 of the act entitled "An act to establish a code of law for the District of Columbia," approved March 3, 1901, and the acts amendatory thereof and supplementary thereto; without amendment (Rept. No. 210). Referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII,

Mr. PATTERSON: Committee on Naval Affairs. H. R. 8138. A bill for the relief of Joy Bright Hancock; without amendment (Rept. No. 202). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of Rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MILLS: A bill (H. R. 8944) relating to sales and contracts to sell in interstate and foreign commerce; to the Committee on Interstate and Foreign Commerce.

By Mr. BLACK of New York: A bill (H. R. 8945) to amend the immigration act of May 26, 1924; to the Committee on Immigration and Naturalization.

By Mr. BURDICK: A bill (H. R. 8946) to authorize the erection of a Veterans' Bureau hospital in Providence, R. I., or in a section adjacent thereto; to the Committee on World War Veterans' Legislation.

By Mrs. NORTON: A bill (H. R. 8947) to repeal section 602 of the World War adjusted compensation act approved May 19, 1924; to the Committee on Ways and Means.

Also, a bill (H. R. 8948) to establish a board of public welfare in and for the District of Columbia, to determine its functions, and for other purposes; to the Committee on the District of Columbia.

By Mr. OLIVER of New York: A bill (H. R. 8949) to amend the immigration act of 1924; to the Committee on Immigration and Naturalization.

By Mr. ANDRESEN: A bill (H. R. 8950) granting the consent of Congress to the State of Minnesota to construct a bridge across the Minnesota River at or near Shakopee, Minn.; to the Committee on Interstate and Foreign Commerce.

By Mr. OLDFIELD: A bill (H. R. 8951) providing for the purchase of certain inventions, designs, and methods of aircraft, aircraft parts, and aviation technique of Edwin Fairfax Naulty and Leslie Fairfax Naulty, of New York; to the Committee on Patents.

Also, a bill (H. R. 8952) providing for the purchase of certain inventions, designs, and methods of aircraft, aircraft parts, and aviation technique of Edwin Fairfax Naulty and Leslie Fairfax Naulty, of New York; to the Committee on Patents.

By Mr. MORIN: A bill (H. R. 8953) to provide retirement for the Nurse Corps of the Army and Navy; to the Committee on Military Affairs.

By Mr. UNDERHILL: A bill (H. R. 8954) to amend section 4 of the public buildings act of March 4, 1913; to the Committee on Public Buildings and Grounds.

By Mr. GARBER: A bill (H. R. 8955) providing for additional demonstration and experimental work in the livestock department of the experiment station located at Woodward, Okla.; to the Committee on Agriculture.

Also, a bill (H. R. 8956) providing for horticultural experiment and demonstration work in the southern Great Plains area; to the Committee on Agriculture.

By Mr. LUCE: A bill (H. R. 8957) to amend section 9 of an act entitled "An act to define, regulate, and punish trading with the enemy, and for other purposes," approved October 6, 1917, as amended; to the Committee on Interstate and Foreign Commerce.

By Mr. MOONEY: A bill (H. R. 8958) to authorize the sale of lighthouse property and keepers' dwellings thereon at Cleveland, Ohio, and providing more suitable quarters for the lighthouse keepers at Cleveland, Ohio; to the Committee on Interstate and Foreign Commerce.

By Mr. OLDFIELD: A bill (H. R. 8959) to repeal that portion of the river and harbor appropriation act approved July 27, 1916, declaring the Cache River, in Arkansas, to be a nonnavigable stream, and to direct the Secretary of War to make survey of the Cache River and of the lands comprised in its watersheds for the purposes of flood control, irrigation, water and electric power, and navigation; to the Committee on Irrigation and Reclamation.

By Mr. REECE: A bill (H. R. 8960) providing for the erection of a chapel in the Andrew Johnson National Cemetery, Greeneville, Tenn.; to the Committee on Military Affairs.

By Mr. EVANS: Joint resolution (H. J. Res. 152) proposing an amendment to the Constitution of the United States for a referendum on war; to the Committee on the Judiciary.

By Mr. WELSH: Joint resolution (H. J. Res. 153) providing for the participation of the United States in the sesquicentennial celebration in the city of Philadelphia, Pa., and authorizing an appropriation therefor, and for other purposes; to the Committee on Industrial Arts and Expositions.

Also, resolution (H. Res. 120) providing for the consideration of H. J. Res. 153; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. ANDRESEN: A bill (H. R. 8961) for the relief of William E. Jones; to the Committee on Military Affairs.

By Mr. MENGES: A bill (H. R. 8962) granting an increase of pension to Mary M. Taylor; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8963) granting an increase of pension to Sarah A. Zeigler; to the Committee on Invalid Pensions.

By Mr. MORGAN: A bill (H. R. 8964) granting a pension to Rosanna Ulman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8965) granting an increase of pension to Amelia J. Lusk; to the Committee on Invalid Pensions.

By Mr. ROY G. FITZGERALD: A bill (H. R. 8966) granting a pension to Arthur L. Massie; to the Committee on Pensions.

By Mr. FLETCHER: A bill (H. R. 8967) granting an increase of pension to George T. Harding; to the Committee on Invalid Pensions.

By Mr. GREEN of Iowa: A bill (H. R. 8968) for the relief of Anthony Wade; to the Committee on Claims.

By Mr. JOHNSON of Kentucky: A bill (H. R. 8969) granting a pension to James Self; to the Committee on Invalid Pensions.

By Mr. MOONEY: A bill (H. R. 8970) for the relief of Edwin R. Samsey; to the Committee on Military Affairs.

By Mr. PARKER: A bill (H. R. 8971) granting a pension to Catherine Kinmouth; to the Committee on Invalid Pensions.

By Mr. REED of Arkansas: A bill (H. R. 8972) granting a pension to Dora Probst; to the Committee on Pensions.

By Mr. ROWBOTTOM: A bill (H. R. 8973) granting an increase of pension to Katherine Kremer; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8974) granting an increase of pension to Eliza A. Griffin; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8975) granting a pension to Alonzo Lawrence Sutton; to the Committee on Invalid Pensions.

By Mr. SOSNOWSKI: A bill (H. R. 8976) to provide for the examination and survey of certain harbors on the Great Lakes, and of the connecting channels of the Great Lakes with a view to securing a continuous depth of 25 feet with suitable widths; to the Committee on Rivers and Harbors.

By Mr. STALKER: A bill (H. R. 8977) granting an increase of pension to Delilah Potter; to the Committee on Pensions.

By Mr. SWANK: A bill (H. R. 8978) for the relief of Frank Linwood Pontious; to the Committee on Naval Affairs.

By Mr. SWARTZ: A bill (H. R. 8979) for the relief of Charles C. Kerns; to the Committee on Claims.

By Mr. TILLMAN: A bill (H. R. 8980) granting a pension to Birdie Taylor; to the Committee on Invalid Pensions.

By Mr. TYDINGS: A bill (H. R. 8981) for the relief of Emily Patrick; to the Committee on Claims.

Also, a bill (H. R. 8982) granting a pension to Catharine Dell; to the Committee on Invalid Pensions.

By Mr. VESTAL: A bill (H. R. 8983) granting a pension to Eva J. Miller; to the Committee on Pensions.

By Mr. WEAVER: A bill (H. R. 8984) granting an increase of pension to Howard F. Lange; to the Committee on Pensions.

Also, a bill (H. R. 8985) granting an increase of pension to William M. Brendle; to the Committee on Pensions.

Also, a bill (H. R. 8986) granting a pension to Cordelia Green; to the Committee on Pensions.

By Mr. WURZBACH: A bill (H. R. 8987) granting a pension to Permelia E. Dugger; to the Committee on Pensions.

By Mr. GIFFORD: Joint resolution (H. J. Res. 154) authorizing the expenditure of certain funds paid to the United States by the Persian Government; to the Committee on Foreign Affairs.

By Mr. ALMON: Concurrent resolution (H. Con. Res. 8) authorizing the printing of the proceedings in Congress upon the acceptance of the statue of Joseph Wheeler; to the Committee on Printing.

By Mr. SWARTZ: Resolution (H. Res. 119) to pay salary and funeral expenses of John M. Heagy, late an employee of the House of Representatives, to his widow, Mrs. John M. Heagy; to the Committee on Accounts.

By Mr. CURRY: Resolution (H. Res. 121) to pay one month's salary to the clerks to the late Hon. John E. Raker; to the Committee on Accounts.

PETITIONS, ETC.

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

585. By Mr. GALLIVAN: Petition of O. W. Clapp, Massachusetts legislative representative, Locomotive Engineers, Boston, Mass., protesting against proposed amendments to the Federal employees' liability act; to the Committee on the Civil Service.

586. By Mr. LEAVITT: Resolution of Jackson Woman's Club, of Jackson, Mont., favoring continuance of the provisions of the Sheppard-Towner maternity act; to the Committee on Interstate and Foreign Commerce.

587. By Mr. TEMPLE: Papers in support of House bill 8503, granting a pension to Anna M. Gribben; to the Committee on Pensions.

SENATE

SATURDAY, *February 6, 1926*

(Legislative day of Monday, February 1, 1926)

The Senate reassembled at 11 o'clock a. m., on the expiration of the recess.

The VICE PRESIDENT. The Senate resumes the consideration of the unfinished business, House bill No. 1.

TAX REDUCTION

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 1) to reduce and equalize taxation, to provide revenue, and for other purposes.

Mr. ERNST obtained the floor.

Mr. JONES of Washington. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Ashurst	Fernald	McKinley	Shipstead
Bayard	Fess	McLean	Shortridge
Bingham	Fletcher	McNary	Simmons
Blease	Frazier	Mayfield	Smith
Borah	George	Means	Smoot
Bratton	Gerry	Metcalf	Stanfield
Brookhart	Gillett	Moses	Stephens
Broussard	Goff	Norbeck	Swanson
Bruce	Hale	Norris	Trammell
Butler	Harreld	Nye	Tyson
Cameron	Harris	Oddie	Underwood
Capper	Harrison	Overman	Wadsworth
Caraway	Heflin	Pepper	Walsh
Copeland	Howell	Phipps	Warren
Couzens	Johnson	Pine	Watson
Dale	Jones, Wash.	Ransdell	Weller
Deneen	Kendrick	Reed, Pa.	Wheeler
Dill	Keyes	Robinson, Ark.	Williams
Edge	King	Robinson, Ind.	Willis
Edwards	La Follette	Sackett	
Ernst	McKellar	Sheppard	

Mr. WATSON. I wish to announce that the Senator from Iowa [Mr. CUMMINS] is engaged on the Interstate Commerce Committee.

Mr. JONES of Washington. I desire to announce that the senior Senator from Kansas [Mr. CURTIS] is necessarily absent on account of illness. I will allow this announcement to stand for the day.

Mr. McKELLAR. I wish to announce the unavoidable absence of the Senator from West Virginia [Mr. NEELY]. I will let this announcement stand for the day.

The VICE PRESIDENT. Eighty-two Senators having answered to their names, a quorum is present. The Senator from Kentucky [Mr. ERNST] is entitled to the floor and will proceed.